

Methamphetamine Contamination Housing New Zealand's Response

September 2018

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Introduction

Introduction

This report discusses Housing New Zealand's past approach to methamphetamine contamination in its properties. The scope of the report is outlined in a letter from Housing New Zealand Board Chair Adrienne Young-Cooper to Hon Phil Twyford, Minister of Housing and Urban Development, dated 12 June 2018 (see Appendix A).

The purpose of the report is to identify:

- whether, and to what extent, any tenants were unfairly treated;
- why Housing New Zealand applied the procedures it did;
- what procedures were in place to determine and review Housing New Zealand's policies; and
- what assistance may be appropriate to address any unfairness that may have occurred to tenants.

The report is structured in three parts which are described below.

Part one – Housing New Zealand's policies and processes

The first part of the report discusses the development of Housing New Zealand's governance and operational policies and processes in relation to methamphetamine in its properties. It responds directly to the questions above regarding Housing New Zealand procedures. Housing New Zealand's external operating environment including relevant available guidance from the Ministry of Health, the Residential Tenancies Act and the Tenancy Tribunal's approach is described.

Part one also includes a chronology of how Housing New Zealand's policies and processes have evolved over time, and how these policies and processes were applied at various stages. A more detailed chronology is included in Appendix B.

Part one concludes with an outline of the changes Housing New Zealand is putting in place to enable a more compassionate approach, with the objective of supporting vulnerable families to sustain their tenancies.

Part two – Outcomes for tenants and properties

The second part of the report discusses the outcomes of Housing New Zealand's past approach to methamphetamine contamination, for the people living in Housing New Zealand houses. It also includes high level information about the outcome for contaminated properties.

The outcome of a review of a small number of cases is included, to determine whether there were any issues with how policies were applied with respect to individual tenants.

Part three – Providing assistance to affected tenants

The third part of the report considers whether there are any systemic issues in how Housing New Zealand has determined and implemented governance and operational policy in relation to methamphetamine contamination. It discusses options and recommended further steps to address unfairness that has occurred to current and former tenants.

Report oversight

This report has been produced by an internal project team, overseen by an Ad Hoc Committee of the Housing New Zealand Board, Chaired by Deputy Chair Vui Mark Gosche.

The report has been independently peer reviewed by Michael Mills, Director, MartinJenkins.

Foreword

Foreword

The Gluckman report on standards for methamphetamine (meth) contamination in New Zealand homes has caused Housing New Zealand to further review its policies and practices of the past decade or so in respect to meth contamination. It has also reviewed its policies, practices and treatment of Housing New Zealand customers in meth contaminated homes.

The Board of Housing New Zealand is accountable by law to our shareholding ministers, the Minister of Finance and the Minister of Housing and Urban Development for the governance of Housing New Zealand. The Board accepts that it is accountable for all policies and practices of Housing New Zealand.

The Housing New Zealand Board apologises to past Housing New Zealand customers who have suffered harm as a result of our policies or practices that we can now see, with all the information in front of us, were wrong or ill judged.

We accept that significant harm was done to a number of Housing New Zealand customers as a result of the policies and practices associated with meth, even if Housing New Zealand people at the time believed they were acting in good faith. We understand that meth is only one of many illegal drugs that may be used in Housing New Zealand homes and that it has had a disproportionate amount of attention by us.

We have been particularly dismayed at the scale of the human impact of the zero tolerance policy which this review has revealed. It was this policy, in conjunction with using the meth decontamination guideline that detected low levels of personal meth use that resulted in hundreds of customers being removed from Housing New Zealand homes over the period 2013-2017.

Housing New Zealand adopted and applied a zero tolerance policy for illegal activity in state homes and removed customers who transgressed this policy. This report sets out the history of this policy and how its impact grew with respect to meth use as well as manufacture as detection of meth became prevalent since about 2013.

Zero tolerance as an absolute policy, we can now see, has little merit when Housing New Zealand is a critical part of the social safety net which houses vulnerable New Zealanders. It is based on dogma that does not reflect the challenges our customers face, nor the realities of housing choices available if they are removed from public housing. Many Housing New Zealand customers have complex and serious housing needs and the incidence of alcohol and drug addiction is significant amongst some of them.

Zero tolerance is one of many policies we have changed in the recent past as we work to change our culture and strive to become a more compassionate organisation. Our staff work much harder with our customers to assist them to sustain their tenancy. Drug and alcohol addiction are now treated by Housing New Zealand as a serious health issue rather than a matter dealt with in a punitive manner.

Housing New Zealand has for many years operated more like a private sector landlord would. It did not see itself as a landlord of last resort and expected unrealistically high standards of behaviour from a customer base with complex and high needs. Most of its customers are housed because the private sector market has failed to provide for them.

Housing New Zealand now accepts that for many reasons it, for many people, is a landlord of last resort. We must work with our customers to ensure they can sustain their tenancy in a way that also respects the wider community we all live in.

Housing New Zealand focussed on meth use in homes because it understood incorrectly, as the Gluckman report shows, that even low levels of meth contamination could be harmful to customers especially children. We used a meth decontamination standard developed to ensure that a home used for the manufacture of meth could be deemed safe for future use by its customers and their families. We accept the criticism that this was the wrong standard for a home where meth was used and not manufactured. Housing New Zealand

did make strenuous efforts to find a new suitable standard which are outlined in the report. Nevertheless there is a significant lesson to be learnt from this report.

When we know a standard, guideline or feature of a home is creating significant harm for any of our customers we must act with more confidence, determination and urgency to solve the matter - and not rely on processes which do not adequately address the issue in a timely and comprehensive way.

We have adopted this more compassionate and timely approach with other potential harms to our customers in the same time period, such as earthquake damaged or earthquake prone buildings, presence of asbestos, unsafe yards for children and poor maintenance standards resulting in cold damp homes. Housing New Zealand customers in their thousands were either moved into other state homes if needed, or the home was made safe as a matter of priority with the customer remaining in the home.

Housing New Zealand is changing to be more consistent in its approach to its customers, and to recognise the complexities of their lives. We are supporting our staff to gain better skills and qualifications across a range of disciplines necessary to be a world class public housing provider.

Housing New Zealand management and staff have recently developed a set of values that fit our role of housing vulnerable New Zealanders.

The Housing New Zealand Board is fully committed to improving our oversight and governance of the organisation and supporting the staff of Housing New Zealand to become a world class public housing provider.



Adrienne Young-Cooper
Board Chair



Mark Gosche
Deputy Board Chair

Overview

Overview

Housing New Zealand is the largest residential landlord in New Zealand, providing homes to more than 180,000 people, which includes some of the country's most vulnerable. Like other landlords, in recent years Housing New Zealand has been faced with the issue of methamphetamine contamination in its properties and how best to respond.

Housing New Zealand's past approach to methamphetamine contamination has had far-reaching consequences for tenants and families. These include the loss of a tenancy; loss of possessions; suspension from eligibility for state housing; negative effects on credit ratings; and, in the most extreme cases, homelessness.

Since July 2013 around 800 tenants believed to be responsible for the contamination of a Housing New Zealand property had their tenancies ended, and were not rehoused by Housing New Zealand. Of these, 275 tenants were also suspended from being eligible for state housing for a period of one year. Housing New Zealand does not hold information about the circumstances of the majority of these former tenants and their families. Although many are likely to have found alternative housing, there have been unacceptable outcomes for some tenants, for which Housing New Zealand has apologised and is committed to putting right.

Key findings

The key findings of this report are as follows:

- Housing New Zealand adopted a policy of zero tolerance to illegal activity in its tenancies over the period discussed in this report. Focusing on zero tolerance was wrong and ignored many of the issues that resulted in access to a state home in the first place. It had a range of poor outcomes for tenants and their families.
- In determining whether houses were safe to live in, Housing New Zealand took a conservative and risk adverse approach to health risks and, from 2014 onwards, applied existing Ministry of Health guidelines for instances of both methamphetamine manufacture and use in its properties. These 2010 guidelines were developed solely in relation to contamination resulting from manufacture, and in hindsight, Housing New Zealand was wrong to apply them more broadly. Although Housing New Zealand sought scientific opinion on this issue, it chose not to take a leadership role in investigating the issue independently of established channels. The New Zealand standard, and then the Chief Science Advisor's report, identified a much higher threshold than the 2010 guidelines.
- Housing New Zealand failed, in some individual cases, to follow the principles of natural justice, by applying its suspension policy without providing sufficient detail to allow tenants to respond meaningfully to a notification that they were being considered for suspension; and in seeking to recover costs for methamphetamine contamination from tenants without with out bringing a claim against those tenants in the Tenancy Tribunal or District Court.
- Housing New Zealand failed, in some individual cases, to take sufficient care in examining methamphetamine test results before seeking to end a tenancy.
- Housing New Zealand must continue to improve its policy development and implementation to ensure that it takes appropriate care when interacting with tenants, who are some of the most vulnerable people in our communities. Housing New Zealand failed to take a customer centred approach when developing its methamphetamine management policies.
- Housing New Zealand's Board must have greater involvement and oversight as key operational policies are developed. The Board has recognised the need to take a more active role in monitoring the development and implementation of operational policy in the future.
- Housing New Zealand is unable to guarantee that its records in relation to tenancies affected by methamphetamine contamination are complete. This is due to deficiencies in its record keeping and because of the number of different systems that have been used to store information over time. System

improvements are required to ensure that important information relating to tenancies and outcomes for tenants is captured and readily available in Housing New Zealand's core systems.

Housing New Zealand's new approach

Today, Housing New Zealand's focus is on the health and wellbeing of the families in its homes, and supporting them to sustain their tenancies. One of the organisation's long-term objectives is to provide increased support for people experiencing drug addiction and drug related harm.

Housing New Zealand's zero tolerance approach to illegal activity shifted in late 2016, with a renewed focus on sustaining tenancies. A review of methamphetamine related policies started in mid 2017 and updated policies and processes were issued in October 2017.

In December 2017 Housing New Zealand signalled that it would stop the termination of tenancies for methamphetamine contamination, unless there was clear evidence of methamphetamine manufacture. In cases where contamination is caused by methamphetamine use, this is now considered a drug addiction issue and Housing New Zealand will help tenants to seek rehabilitation services and any other support they may need. Housing New Zealand stopped suspending tenants for methamphetamine contamination in early 2018. Evidence or allegations of illegal activity brought to Housing New Zealand's attention are referred to the Police.

The publication of the Chief Science Advisor's report on 29 May 2018 has provided Housing New Zealand with the confidence it needs to raise the threshold for remediation to 15µg/100cm². No action will be taken where contamination levels are at or below this threshold. Where contamination is above the threshold, tenants and their families will be supported to move to another property.

The Board is taking a more active role in monitoring the development and implementation of operational policy. System improvements are underway to ensure that information relating to tenancies and outcomes for tenants is captured and readily available in Housing New Zealand's core systems.

Assistance to affected tenants

Housing New Zealand's tenants and their families have experienced hardship and adverse outcomes as a result of its methamphetamine contamination policies. Housing New Zealand will implement an assistance programme to support affected tenants and their families by seeking to relieve the hardship caused by its earlier zero tolerance policies.

Housing New Zealand has taken a number of steps to address this hardship, including cancelling all tenant suspensions; stopping the collection of methamphetamine-related damage or remediation charges; and withdrawing all Tenancy Tribunal cases that relate to methamphetamine contamination, effective from the date of publication of the Chief Science Advisor's report (29 May 2018).

The main element of the assistance programme is payment of a discretionary grant to affected tenants, which is consistent with payments made to tenants in the past where Housing New Zealand believed that the tenant was not responsible for the contamination. Based on previous payments, these are expected to be in the order of \$2,500 to \$3,000 per tenancy.

Other forms of assistance will focus on activities that Housing New Zealand can offer through its operations, including:

- housing former tenants who are on the social housing register
- refunding tenants any methamphetamine related debt that has been paid to Housing New Zealand
- formally apologising to tenants who have experienced poor outcomes, in a way that is meaningful to them and acknowledges the hardship they have experienced.

Housing New Zealand is establishing a dedicated team to implement this assistance programme. The team will be responsible for contacting affected tenants, and for ensuring there are easily accessible channels for

any person to contact Housing New Zealand to discuss their experience in relation to methamphetamine contamination.

Housing New Zealand is also exploring the possibility of establishing a fund that affected tenants and their families can access to cover the costs of addiction treatment and rehabilitation services, or other support they may need. Housing New Zealand will work with its stakeholders, particularly the Ministry of Health, in developing this concept to ensure that a partnership approach is taken and that the services provided are well targeted, accessible and effective.

Executive Summary

Executive Summary

Introduction

Housing New Zealand is the largest residential landlord in New Zealand, providing homes to more than 180,000 people, which includes some of the country's most vulnerable. Like other landlords, in recent years Housing New Zealand has been faced with the issue of methamphetamine contamination in its properties and how best to respond.

Housing New Zealand's past approach to methamphetamine contamination has had far-reaching consequences for tenants and families. These include the loss of a tenancy; loss of possessions; suspension from eligibility for state housing; negative effects on credit ratings; and, in the most extreme cases, homelessness.

This report illustrates that Housing New Zealand's past approach to methamphetamine contamination has caused hardship and adverse outcomes for some tenants and their families.

Since July 2013 around 800 tenants believed to be responsible for the contamination of a Housing New Zealand property had their tenancies ended, and were not rehoused by Housing New Zealand. Of these, 275 tenants were also suspended from being eligible for state housing for a period of one year.

Housing New Zealand does not hold information about the circumstances of the majority of these former tenants and their families. Although many are likely to have found alternative housing, there have been unacceptable outcomes for some tenants, for which Housing New Zealand apologises and is committed to putting right.

In making this apology Housing New Zealand notes that, in the period discussed, its staff and contractors have acted in accordance with the policies and organisational direction set for them.

Housing New Zealand will implement an assistance programme to support affected tenants and their families by seeking to ease the hardship caused through the application of its methamphetamine policies, and the mistakes that have been made. This assistance programme is discussed in more detail in part three of the report.

Part One – Development of policies and processes

Housing New Zealand's policies and processes that have driven its response to methamphetamine contaminated properties have developed over time, in the context of its organisational direction and the broader operating environment. This environmental context includes legislation and government expectations; evolving remediation guidelines; the approach taken by the Tenancy Tribunal and the Courts; and the emergence of methamphetamine use as a significant community and media issue.

In developing any policy, Housing New Zealand must balance a number of factors. These include:

- the wellbeing of tenants;
- the health and safety of staff and contractors;
- its obligations under the Residential Tenancies Act;
- its responsibility as a steward of the Crown's second largest asset base; and
- the need to maintain its social licence so that its presence, and that of its tenants, is supported by communities across New Zealand.

In balancing these considerations, Housing New Zealand has placed varying degrees of emphasis on each of these elements, as guided by the policy settings and government expectations of the time.

In developing this report it has become apparent that, in the period between 2014 and 2016, Housing New Zealand became increasingly focussed on the health and safety of tenants, staff and contractors, strict adherence to tenancy agreements, and a zero tolerance approach to unlawful activity. There was a sharper

focus on these areas than on broader tenant outcomes, or the affect of Housing New Zealand's tenancy management approach on the lives of tenants and their families. Housing New Zealand took a narrow view of its remit and focused on its compliance requirements.

Some of the most vulnerable people in New Zealand live in Housing New Zealand houses, including not only the main tenant but also other household members and tenants' families. The ending of a tenancy can result in flow on effects for these individuals that can be very hard to recover from, including homelessness. Despite this, Housing New Zealand has until recently taken a zero tolerance stance towards the use of methamphetamine in its properties.

Policy settings and government expectations

Government expectations of Housing New Zealand are articulated in the Minister's Letter of Expectations, and influence the organisation's policy direction. These expectations shifted from a requirement to take a broad view of social housing between 2004 and 2008, to a focus on operational efficiency in the 2010/11 financial year. Housing New Zealand was required to divest surplus stock, and to return a dividend to the Crown. During this time the Government initiated the Social Housing Reform Programme to broaden the provision of social housing, with Housing New Zealand being one provider in a wider social housing market. Housing New Zealand was to focus on its core functions as a landlord, with other agencies providing social services for tenants as required.

The next shift occurred in the 2016/17 financial year, when the Government asked Housing New Zealand to once again take on roles beyond its core functions of tenancy and asset management. This included an increased focus on sustaining tenancies, which was a significant aspect of Budget 2016.

Providing a safe and healthy property for tenants

Housing New Zealand has an obligation to provide a safe and healthy property for its tenants and their families. In meeting this obligation, Housing New Zealand relies on available guidance and expert advice to determine whether its properties are safe. In relation to methamphetamine contamination, this guidance has included the Ministry of Health guidelines of 2010; the Ministry of Health interim guideline published in 2016; and the New Zealand standard (NZS 8510:2017) from 2017.

The Ministry of Health guidelines published in 2010 were developed solely to provide guidance in instances of methamphetamine contamination resulting from manufacture, rather than use. Housing New Zealand acknowledged that its application of the guidelines in relation to methamphetamine use was problematic, and it sought independent scientific advice in 2016 in an attempt to identify a remediation level suitable for contamination through use. On reflection, Housing New Zealand could have looked at seeking this advice at the time it made the decision to expand its focus to include use as well as manufacturing. Housing New Zealand recognises that it took too long to update policies to reflect this change.

In 2016 Housing New Zealand was unable to obtain a consensus view from its expert reviewers. A decision was made to support the Ministry of Health in the development of a New Zealand standard, rather than continuing to investigate the issue independently of established channels. This use of the Ministry of Health guidelines, and then the New Zealand standard was the approach used, but Housing New Zealand could have been bolder and more active in encouraging the appropriate bodies to provide guidance for contamination due to use more quickly.

The Ministry of Health guidelines adopted in October 2016, and the New Zealand standard adopted in 2017 addressed methamphetamine contamination from both use and manufacture. Housing New Zealand was therefore using the guidelines as intended by the authors from this point onwards.

The Tenancy Tribunal and Courts have applied the Ministry of Health guidelines and New Zealand standard in a similar way since 2015. The Tenancy Tribunal has found that landlords must provide habitable premises that are safe to live in, and that methamphetamine contamination levels exceeding the applicable remediation threshold of the time means they are not safe.

The publication of the Chief Science Advisor's report on 29 May 2018 has provided Housing New Zealand with the confidence it needs to raise the threshold for remediation to 15µg/100cm². No action will be taken

where contamination levels are at or below this threshold. Where contamination is above the threshold, the tenants will be supported to move to another property. Based on past test results, around one in five properties are expected to test above 15µg/100cm².

Providing a safe working environment for staff and contractors

The health and safety of staff and contractors was another important factor which influenced Housing New Zealand's approach to methamphetamine contamination. Health and safety concerns have related to exposure to harmful chemicals, as well as the violent and unpredictable behaviour that is often associated with methamphetamine use.

In 2015, Housing New Zealand contractors raised concerns about their staff health and safety. In particular, they were concerned that screening tests may not detect low levels of contamination, and that chemicals used in cleaning could be harmful. In January 2016, concerns about Housing New Zealand staff visiting methamphetamine contaminated properties were raised in a letter from the Public Service Association (PSA).

Housing New Zealand responded to these concerns by making operational changes to its testing and remediation practices to take a more conservative approach. A medical opinion on the harm of exposure to methamphetamine was also obtained and provided to staff and contractors. The opinion provided some assurance in relation to potential exposure during property visits.

A deliberate dog attack on a contractor undertaking a methamphetamine test at a property later in 2015 led to further operational changes. These included improvements to safe work plans for undertaking testing at properties and the provision of security services during testing.

The introduction of the Health and Safety at Work Act in 2016 increased the focus on employers' health and safety obligations even further. A guiding principle of the Act is that workers and others need to be given the highest level of protection from workplace health and safety risks, as is reasonably practicable. The Act shifted the focus from monitoring and recording health and safety incidents to proactively identifying and managing risks.

Property stewardship and management of damage

As stewards of the Crown's second largest asset base, Housing New Zealand has a responsibility to ensure its properties are efficiently maintained to a good standard.

Housing New Zealand spent around \$120 million on testing, decontaminating and reinstating methamphetamine affected properties between July 2013 and June 2018. Although Housing New Zealand's policy is to recover the costs of intentional property damage caused by tenants where possible, only a fraction of this amount (less than two percent) was recovered.

The cost of methamphetamine testing and decontamination began to increase from 2015 and peaked in 2017. This put pressure on Housing New Zealand to ensure that it was operating efficiently and was one of the drivers of efforts to have thresholds for decontamination reviewed during 2016 (as described above).

Managing anti-social behaviour and illegal activity

Housing New Zealand's response to tenant anti-social behaviour, including illegal activity such as drug manufacture and use, has evolved since 2004. The first methamphetamine policy published in 2004 included a statement to the effect that Housing New Zealand would take a 'zero tolerance' approach to both the manufacture and use of methamphetamine. This statement was re-iterated in subsequent versions of the policy up until 2017. This policy related primarily to the manufacture of methamphetamine in the early years (up until around 2014). From this point Housing New Zealand became more proactive in testing properties suspected to be contaminated through both manufacture and use.

Housing New Zealand's policy for ending tenancies changed in 2008, when management considered that there was a need to improve the management of anti-social behaviour issues. The new approach allowed for the issuing of a 90-day notice to end a tenancy due to persistent or severe anti-social behaviour, without the need to go through the Tenancy Tribunal (although ending tenancies through the Tenancy Tribunal remained

an option). This change was incorporated in the Encouraging Good Neighbour Behaviour policy introduced in 2009. The policy provided clearer direction for staff when dealing with anti-social behaviour, including unlawful activity such as drug use.

During this time Housing New Zealand was increasingly focussed on its core tenancy management functions, with the expectation that other agencies would provide any broader social services required by tenants. In addition to this, the increasing demand for state housing led to growing pressure on Housing New Zealand to ensure that people living in its properties were adhering to their tenancy agreements. As well as ending tenancies for severe anti-social behaviour, a suspension policy was introduced in 2011 whereby tenants that transgressed could have their eligibility for state housing suspended for a period of one year. This policy was approved by the Housing New Zealand Board, after being recommended by Cabinet as part of a set of changes to eligibility rules for state housing.

A significant update of Housing New Zealand's methamphetamine management procedures in 2016 reinforced the zero tolerance approach to methamphetamine use in properties, and included procedures for managing tenants who were considered responsible for the contamination, and those who were not.

Decisions to take action (such as rehousing, charging for damage or suspending tenants) from that point on were based on whether there was credible evidence that the tenant was responsible for the contamination. Guidance was provided to staff, with process documents referring to 'reasonable grounds' or 'sufficient evidence'.

A policy clarification in 2016 confirmed that methamphetamine contaminated tenancies were being ended due to the illegal activity (either the use or manufacture of methamphetamine), not solely due to the property being contaminated. Housing New Zealand did not require confirmation of this illegal activity by the Police or Courts. This further reinforced the zero tolerance approach to methamphetamine use as an illegal activity.

Housing New Zealand's changing approach

Housing New Zealand's zero tolerance approach to illegal activity began to shift late in 2016, with a renewed focus on sustaining tenancies and increased requirement for proof of responsibility for contamination. A review of methamphetamine related policies started in mid 2017 and updated policies and processes were issued in October 2017. In December 2017 Housing New Zealand signalled that it would stop the termination of tenancies for methamphetamine contamination, unless there was clear evidence of methamphetamine manufacture. In cases where contamination is caused by methamphetamine use, this is now considered a drug addiction issue and Housing New Zealand will help tenants to seek rehabilitation services and any other support they may need. Tenants are transferred to another Housing New Zealand property if required, where contamination is above the new threshold of 15µg/100cm². Housing New Zealand stopped suspending tenants for methamphetamine contamination in early 2018. Evidence or allegations of illegal activity brought to Housing New Zealand's attention are referred to the Police.

Today, Housing New Zealand's key focus is on the health and wellbeing of the tenants and families in its homes, and supporting them to sustain their tenancies. One of the organisation's long-term objectives is to provide increased support for people with drug addiction issues and the associated health effects.

Part two – Outcomes for Tenants and Properties

Outcomes for tenants

Between July 2013 and May 2018, nearly 5,000 Housing New Zealand properties were tested for methamphetamine contamination. Around half of these tests were positive (above the prevailing thresholds at the time). About half of the affected properties (1,214) were tenanted at the time of testing.

Just over one in five affected tenants (264 tenancies) were rehoused in another Housing New Zealand property. The majority of affected tenants (791 tenancies) were considered responsible for the contamination and had their tenancies ended. Most of these tenancies were ended through a 7 day notice, a 90 day notice, or a Tenancy Tribunal order, and the tenants were not rehoused. More than a third of the tenancies ended in

this way were suspended from being housed by Housing New Zealand for a period of one year (representing 275 suspensions).

Housing New Zealand does not hold information relating to the circumstances of the majority of the 791 former tenants whose tenancies were ended as described above. Of these, 162 former tenants are currently either living in a Housing New Zealand house or are on the social housing register.

In some cases, Housing New Zealand chose to pay compensation where it was reasonably believed that the house was contaminated prior to the start of a tenancy. Some of these payments were made confidentially to the tenants without going through the Tenancy Tribunal.

Nearly \$7 million in damages was charged to 542 tenants in relation to methamphetamine contamination in the period from July 2013 to May 2018. Less than two percent of this was recovered before Housing New Zealand stopped all recovery action in relation to these charges.

Outcomes for properties

Between July 2013 and June 2018 Housing New Zealand spent approximately \$19 million on chemical testing and \$101 million on decontaminating and restoring properties. During this period over 40 properties were demolished due to either the level of contamination, or because the property had some level of contamination and was earmarked for redevelopment.

In relation to test results, around one fifth of properties with a reading above the prevailing threshold at the time of testing had a reading of $15\mu\text{g}/100\text{cm}^2$ or higher. This provides an indication of the potential change in volumes of affected properties following Housing New Zealand's adoption $15\mu\text{g}/100\text{cm}^2$ as a threshold for remediation.

Part three – Assistance to affected tenants

Housing New Zealand's tenants and their families have experienced hardship and adverse outcomes as a result of its methamphetamine contamination policies.

Housing New Zealand has taken a number of steps to address this hardship, including cancelling all tenant suspensions; stopping the collection of methamphetamine-related damage or remediation charges; and withdrawing all Tenancy Tribunal cases that relate to methamphetamine contamination, effective from the date of publication of the Chief Science Advisor's report (29 May 2018).

As well as these immediate steps, Housing New Zealand will establish an assistance programme for affected tenants and their families to acknowledge this hardship and to help them recover from their experience.

An outcomes-based approach to support affected tenants

The main element of the assistance programme is payment of a discretionary grant to affected tenants, which is consistent with payments made to tenants in the past where Housing New Zealand believed that the tenant was not responsible for the contamination. Based on previous payments, these are expected to be in the order of \$2,500 to \$3,000 per tenancy.

Other forms of assistance will focus on activities that Housing New Zealand can offer through its operations, including:

- housing affected tenants who are on the social housing register
- refunding to tenants any methamphetamine related debt that has been paid to Housing New Zealand
- formally apologising to tenants who have experienced poor outcomes, in a way that is meaningful to them and acknowledges the hardship they have experienced.

Housing New Zealand is establishing a dedicated team to implement this assistance programme. The team will be responsible for contacting affected tenants, and for ensuring there are easily accessible channels for any person to contact Housing New Zealand to discuss their experience in relation to methamphetamine contamination.

Housing New Zealand is also exploring the possibility of establishing a fund that affected tenants and their families can access to cover the costs of addiction treatment and rehabilitation services, or other support they may need. Housing New Zealand will work with its stakeholders, particularly the Ministry of Health, in developing this concept to ensure that a partnership approach is taken and that the services provided are well targeted, accessible and effective.

Improvement opportunities

Housing New Zealand has identified a number of opportunities for improvement through the development of this report. These relate to two main areas, namely the development and implementation of operational policy and processes, and record keeping and information management.

Development and implementation of operational policy

Housing New Zealand failed to take a customer centred approach when developing its methamphetamine management policies, which is evident in the confusing and sometimes conflicting communication to tenants advising them that their properties were contaminated.

Mistakes have been made at an individual level and there are instances where Housing New Zealand practice departed from operational policy.

Examples have been found of policy being used in a purely reactive manner, with the reasons for the decisions not adequately recorded or examined. There are also instances of inadequate documentation around the development and adoption of key policies.

Once a policy change is signalled it must be quickly documented, implemented and monitored to ensure that unintended consequences are quickly identified and addressed. This effort needs to be adequately resourced and supported by Housing New Zealand management and the Board.

The Board has recognised the need to take a more active role in monitoring the development and implementation of operational policy in the future. A process has recently been established to ensure ongoing and comprehensive Board review of all Housing New Zealand operational policies.

Record keeping and information management

The compilation of records relating to tenancies affected by Housing New Zealand's methamphetamine management policies has taken longer and been more resource intensive than first anticipated. This is due to the way in which information is recorded in different systems over time, and also because of poor record keeping in some cases.

System improvements are required to ensure that important information relating to tenancies and outcomes for tenants is captured and readily available in Housing New Zealand's core systems. For example, records relating to issuing notices to end tenancies have been kept manually on a range of different spreadsheets over time. Housing New Zealand is unable to guarantee that its records are complete. There is also no central register of settlements with tenants.

Housing New Zealand processes require staff to keep detailed file notes on every action and interaction with the tenant in its core tenancy management system. However, instances have been found where these notes are not located in core systems. Quality control measures must be implemented in relation to record keeping, so that performance in this area can be monitored and improved, as is the case with other key performance indicators.

Part 1

Development of Policies and Processes

Development of Policies and Processes

Introduction

Housing New Zealand is the largest residential landlord in New Zealand, providing homes to more than 180,000 people, which includes some of the country's most vulnerable. Like other landlords, Housing New Zealand has been faced with the issue of methamphetamine contamination in its properties since the early 2000s.

Housing New Zealand's policies and processes in relation to methamphetamine have developed over time in the context of its internal and external operating environment. This context includes legislation and government expectations; remediation guidelines, which have evolved over time; the organisational culture and direction of the time, and the approach taken by the Tenancy Tribunal and the Courts.

In developing any policy, Housing New Zealand balances a number of factors. These include the wellbeing of tenants; the health and safety of staff and contractors; its obligations under the Residential Tenancies Act; its responsibility as a steward of the Crown's second largest asset base; and the need to maintain its social licence so that its presence, and that of its tenants, is supported by communities across New Zealand.

This part of the report describes the development of Housing New Zealand's methamphetamine related policies and processes over time. It explains why Housing New Zealand applied the policies it did and the procedures that were in place to determine and review internal policies.

It includes:

1. an overview of policy settings and government expectations over time
2. an overview of the effect of methamphetamine contamination policy on tenants
3. a summary of the chronology of policy development including a detailed timeline. A more detailed chronology is provided in Appendix B
4. a description of the key themes related to Housing New Zealand's policy context and response.

Policy settings and government expectations

Housing New Zealand is a Statutory Corporation under the Crown Entities Act 2004, and the Housing Corporation Act 1974. The core business of Housing New Zealand is to give effect to the Crown's social objectives by providing housing, and housing-related services, in a business-like manner, to people in need for the duration of their need. Government expectations for Housing New Zealand are set out in the Letter of Expectations from the Minister responsible for Housing New Zealand. These expectations change dependent on the priorities of the government of the day. While tenant and asset management have always been a focus, the extent to which these drive operational policy is influenced by government expectations.

Between 2004 and 2008, Government made clear in its Letters of Expectations that Housing New Zealand should take a broad view of social housing. This included providing other services, such as employment opportunities for tenants and low-income workers through Housing New Zealand's asset development programme, and working with other agencies to improve outcomes for tenants. Housing New Zealand was expected to provide "support to families and individuals who need housing assistance by creating communities that exhibit security, stability and harmony"¹. As a result of these expectations Housing New Zealand operated an array of programmes that focussed on community renewal, rural housing, and neighbourhood projects, and was closely involved with strengthening families and case management.

¹ Minister of Housing to Housing New Zealand Corporation – Government's Expectations for 2008/09

By the 2010/11 financial year these programmes had ceased. Government expectations were focussed on value for money and improving the quality of expenditure across government². Ministers asked Housing New Zealand to explore ways to improve operational efficiencies, to deliver a return on its investment and to control its operating costs. Government required Housing New Zealand to implement an “innovative approach to tenancy management to ensure resources are directed to those most in need”³. There was also an expectation that Housing New Zealand would pay an annual dividend to the Crown.

During this time the Government also began the Social Housing Reform Programme, with the intention of broadening the provision of social housing. The clear expectation was for Housing New Zealand to focus on its core functions as a landlord, with other agencies providing social services for tenants as required.⁴

In the Output Agreement between the Crown and Housing New Zealand Corporation in 2011/12⁵, the Output Class ‘Tenant Support’ was limited to accommodation matters. This confirmed the shift from Housing New Zealand’s wider social mandate to pulling back Housing New Zealand’s activities to align with its core functions of tenancy and asset management. While this was occurring, changes were made to the social allocation system in 2011, which further restricted eligibility for state housing.

In 2012, Housing New Zealand implemented a significant change programme which saw operational policies updated across the organisation in line with Government’s expectations.⁶ New policies for methamphetamine contamination in Housing New Zealand properties were developed, with clear instructions for staff to end tenancies for illegal behaviour, and to charge for any damage to the property as a result of contamination⁷.

As a reaction to the deepening homelessness crisis, the Government asked Housing New Zealand to take on new roles beyond its core functions of tenancy and asset management in the 2016/17 financial year. This was signalled by an increased focus on sustaining tenancies, a significant aspect of Budget 2016, and indicated a shift back to a broader remit for Housing New Zealand. From 2017 Housing New Zealand required staff to support tenants with their addiction issues, balancing the potential effects of contamination on the property with tenant needs.

Effect of methamphetamine contamination policy on tenants

In developing this report it has become apparent that, in the period between 2014 and 2016, Housing New Zealand’s Board and management became increasingly focussed on the health and safety of tenants, staff and contractors, strict adherence to tenancy agreements, and a zero tolerance approach to unlawful activity. There was a sharper focus on these areas than on broader tenant outcomes, or the affect of Housing New Zealand’s tenancy management approach on the lives of tenants and their families. Housing New Zealand took a narrow view of its remit, which resulted in an overly compliance based culture.

Some of the most vulnerable people in New Zealand live in Housing New Zealand’s houses, including not only the main tenant but also other household members and tenants’ families. The ending of a tenancy can result in flow on effects for these individuals that can be very hard to recover from, including homelessness. Despite this, Housing New Zealand has until recently taken a zero tolerance stance towards the use of methamphetamine in its properties.

Housing New Zealand’s procedures allowed for testing of properties for methamphetamine contamination if there were reasonable grounds to believe that methamphetamine was being manufactured or used. Any level of methamphetamine contamination found could be used as evidence of illegal activity at the property, and a 2016 policy decision⁸ allowed for tenancies to be ended on this basis.

² Minister of Housing to Housing New Zealand Corporation – Government’s social objectives for 2009/10

³ Minister of Housing to Housing New Zealand Corporation – Government’s Expectations for 2010/11

⁴ Minister of Housing to Housing New Zealand Corporation – Annual letter of expectations for 2012/13

⁵ Output Agreement between The Crown and Housing New Zealand Corporation for the period 1 July 2011 – 30 June 2012

⁶ Output Agreement between The Crown and Housing New Zealand Corporation for the period 1 July 2011 – 30 June 2012

⁷ Note that standard Housing New Zealand tenancy agreement allows for Housing New Zealand to end tenancies due to illegal activity.

⁸ Methamphetamine Management Programme Board memorandum – Using methamphetamine – management of unlawful activity (5 September 2016)

Tenants who were believed to be responsible for the contamination in their properties had their tenancies ended and were not re-housed by Housing New Zealand. This occurred in two thirds of cases, representing almost 800 tenancies since July 2013. Of these, 275 tenants were also suspended from Housing New Zealand housing for a period of one year.

Housing New Zealand advised tenants that their belongings were potentially contaminated and that they risked contaminating their new home if they did not clean or dispose of possessions. Housing New Zealand assisted tenants who were considered not responsible for the contamination with grants to cover the cost of lost possessions.

Housing New Zealand also sought to recover costs relating to damaged property from tenants, including the cost of testing, cleaning and remediating methamphetamine contaminated properties. Housing New Zealand's policy required that these charges be established through the Tenancy Tribunal. However, in a few cases charges were placed on tenant accounts without reference to the Tribunal⁹. Approximately \$6.8 million in damages was charged to over 500 tenants, but less than two percent of this (**\$112,000**) has been recovered. All damage charged has now been written off tenant accounts.

Tenant experiences

Below are three scenarios that illustrate the experiences of tenants as a result of Housing New Zealand's past approach to methamphetamine contamination.

These scenarios do not describe actual cases; however they are representative of the most typical outcomes for tenants observed in Housing New Zealand properties tested above the prevailing methamphetamine threshold at the time.

Descriptions are also included to illustrate how the outcomes in each scenario would be different under Housing New Zealand's new tenancy management approach.

Customer A

Housing New Zealand staff record a long history of anti-social behaviour in the tenancy, with significant disruption for the community reported.

Housing New Zealand requested information from Police and evidence is provided indicating that methamphetamine is being smoked at the property. The property is tested and found to be contaminated at 11 µg/100cm², which is well above the threshold at the time.

A 7 day notice is issued for the tenant to leave, as the methamphetamine contamination makes it unsafe to stay in the property.

Housing New Zealand takes the tenant to the tribunal for methamphetamine damage and possession of the property; this is awarded by the Tribunal.

The tenant vacates the property and disposes of some of their possessions on Housing New Zealand's advice.

Housing New Zealand puts charges of \$3,000 for methamphetamine related damage on the customer's account (as awarded through the Tribunal).

Housing New Zealand suspends the customer for a period of one year.

The customer lives in the garage of extended family members.

⁹ This was done on vacated accounts, with the intention of finalising the debt at the Tenancy Tribunal if the tenant were to be rehoused by Housing New Zealand.

Today's approach – Customer A is assessed for intensive tenancy management. Service providers are identified to provide support, including drug and addiction services, to help the customer sustain their tenancy. The tenancy continues as a result of this support.

Customer B

A tenant requests that Housing New Zealand test their property for contamination shortly after they move in as they suspect contamination. The testing confirms that the property is contaminated at $2 \mu\text{g}/100\text{cm}^2$, just above the threshold of the time.

Housing New Zealand ends the tenancy through a 7 day notice on the grounds that the property is uninhabitable and the customer moves to a motel while Housing New Zealand arranges for a transfer to another property. Some of their possessions are destroyed on advice from Housing New Zealand.

The tenant is housed at another Housing New Zealand property. Housing New Zealand covers the costs of the motel and reasonable moving expenses for the tenant. Housing New Zealand also provides a discretionary grant to the tenant to purchase new belongings.

Today's approach – No action is taken as the property is not above the new contamination threshold of $15 \mu\text{g}/100\text{cm}^2$ threshold (as described in the CSA report).

Note that, under its new approach, Housing New Zealand will relocate tenants if the property is contaminated above the threshold, or if there is credible evidence that the property was used as a methamphetamine lab.

Customer C

Housing New Zealand tenancy managers suspect that tenants have been smoking methamphetamine at the property due to reported anti social behaviour issues. Specific credible evidence does not exist that drugs are being used. The tenant is issued with a 90 day notice to end the tenancy due to the anti-social behaviour issues, not due to drug use.

The tenant vacates the tenancy within the 90 days. The property is tested for methamphetamine and the results come back at a level of $30 \mu\text{g}/100\text{cm}^2$.

Housing New Zealand puts methamphetamine related damage charges of \$3,500 onto the tenant's account without going to the Tenancy Tribunal to establish the charges.

The tenant finds housing in the private sector.

Today's approach – Housing New Zealand works with other agencies and support providers to help the tenant address the anti-social behaviour issues. Complaints from neighbours about possible illegal activity are referred to the Police for action.

Note that Housing New Zealand has stopped the practice of charging damages to tenants' accounts without formally establishing the debt through the Tenancy Tribunal.

Summary Chronology

This section of the report summarises the development of Housing New Zealand's methamphetamine policies from 2004 to the present. A more detailed chronology is available in Appendix B.

2004 TO 2009

The first Housing New Zealand policy addressing the management of methamphetamine in its properties was established in 2004. This year also marks the first material Tenancy Tribunal ruling against a private landlord¹⁰ for renting contaminated premises that had previously been used as a methamphetamine laboratory.

Contamination of properties through manufacture was the primary focus of Housing New Zealand policy during this period. It took a zero tolerance stance to manufacturing from the start. Housing New Zealand's obligation to provide a safe and healthy property for families, as well as staff and contractor health and safety, have been key drivers behind its methamphetamine policies.

There was no New Zealand standard or guideline for methamphetamine testing and decontamination during this period. Housing New Zealand relied on the expertise of companies that were qualified to test for contamination.

Housing New Zealand's '*Encouraging Good Neighbour Behaviour*' (EGNB) policy was introduced in 2009, providing direction for staff when dealing with anti-social behaviour, including unlawful activity. The objective of the EGNB policy was to support and encourage tenants to act as good neighbours who contribute positively to community life. The policy was primarily a tool to ensure that anti-social behaviour was proactively addressed. It included definitions of both good neighbour behaviour and anti-social behaviour.

This policy was relevant to Housing New Zealand's management of methamphetamine manufacture and use, because unlawful activity was included in the definition of anti-social behaviour. The policy stated that Housing New Zealand would not tolerate unlawful activity in its properties. It allowed for tenancies to be ended through 90 day notices where the anti-social behaviour was serious or ongoing. Prior to this, Housing New Zealand relied on the Tenancy Tribunal to end tenancies for severe anti-social behaviour or illegal activity.

2010 TO 2014

During this period, the use and manufacture of methamphetamine emerged as a significant social issue as its effects on families and communities became more widely publicised through the media. Methamphetamine lab explosions made media headlines, along with the associated gang involvement and violence. The dangers of contamination from methamphetamine labs began to be a significant cause of concern for property owners.

The Ministry of Health '*Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites*' were published in August 2010, recommending a decontamination level of 0.5µg/100cm².

Over this period, Housing New Zealand's approach remained focussed on methamphetamine lab detection and management. Properties used as labs were decontaminated in accordance with the Ministry of Health guidelines. Methamphetamine lab awareness training targeted at Housing New Zealand's frontline staff was introduced in February 2011 and ran until October 2014.

- Housing New Zealand's zero tolerance approach to illegal activity was re-iterated during this period, in parallel with the following developments:
- A 2010 update to the EGNB policy provided a clear distinction between using the premises for illegal activity and illegal activity performed on the premises.

¹⁰ *Wilson v Residential Premises Management Ltd, trading as Quinovic Property Management TT Waitakere 1708/3*, 11 June 2004

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- A Customer Risk Register, introduced in February 2010, included a category for rating customers who might pose a safety hazard to staff or contractors, due to drug manufacturing or selling activity.
 - In April 2011 Cabinet recommended, as part of a set of decisions on changes to eligibility for state housing, that former Housing New Zealand tenants could be suspended for one year for serious breaches of their tenancy agreement. The Housing New Zealand Board approved this policy in October 2011 and the suspension policy was introduced in November 2011. Previous tenants and household members could have their eligibility for state housing suspended for one year for serious and/or repeated anti-social behaviour (including illegal activity).

2014

2014 was a turning point in Housing New Zealand's approach, when its methamphetamine policy was expanded to include the risks of exposure to methamphetamine use, as well as manufacture. This change was in response to a review of vacant properties tested in Whanganui and concern for staff and contractor health and safety. The result was a notable increase in the number of tests undertaken by Housing New Zealand in subsequent years.

Housing New Zealand's thresholds for contamination were still based on the Ministry of Health guidelines for the remediation of properties where manufacturing had occurred. By this time, however, it was evident to Housing New Zealand that methamphetamine use was also causing contamination. Housing New Zealand was slow to introduce comprehensive policy changes, which did not occur until March 2016. On reflection, an informed decision should have been made at this point about what level would be used for properties contaminated by use.

A decision was made not to pursue baseline testing of all vacant properties before they were re-tenanted. This decision took into account both the cost of proactive testing and the number of potential positive tests. Only four percent of the Whanganui sample tested positive.

The EGNB policy was also refreshed to provide a clearer process for staff. To reflect their intent more plainly, they were renamed the '*Anti-social behaviour guidelines*'.

2015

The health and safety of Housing New Zealand staff and contractors came into focus in 2015. Contractors began to raise concerns relating to some methods of testing and decontamination, and a contractor was seriously injured in a deliberate dog attack while carrying out a methamphetamine test. In response, Housing New Zealand made a suite of changes to testing and remediation practices.

The number of properties Housing New Zealand tested for methamphetamine contamination increased sharply during this time. This was due to Housing New Zealand's increasing vigilance in identifying potential methamphetamine use in its properties. Approximately 200 properties were tested in 2014/15, up from around 50 the previous year. A dedicated team was established to manage the increased level of testing, decontamination and reinstatement.

Also at this time, the first major review of Housing New Zealand's methamphetamine contamination policies began in response to the increased methamphetamine related activity. Housing New Zealand's zero tolerance approach continued to be reinforced during interactions with tenants, and it was also highlighted in the media.

2016

In 2016 there was another sharp increase in the number of properties Housing New Zealand tested for methamphetamine, as the operational focus on methamphetamine use continued. Approximately 1,300 properties were tested in 2015/16.

The Public Service Association (PSA) wrote to Housing New Zealand in January 2016 expressing concern for staff members who inadvertently entered contaminated properties. In response, Housing New Zealand commissioned a medical opinion, which concluded that simply visiting homes in which methamphetamine had recently been used would result in minimal actual harm. This opinion was issued to all staff and

contractors on 12 February 2016. Additional methamphetamine awareness training was also provided for frontline staff.

Housing New Zealand was an active partner in the Gang Intelligence Centre (GIC) which was established in March 2016 as part of the 2014 Whole-of-Government Plan to Reduce Harms Caused by New Zealand Adult Gangs and Transnational Crime Groups. The purpose of the GIC was to combine intelligence across government agencies and allow better targeting and coordination of policies directed at reducing gang-related harms. Housing New Zealand seconded a full-time Intelligence Analyst to the GIC to focus on short-term and strategic data analysis. The analysis was provided to Housing New Zealand to assist with the management of anti-social behaviour and criminal activity in Housing New Zealand properties (including methamphetamine related activity).

The introduction of the Health and Safety at Work Act (HSWA) on 4 April 2016 increased Housing New Zealand's focus on employer and contractor health and safety.

As a result of the increased activity and heightened health and safety concerns, Housing New Zealand commissioned Deloitte to undertake a review of its methamphetamine response. The findings of the review informed the establishment of a comprehensive methamphetamine management programme.

The programme included an extensive rewrite of Housing New Zealand's methamphetamine policies and procedures. The revised procedures provided detailed guidance for staff on making decisions in relation to rehousing tenants, charging for damage, ending tenancies, and suspending tenants from eligibility for state housing. These decisions were driven by the zero tolerance approach to criminal activity and therefore determined by whether or not there was credible evidence that the tenant was responsible for contamination.

Housing New Zealand also commissioned independent scientific advice on the level of methamphetamine contamination that could be used as a testing and remediation threshold. It was unable to obtain a consensus view from its expert reviewers. Housing New Zealand was also aware the Ministry of Health was planning to release a revised interim threshold that included safe levels for use as well as manufacture in October 2016 and that this would be used to inform the New Zealand standard that was being developed. As a result, Housing New Zealand decided to continue using the existing threshold for the time being¹¹. There was an opportunity at this point for Housing New Zealand to take a leadership role by continuing to investigate the issue independently of established channels, however, a conservative approach was taken.

Housing New Zealand adopted the Ministry of Health revised interim thresholds as soon as they became available in October 2016. The interim thresholds applied to methamphetamine contamination from use as well as from manufacture. From this point, Housing New Zealand was applying the threshold in the way intended by the Ministry of Health.

Housing New Zealand was also represented on the '*Methamphetamine Testing and Remediation Standards Development Committee*' established in May 2016, to develop the revised New Zealand standard.

In December 2016, the methamphetamine management programme provided an additional policy clarification for Housing New Zealand staff. They were now able to manage evidence of methamphetamine use at a Housing New Zealand property as unlawful activity, even if the level of contamination at the property was below Ministry of Health guidelines. This further reinforced the zero tolerance approach to methamphetamine use as an illegal activity.

2017

The New Zealand standard for '*Testing and decontamination of methamphetamine contaminated properties*' (NZS 8510:2017) was released in June 2017. This standard was immediately adopted by Housing New Zealand.

¹¹ Memo – Advice on Methamphetamine Threshold, Acting Chief Executive to Chair Housing New Zealand (1 August 2016)

Housing New Zealand's methamphetamine procedures were updated accordingly and included further advice on how to manage cases where tenant belongings were contaminated. Tenants were warned that their belongings could be contaminated. Housing New Zealand provided discretionary grants to tenants in cases where the tenant was not responsible for the contamination.

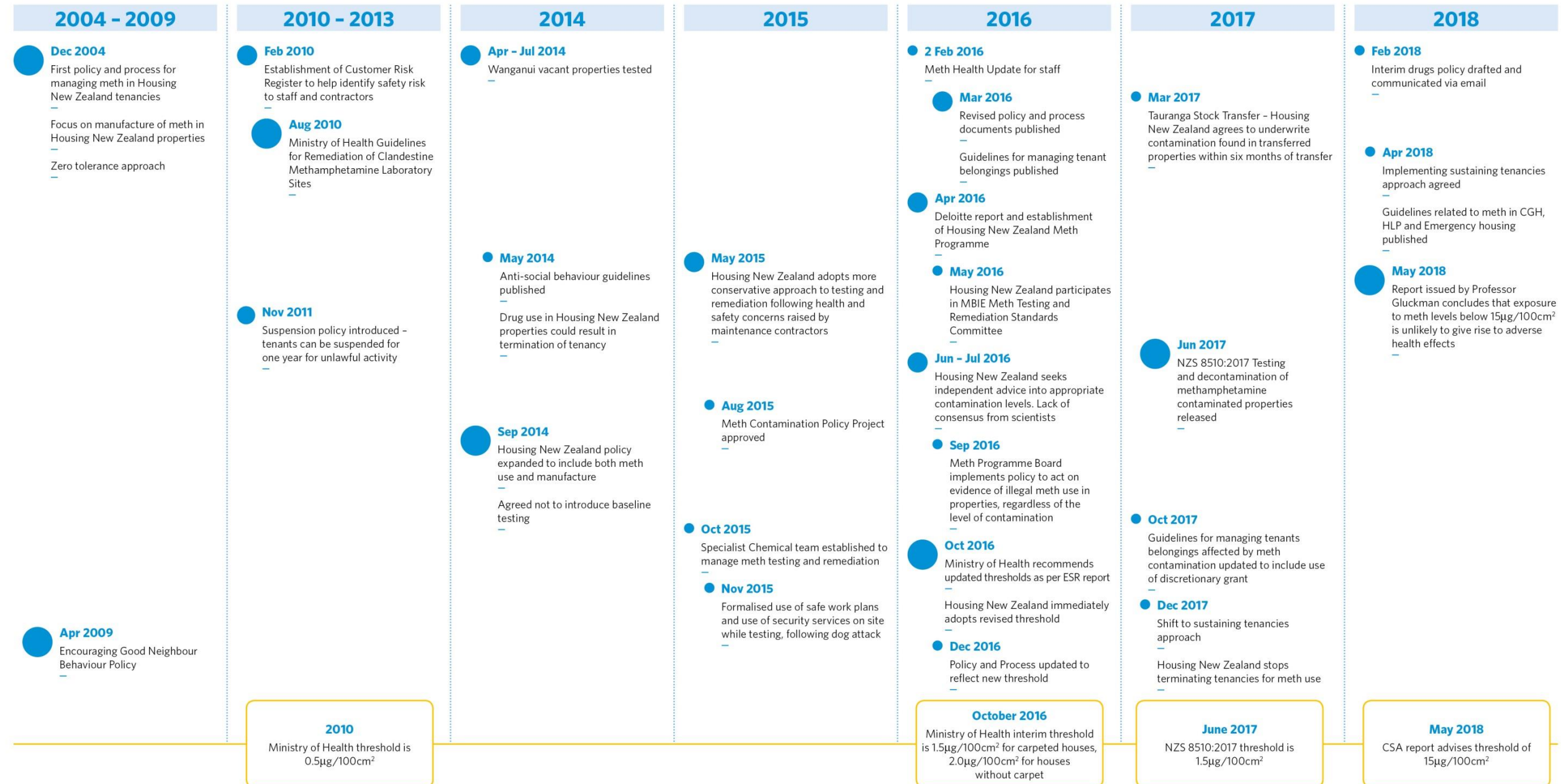
At this time, Housing New Zealand began to implement a sustaining tenancies approach. Work began on a policy shift from focussing on the illegality of drug abuse, to supporting tenants who struggle with drug addiction. An important consideration as part of this policy shift is the potential increase in staff health and safety risks.

2018

The report by the Chief Science Advisor, Sir Peter Gluckman, '*Methamphetamine contamination in residential properties: Exposures, risk levels, and interpretation of standards*' was released on 29 May 2018. Recognising that following the New Zealand standard was causing unnecessary harm to tenants and resulting in unnecessary expenditure, Housing New Zealand immediately adopted the recommendations in the report into its testing and decontamination practices.

Housing New Zealand is currently developing a new drug policy. It will cover drug use, manufacture and supply in its properties, in line with the current sustaining tenancies approach. Housing New Zealand will support tenants who suffer from the health effects of drug addiction by connecting them with the appropriate drug rehabilitation services, while keeping them in their homes wherever possible. If tenants are required to move because their house is contaminated above the new threshold of 15µg/100cm², they will be moved to another suitable Housing New Zealand home.

METHAMPHETAMINE CONTAMINATION – HOUSING NEW ZEALAND'S RESPONSE



Key Themes

This section discusses the key context and policy themes that have been identified through the development of the detailed chronology (Appendix B). It describes how each theme has developed or shifted in emphasis since 2004.

The themes discussed include:

- Housing New Zealand's governance
- Methamphetamine as an emerging community and media issue
- Providing a safe home for tenants and families
- The Tenancy Tribunal's approach
- Health and safety of staff and contractors
- Approach to tenant damage
- Shift to testing on suspicion of use
- Zero tolerance of illegal activity
- Rehousing tenants
- Tenant belongings in contaminated properties
- Baseline testing of vacant properties
- Housing New Zealand's new approach to tenancy management.

HOUSING NEW ZEALAND'S GOVERNANCE

Housing New Zealand's Board is responsible for the overall governance of the organisation and for managing it according to its legal mandate. The Board approves core Housing New Zealand documents such as the Statement of Intent, Statement of Performance Expectations, annual budget and strategic plan, as well as significant organisational strategies and policies. It also selects, appoints, and monitors the performance of the Chief Executive.

The Chief Executive has delegated responsibility for operational matters, which are overseen through the Executive Team. Operational matters include tenancy and property management and the day-to-day running of the business.

Quarterly Reporting

Housing New Zealand's Quarterly Report is the main channel through which information about its operational performance is monitored against its Statement of Performance Expectations. The report is approved by Housing New Zealand's Chief Executive and its Board, and is then provided to Housing New Zealand's monitoring agency and the responsible Minister.

References to methamphetamine have appeared sporadically in Quarterly Reports over time. The December 2004 report noted the number of methamphetamine labs discovered in Housing New Zealand properties, its zero tolerance approach to this activity, and that associated costs would be recovered from tenants.

There was no further mention of methamphetamine until the 2016 and 2017 Quarterly Reports. In these reports methamphetamine was most commonly discussed in the context of the increasing costs of testing, decontamination, and reinstatement of properties. The time taken to reinstate properties was also noted, as this could take up to three months.

Other reporting to the Board

Housing New Zealand's Board was also made aware of the ongoing operational challenges of severe antisocial behaviour, illegal activity, and methamphetamine contamination. A detailed chronology of this reporting is provided in Appendix C.

In 2009, the Board noted the development of a policy around Housing New Zealand's expectations of encouraging good neighbour behaviour, and consequences for serious breaches of tenancy agreements¹². In 2011, the Board approved a new suspensions policy, after it was recommended by Cabinet¹³. This policy allowed Housing New Zealand, in some situations, to suspend people from eligibility for state housing for up to one year.

From 2015 onwards, a greater level of information about methamphetamine was provided to the Board, including advice relating to health and safety of staff and contractors when testing for contaminated properties, and advice about interim methamphetamine testing policies that were developed to keep staff and contractors safe.¹⁴

In 2016 the Board noted the Deloitte report, which was commissioned by Housing New Zealand to provide an external view of its methamphetamine management approach and an assessment of future risks.¹⁵

In mid-2016, the Board Chair requested advice from the acting Chief Executive regarding Housing New Zealand's work in seeking independent expert opinion on a safe contamination threshold which could be implemented ahead of the release of the New Zealand standard in 2017. The Board Chair was advised that a decision was made to support the Ministry of Health and the development of a New Zealand standard rather than to continue to try to establish an independent standard.¹⁶

Housing New Zealand's response to methamphetamine contamination in its properties has predominantly been treated as an operational matter, which meant that the implications of its tenancy management approach in relation to methamphetamine were not made explicit to the Board.

The Housing New Zealand Board has recently established a process for ongoing comprehensive review of all Housing New Zealand operational policies.

METHAMPHETAMINE AS AN EMERGING COMMUNITY AND MEDIA ISSUE

The use and manufacture of methamphetamine emerged as a significant social issue during 2010, when its effects on families and communities became more widely publicised through the media. Both methamphetamine lab explosions and the associated gang involvement and violence made headlines. Many articles focussed on the potential dangers of methamphetamine contamination of homes to human health, and how to avoid costs associated with it.

From 2010, the dangers of contamination from methamphetamine labs became a significant cause of concern for property owners. Landlords experienced increasing pressure to ensure their properties were free of methamphetamine contamination. This pressure was contributed to by Tenancy Tribunal rulings¹⁷ in favour of tenants living in contaminated properties.

As the country's largest landlord, there was an increased focus on Housing New Zealand's response to the issue, and its effect on tenants and property. Housing New Zealand began to receive letters from doctors and other health professionals, concerned that undetected methamphetamine contamination in their patient's homes could be the cause of illness, requesting that homes be tested.

¹² 5-1 CE report – Encouraging Good Neighbour Behaviour Policy (26 March 2009)

¹³ The Cabinet recommendation did not bind Housing New Zealand Corporation to adopt the policy. The Board had to decide to adopt the policy as a matter of operational policy.

¹⁴ Various Board papers and updates - 2015

¹⁵ Board paper – 8-2 Appendix 1 – Deloitte – Housing New Zealand – Review of P (P) Contamination Management and Strategies

¹⁶ Memos – Advice on Methamphetamine Threshold – Acting Chief Executive to Housing New Zealand Board Chair (13 July and 1 August 2016)

¹⁷ Mabbett v Hudson & Others TT Palmerston North 09/01485/PM, 27 October 2009, McFadyen v Epsom Management Ltd DC Wellington CIV-2013-085-000021, 6 March 2013, Housing New Zealand Corporation Ltd v Teepa TT Manukau 15/04385, 7 August 2015

Throughout 2015, media attention on methamphetamine contamination in Housing New Zealand properties increased. This attention was focussed on vacant properties and evicted tenants, as well as the significant increase in positive test results in Housing New Zealand properties between 2014/15 and 2015/16. Housing New Zealand issued a media statement reinforcing its zero tolerance approach to illegal behaviour in its properties, including the manufacture and use of methamphetamine.

PROVIDING A SAFE HOME FOR TENANTS AND FAMILIES

Housing New Zealand has an obligation to provide a safe and healthy property for the families in its homes. This has been one of the key drivers behind Housing New Zealand's use of remediation guidelines and scientific advice.

Housing New Zealand relies on guidance and expert advice to ensure its properties are safe. Housing New Zealand used the Ministry of Health guidelines from 2010, and then the New Zealand standard from 2017, to make this determination.

The Tenancy Tribunal and Courts have taken a similar position. The Tenancy Tribunal has found that landlords must provide habitable premises which are safe to live in and that methamphetamine contamination levels exceeding the applicable remediation threshold of the time means they are not safe.

The following section is a discussion of the guidelines and expert advice available to and used by Housing New Zealand over time.

Before 2010

There was no New Zealand standard or guideline for methamphetamine testing and decontamination before 2010. As a result, Housing New Zealand relied on the expertise of industry experts who were qualified to test and advise on remediation of chemical contamination during this time¹⁸.

2010 to 2016

In 2010, the Ministry of Health published *the 'Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites'*. The guidelines recommended a limit of 0.5µg/100cm² as the post-remediation re-occupancy level for a dwelling that had been used as a methamphetamine lab. This figure was not a mandatory clean-up target, or a standard that had been adopted in any New Zealand statute, regulation or New Zealand standard. Instead it was a 'recommended practice' reference point.

The 2010 Ministry of Health guidelines were intended for methamphetamine labs and no guidance was available, in New Zealand, during this period relating to methamphetamine contamination caused by use. Housing New Zealand accepted the Ministry of Health guidelines as a benchmark for cleaning up methamphetamine contamination caused by both manufacture and use.

It is noted that:

- the Australian standard effective over this period also proposed a level of 0.5µg/100cm². This standard applied to methamphetamine contamination caused by both use and manufacture
- the Tenancy Tribunal also regarded the remediation threshold in the Ministry of Health guidelines as applying equally to contamination arising from methamphetamine use. This conclusion was informed by the Australian standard as well as concerns for human health arising from methamphetamine contamination generally.

2016 scientific advice sought by Housing New Zealand

Although Housing New Zealand had already widened its methamphetamine contamination policy to include use, it was not until February 2016 that it sought scientific advice to determine safe levels for occupying a contaminated home. At this time Housing New Zealand commissioned Deloitte to produce a report to provide

¹⁸ As noted in T-126 Tenancy Procedure: Methamphetamine (P) and Housing New Zealand Corporation tenancies, V1 to V3 (2004 to 2011)

confidence in its response to methamphetamine contamination. This report '*Housing New Zealand Corporation Review of P Contamination Management and Strategies*' confirmed that there was no scientific consensus regarding an appropriate level of contamination. The international literature varied from 0.1 to 1.5µg/100cm².

The report also noted that there were no accepted industry standards for the testing and remediation of methamphetamine contaminated properties and this meant that remediation may not be cost effective in the long term. The report concluded that Housing New Zealand could be either over-responding or under-responding to methamphetamine contamination. It also recommended that Housing New Zealand include an expert scientific stakeholder as part of its advising panel to provide guidance regarding the long term harm effects and relevant industry testing and remediation standards.

Given the scale of Housing New Zealand's methamphetamine contamination response, management decided that it should fund research to help shape the evolving cross-agency response to methamphetamine. In June 2016, Housing New Zealand¹⁹ commissioned Dr Nick Kim (Senior Lecturer, College of Health, Massey University) to provide an opinion on the nature of the recommended clean-up guideline (0.5µg/100cm²) and the lowest level of contamination at which adverse health effects are possible.

Dr Kim concluded that the Ministry of Health guidelines did not denote the onset of a quantifiable health risk. Rather, it was a risk-based guideline value and as such, included significant safety factors to allow for differences in sensitivity between individuals, as well as exposure over a long period. In Dr Kim's opinion, 12µg/100cm² represented a contamination level at which adverse health effects could become plausible in the most sensitive person (infants).

Peer review was sought and received from four other scientists on this advice, including an overseas review requested by the Ministry of Health. Three of these reviewers did not fully support Dr Kim's conclusion. Specifically, one reviewer did not believe that the analysis presented by Dr Kim provided a convincingly improved alternative to the current standard or that from California. Another expressed the opinion that the report did not support a change as it provided no new information than that available at the time of publication of the Ministry of Health guideline.

The Housing New Zealand Board asked Dr Kim²⁰ to provide an opinion on a reasonable and manageable safe level of methamphetamine contamination to guide Housing New Zealand's operating procedures if it were to depart from the Ministry of Health threshold prior to the development of a NZ standard. Dr Kim suggested 1.5µg/100cm² as an interim level and 3.0µg/100cm² as a final figure. Dr Kim later clarified his position in July 2016²¹, cautioning that he would recommend seeking confirmatory sign-off from the Ministry for the Environment and Ministry of Health before adopting the 1.5µg/100cm² threshold he had suggested. The reason for this sign-off was to confirm that the higher figure was a valid selection under the Ministry for the Environment's guideline hierarchy and to confirm that the Ministry of Health was comfortable with the use of the alternative figure. He did not believe that there would be an issue getting this agreement. Dr Kim also noted that the adoption of a higher figure (e.g. 3µg/100cm² or 6µg/100cm²) should not rest on the opinion of one toxicologist, but needed to be made by a toxicological reference group through a consensus process, in the same way as was done for the national environmental standard for contaminants in soils. According to Dr Kim the decision-making function of a technical advisory group of this type would generally rest with senior toxicologists employed by government ministries.

In response, Housing New Zealand decided to focus on working with the Ministry of Health and the Ministry of Business, Innovation and Employment (MBIE) to support the development of a New Zealand standard. This was considered to be a more prudent course of action than Housing New Zealand attempting to set up a toxicological reference group on its own. At this stage (in July 2016), Housing New Zealand expected a new interim guideline from the Ministry of Health by October 2016. One of the key reasons for adopting the

¹⁹ This work was undertaken under the direction of Housing New Zealand's Methamphetamine Management Programme.

²⁰ Email to Dr Kim 23 June 2016

²¹ Email from Dr Kim 25 July 2016

interim Ministry of Health guideline instead of an independent guideline was the need to manage staff (represented by the Public Service Association) and contractor concern around their health and safety.

Housing New Zealand had an opportunity to provide housing sector leadership at this point; however, it decided to take a conservative approach instead of continuing to investigate the issue independently of established channels, such as the Standards committee. This reflected the timing of pending decisions around updated Ministry of Health guidelines, and the development of a New Zealand standard.

2016 Ministry of Health recommended interim guidelines

The Ministry of Health commissioned the Institute of Environmental Science and Research (ESR) to conduct a review of the existing guidelines to ascertain whether the methamphetamine contamination level remained valid. The review, published in October 2016, recommended three different levels:

- $2.0\mu\text{g}/100\text{cm}^2$ – for contamination caused by use where carpet has been removed
- $1.5\mu\text{g}/100\text{cm}^2$ – for contamination caused by use where carpet remains
- $0.5\mu\text{g}/100\text{cm}^2$ – for contamination caused by manufacture.

These levels were publicly announced by the Ministry of Health in October 2016, and Housing New Zealand immediately adopted them as guidelines for remediation. This became the accepted guidance for property owners until the New Zealand standard came in to effect in June 2017.

2017 publication of New Zealand standard

In June 2017, Standards New Zealand published the *‘Testing and decontamination of methamphetamine-contaminated properties’* (NZS 8510:2017). The standard was accepted and implemented immediately by Housing New Zealand.

The standard addressed all sources of methamphetamine contamination. The committee established by Standards New Zealand set a single standard of $1.5\mu\text{g}$ rather than separating use and manufacture. This was because:

- a level of $2\mu\text{g}/100\text{cm}^2$ was not considered conservative enough for a methamphetamine lab
- other than by expert scientific opinion, it is not possible to determine whether a property has been used as a methamphetamine lab, based solely on the results of surface sampling
- evidence of a methamphetamine lab may change as production techniques change.

2018 Chief Science Advisor’s report

In December 2017, the Minister of Housing and Urban Development commissioned the Prime Minister’s Chief Science Advisor, Professor Sir Peter Gluckman, to review all the available scientific and medical evidence on the risks to occupants of homes in which methamphetamine has been used or manufactured. The review conducted by Professor Gluckman was a review of existing domestic and international research. The scope did not include the commissioning of new primary research.

The final report, *‘Methamphetamine contamination in residential properties: Exposure, risk levels, and interpretation of standards’* (the CSA report) was released on 29 May 2018.

A key conclusion of the CSA report was that methamphetamine testing should only be triggered where previous or current methamphetamine lab activity or very heavy use is suspected. If methamphetamine is not detected at levels greater than $15\mu\text{g}/100\text{cm}^2$, the report advises there is little cause for concern unless there are other reasons to suspect methamphetamine manufacturing activity. This level still incorporates a 30-fold safety buffer on a conservative estimate of risk.

Effective from its release date, Housing New Zealand adopted the conclusions of the CSA report into its current practice for testing and decontaminating its properties where methamphetamine contamination is suspected. Specifically, decontamination will not be prompted unless methamphetamine levels are detected at levels greater than $15\mu\text{g}/100\text{cm}^2$. As a methamphetamine lab cannot be identified merely by a higher level

of decontamination, properties with levels above 15µg/100cm² will be decontaminated down to or below 1.5µg/100 cm² as prescribed in the New Zealand standard (NZS 8510).

THE TENANCY TRIBUNAL'S APPROACH

Although the Ministry of Health guidelines, published in 2010 and subsequently reviewed by ESR in 2016, were acknowledged to be advisory only, the Tenancy Tribunal nevertheless considered them to be of primary importance in determining whether:

- a property was fit for habitation
- there had been a breach of the relevant Residential Tenancy Act (RTA) obligations²².

The Tribunal has also held that while the Ministry of Health guidelines specifically concerned methamphetamine contamination arising from clandestine laboratories, the remediation threshold applied equally to contamination arising from methamphetamine use. This conclusion was informed by the equivalent Australian remediation guidelines²³ as well as concerns for human health arising from methamphetamine contamination generally.²⁴

Further, a High Court ruling in May 2018 found that landlords are required to comply with the NZS 8510 as part of their obligation to comply with all applicable legislative health and safety requirements under section 45(1)(c) of the RTA.²⁵

See Appendix D for a chronology of key Tenancy Tribunal and High Court decisions.

Landlords' obligations

The Tenancy Tribunal has consistently held that a landlord providing a property with methamphetamine contamination levels exceeding the applicable remediation threshold is in breach of:

- a) an implied obligation to provide a habitable premises under section 45 of the RTA,²⁶
- b) the obligation under section 45(1)(a) of the RTA to provide the premises in a reasonable state of cleanliness,²⁷ and/or
- c) the obligation under section 45(1)(c) of the RTA, at least after the Standard was introduced, to comply with all requirements in respect of buildings, health and safety.²⁸

As a result, tenants have been awarded full or partial compensation for damage to possessions and/or reduced rent for the duration of the contaminated tenancy (among other forms of compensation).²⁹

The Tribunal's approach has, on occasion, been to make orders finding that a landlord was liable for providing contaminated premises where the landlord intentionally or knowingly did so.³⁰ However, their usual approach has been to impose strict liability on landlords to provide a habitable premise, regardless of whether the landlord was aware of the contamination³¹. This has placed a practical duty on landlords to conduct methamphetamine testing prior to tenancing any property, where methamphetamine use may have occurred. In several cases, the Tribunal has warned that landlords were taking "a huge risk" by failing to carry out methamphetamine testing before a tenancy began.³²

²² *Harper Property Management Ltd v Visage TT Pukekohe 15/06955*, 16 March 2016 (Visage); *Lodge City Rentals v Forkert TT Hamilton 404777*, 30 November 2016 (Forkert), *Housing New Zealand Corporation Ltd v Teepa TT Manukau 15/04385*, 7 August 2015,

²³ Government of Australia - Clandestine Drug Laboratory Remediation Guidelines (2011)

²⁴ Visage [Tab 7]; *Ahu v Housing New Zealand Corporation TT Auckland 15/02298*, 27 November 2015; *Hughes v BCRC Ltd trading as Harcourts & Another TT Pukekohe 4001997, 40066950*, 18 August 2016.

²⁵ *Smith v Accessible Properties New Zealand Ltd [2018] NZHC 1010 (Smith)*.

²⁶ Visage.

²⁷ *Lepua v Barfoot & Thompson Ltd TT Waitakere 4051074*, 11 April 2017.

²⁸ Smith.

²⁹ Visage; Forkert .

³⁰ *Housing New Zealand Corporation v Mita TT Manukau 15/05142/MK*, 21 January 2016

³¹ Lepua; Visage; Forkert

³² *Lepua; Harris v Thomas Baseden Real Estate Ltd TT North Shore 4001631*, 15 March 2016 (Harris)

The Tenancy Tribunal has awarded exemplary damages against Housing New Zealand for providing premises to a tenant that was alleged to have been contaminated prior to the tenancy beginning, despite Housing New Zealand not having any prior knowledge of the contamination.³³ The test results of the property found that the highest reading was 3.6 µg/100cm².

Tenants' obligations

Tenants responsible for causing contamination above the prescribed levels in the Ministry of Health guidelines or New Zealand standard have consistently been held, by the Tenancy Tribunal, to have caused "damage", or to have failed to keep the premises reasonably clean and tidy under section 40 of the RTA.³⁴

In contrast, where contamination is below the Ministry of Health guidelines or the New Zealand standard, the Tribunal has typically (though not always)³⁵ found that this does not amount to a breach of a tenants' obligations in respect to property damage or uncleanliness.³⁶ In such cases, the Tribunal has sometimes found a breach of the tenant's obligation under section 40(2)(b) not to use the premises or allow it to be used for an unlawful purpose. Exemplary damages have been awarded in such cases.³⁷

If there is clear evidence that the stigma associated with decontamination has caused economic loss, the Tribunal has also awarded compensation for "stigma damages", even where remediation was covered by insurance or was unnecessary given the level of contamination.³⁸

Implications for Housing New Zealand

The liability consistently imposed by the Tenancy Tribunal on landlords to provide habitable premises (starting in 2009³⁹), was one of the factors prompting Housing New Zealand to consider baseline testing all vacant properties (in 2014 and again in 2015). Universal baseline testing was not implemented, as the costs were considered to be prohibitive and testing would have caused significant delays to re-letting a property to a new tenant. Given the number of people on the housing register, such delays were considered unacceptable. However, Housing New Zealand did test vacant properties before a new tenancy was started if there was a suspicion that the property could be contaminated.

HEALTH AND SAFETY OF STAFF AND CONTRACTORS

Staff and contractor health and safety is an important driver influencing Housing New Zealand's approach to methamphetamine contamination. As a Crown agency, Housing New Zealand's health and safety obligations are set out in legislation. A chronological summary of how Housing New Zealand has responded to concerns relating to the health and safety of staff and contractors is outlined below.

2004 to 2014

In December 2004, Housing New Zealand published a methamphetamine management policy, stating that staff and contractors should not enter a property suspected of being used for manufacturing methamphetamine until it was safe to do so by experts. This policy reflected the requirements of the Health and Safety in Employment Act 1992 to take all practicable steps to make sure that employees are kept safe.

Concern for staff safety was also one of the reasons for the introduction of the Methamphetamine Lab Awareness training targeting frontline roles introduced in February 2011. Key outcomes included staff learning how to keep themselves safe, and how to identify a methamphetamine lab. The training programme ended in October 2014 due to Housing New Zealand's focus shifting from the identification of methamphetamine labs to methamphetamine use.

³³ *Wharehinga v Housing New Zealand Corporation Ltd TT Gisborne 4028986*, 7 December 2016

³⁴ *Housing New Zealand Corporation v Teepa TT Manukau 15/04385/MK*, 7 August 2015; *Housing New Zealand v Harrison TT Christchurch 4033506*, 5 August 2016

³⁵ Harris

³⁶ *Global Rentals and Property Management Ltd v Peters TT North Shore 4109677*, 21 December 2017; *BCRE Ltd v Farrow TT Pukekohe 4074613*, 21 December 2017

³⁷ *Professionals Whakatane Ltd v Cameron TT Whakatane 4083711*, 30 June 2017

³⁸ see discussion in *Gibson Barron Realty v Naicker TT Tauranga 4109692*, 21 February 2018

³⁹ see *Mabbett v Hudson & Others TT Palmerston North 09/01485/PM* 27 October 2009

2015

In 2015, Housing New Zealand contractors became increasingly concerned about the health and safety of their staff, due to the sharp increase in properties testing positive for methamphetamine and growing public awareness of the dangers of contamination. Contractors were concerned about the risk of an initial instant screening test used by Housing New Zealand not picking up levels of contamination close to the guideline level. They were also concerned about the safety of chemicals present in the foaming decontamination method used at that time.

In response, Housing New Zealand made a suite of changes to testing and remediation practices. The use of instant screening tests was stopped and replaced with laboratory tested swab testing. The foaming decontamination method was also stopped and replaced with either a triple wash with sugar soap, or stripping out⁴⁰ houses where contamination was 4.0 µg/100cm² or above. It was noted that these changes would increase the time properties remained vacant, the number of properties being stripped out, and the associated costs.

In October 2015, a contractor sent to conduct a methamphetamine test was locked inside the property with an aggressive dog by the tenant. The dog attacked him and he suffered significant lacerations, resulting in an emergency hospital admission. As a result, Housing New Zealand strengthened its procedures for requesting and undertaking methamphetamine testing at tenanted properties. Changes included waiting until the tenancy could be ended in situations where the safety risk to staff and contractors was considered too great for testing to proceed. Security services were also to be provided to testers and tenancy managers.

2016

The Public Service Association (PSA) wrote to Housing New Zealand in January 2016 expressing concern for staff members who enter contaminated properties, where Housing New Zealand was not yet aware of the contamination. In response, Housing New Zealand commissioned a medical opinion regarding the harm from potential exposure to staff and contractors. The detailed opinion concluded that there could be minimal actual harm to employees from simply visiting homes in which methamphetamine had recently been used. This information was issued to all staff and contractors.

Policies were extensively reworked at the end of March 2016, with an explicit focus on the wellbeing and safety of staff, tenants and other persons potentially coming into contact with contamination. Additional training was also made available from July 2016 to help frontline staff understand and use the new policies and procedures.

At the same time, the introduction of the Health and Safety at Work Act (HSWA) on 4 April 2016 also increased the focus on employers' health and safety obligations. A guiding principle of the Act is that workers and others need to be given the highest level of protection from workplace health and safety risks, as is reasonably practicable. The Act shifted the focus from monitoring and recording health and safety incidents to proactively identifying and managing risks.

Housing New Zealand introduced a number of changes for contractors carrying out testing, decontamination and reinstatement work in response to the introduction of the HSWA. These included:

- tightening Housing New Zealand's requirements⁴¹ relating to methamphetamine decontamination
- requiring post decontamination reports from decontamination contractors
- the instigation of contractor forums (regular, face to face group engagements held between Chemical Team members and their key contractors), covering a range of topics related to health and safety, which aligns with the HSWA 2015 requirement to "consult, co-operate with, and co-ordinate activities with all other PCBUs"
- the implementation in 2017 of Impac PREQUAL, a third party health and safety prequalification requirement for all decontamination and remediation contractors

⁴⁰ Stripping out would involve the removal of everything - walls, ceilings and floor coverings

⁴¹ Refer Housing New Zealand Amenity Control Manual ACM-200

- the implementation of the requirement to use and obtain Housing New Zealand approval of Site Specific Safety Plans prior to any decontamination or reinstatement work being undertaken
- increased reporting and monitoring of contractor incidents
- increased communication of safety risks between contractors (testing, decontamination and reinstatement) and Housing New Zealand through processes such as the Completed Works Form
- increased site monitoring, including establishment of Chemical Team performance indicators for this activity.

HSWA Section 44 – Duty of officers

An officer of a person conducting a business or undertaking (PCBU) must exercise due diligence to ensure that the PCBU complies with that duty or obligation. Housing New Zealand Board members and the Chief Executive are all officers. Executive Team members could be deemed officers if they exercise significant influence over the management of the business or undertaking.

HSWA 2015, Subpart 4 details the Offences relating to duties:

- Under Section 47: Offence of reckless conduct in respect of duty an officer of a PCBU can be liable on conviction to a term of imprisonment not exceeding 5 years or a fine not exceeding \$600,000, or both.
- Under Section 48: Offence of failing to comply with duty that exposes individual to risk of death or serious injury or serious illness an officer of a PCBU can be liable on conviction to a fine not exceeding \$300,000.
- Under Section 49: Offence of failing to comply with duty an officer of a PCBU can be liable on conviction to a fine not exceeding \$100,000.

HSWA Section 37 – Duty of person conducting a business or undertaking

Section 37 of the HSWA states that a PCBU who manages or controls a workplace must ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace, and anything arising from the workplace are without risks to the health and safety of any person.

APPROACH TO TENANT DAMAGE

As stewards of the Crown’s second largest asset base, Housing New Zealand has a responsibility to ensure its properties are maintained to a good standard, including a responsibility to repair any damage. Housing New Zealand policy is to seek to recover the costs of intentional property damage caused by tenants.

Housing New Zealand typically treated the management of methamphetamine related damage in the same way as it has treated any other damage to property. The Tenancy Tribunal upheld Housing New Zealand’s view that methamphetamine contamination could be considered as “damage” under s40 of the RTA. In particular, the Tribunal noted that “premises could be damaged by methamphetamine use or manufacture in a similar way to premises damaged by smoke from fire”.⁴²

Housing New Zealand’s first methamphetamine policy (2004) stated that it would seek to recover any costs associated with the clean up and repair of property from its tenants. This statement was expanded when the policy was refreshed in 2016 and 2017 to include the recovery of costs associated with testing, cleaning, reinstating, demolishing, or the loss of value of a property, from the tenants and/or other persons, through the Tenancy Tribunal or District Court.

⁴² *Housing New Zealand Ltd v Teepe TT Manukau 15/04385, 7 August 2015*

Guidance to staff available since 2014⁴³ referred to the policy documents mentioned above and also noted that methamphetamine damage was to be “*treated the same as any other damage – if we have the evidence, we should be seeking to recoup that via the Tribunal in the usual way.*”

The guidance also stated that, in practice, claims larger than \$50,000 would usually be written down to \$50,000 (the maximum amount claimable in the Tribunal) and then recovered as damage through the Tribunal. Decisions to litigate for larger claims at the District Court were to be made on a case by case basis, in consultation with Housing New Zealand’s legal team.

Debt management staff noted that the time taken to complete methamphetamine decontamination and reinstatement made it difficult to get costs awarded at the Tenancy Tribunal. Housing New Zealand had 60 days to apply to the Tenancy Tribunal for damage costs once a tenancy had ended. If full costs were not available at that time, Housing New Zealand needed to apply with partial costs and then request an adjournment to give time to finalise full costs.

SHIFT TO TESTING ON SUSPICION OF USE

The focus of the 2004 policy was primarily on methamphetamine labs, with little reference to contamination through smoking. This remained the case until 2014. The numbers of contaminated properties found over this period were relatively low, ranging between four and 13 per year, and anecdotally the majority of these were methamphetamine labs.

2014 was a key turning point in Housing New Zealand’s approach, when it was decided that current policy should be expanded to include risks of exposure to contamination from methamphetamine use, as well as manufacture. This occurred after a potential purchaser of a Housing New Zealand property in Whanganui wrote to the Minister for Housing advising that the property had been found positive for methamphetamine contamination. Housing New Zealand decided to test all vacant properties in Whanganui and a paper on the test findings was presented to the Executive Team in September 2014.

The paper recommended that policy was modified to align with practice and to recognise the increasing risk of exposure to methamphetamine use along with manufacture. The key reason for the policy change was to align with staff experience, whereby more suspicions of methamphetamine use were being recorded (as opposed to manufacture). Along with staff health and safety, this paper was concerned with mitigating a reputational risk to the divestment programme property management. The paper did not discuss the effect of this policy change on tenants, which is reflective of Housing New Zealand’s operational culture at the time.

The shift to more active testing, including on suspicion of use, began to be reflected in practice, with a notable increase in the number of properties testing positive (around 30 properties in 2013/14, and 200 in 2014/15).

Work was started in late 2014⁴⁴ to review methamphetamine management policies and processes, which included the requirement to provide clear expectations for identifying and responding to suspicion of contamination. Several workshops were held with internal subject matter experts from August to October 2015. An extensive rewrite of the policy and procedure documentation and relevant collateral was released in March 2016⁴⁵.

The refreshed policy and procedure documentation reflected practice that had developed within the organisation since 2014. It was triggered by the suspicion or allegation of drug use, manufacture, or sale at a Housing New Zealand managed property (tenanted or vacant) that may result in methamphetamine contamination.

⁴³ P-Lab Property page, 8 September 2014

⁴⁴ A Project Initiation Document was originally drafted by an Asset Manager, following on from the findings of the Whanganui Review. However the project stalled until it was picked up and resourced through the Business Design and Improvement team in May 2015.

⁴⁵ CA-716 Managing Methamphetamine (P) in Housing New Zealand properties, Version 1, 30 March 2016

An extensive list⁴⁶ of potential sources for suspicion was provided, including:

- current tenants complaining of health issues while living in a Housing New Zealand property
- tenants admitting to methamphetamine use at the property
- tenancy managers discovering methamphetamine paraphernalia during an inspection
- tenancy managers seeing behaviour symptomatic of methamphetamine use
- complaints (anonymous or named)
- police or another third party notifying Housing New Zealand staff
- media reporting, enquiries or allegations
- suspicions raised by a Housing New Zealand contractor or sub-contractor.

Housing New Zealand successfully defended its approach to ending tenancies on the basis that they were uninhabitable due to smoking (as opposed to manufacturing) in the Tenancy Tribunal in 2015⁴⁷. A tenant challenged the validity of Housing New Zealand's seven day notice on the basis that the Ministry of Health guidelines applied only to remediation of methamphetamine labs. In dismissing the application, the Tribunal noted that while the Ministry of Health guidelines were directed towards remediation of clandestine labs, they addressed "*the risk to human health from the occupation of a dwelling contaminated ... at levels above the cited threshold*".

Note: The levels of methamphetamine (high or low) found by testing are of themselves not conclusive proof that the property has been used for manufacturing (i.e. a meth lab). Additional factors may be the presence of other potential contaminants used in manufacturing and whether there are signs or other reasons to suspect traditional methamphetamine manufacture at the property. However, modern methamphetamine manufacture methods leave very little if any evidence of other contaminants and as production is now usually on a small scale, physical evidence is not normally visible at a property.

ZERO TOLERANCE OF ILLEGAL ACTIVITY

The term 'zero tolerance' appeared in policy documents as early as 2004, in Housing New Zealand's first methamphetamine policy. The policy stated that "*Housing New Zealand, as a responsible landlord and community participant, has a zero-tolerance stance towards manufacture and use of the drug P and to tenants who are involved with it.*" This statement has been re-iterated (with slight variations) in each new version of the policy⁴⁸. The zero tolerance approach meant that Housing New Zealand would end tenancies and suspend tenants for illegal activity.

Key reasons cited for the zero tolerance approach have included:

- a strong community safety and wellbeing aspect. This was a key focus of the Encouraging Good Neighbour Behaviour policy introduced in 2009
- government expectations to limit Housing New Zealand's role to its core tenancy and asset management functions, with the expectation that other agencies would provide any broader social services required by tenants (from 2012 onwards). This led to Housing New Zealand acting more like a private sector landlord in terms of ending tenancies for anti-social behaviour
- Housing New Zealand's need to ensure it could continue to operate within communities, particularly in an environment where a significant amount of state housing stock is under redevelopment.

The application of a zero tolerance approach has not been limited to issues relating to methamphetamine.

⁴⁶ See the Chronology section of this document, 2016 for the full list

⁴⁷ *Ahu v Housing New Zealand Corporation Ltd TT Auckland 15/02298*, 27 November 2015.

⁴⁸ Policy for Managing Methamphetamine (meth) in Housing New Zealand Properties P-250, final update 2 March 2017

Ending tenancies through 90 day notices (2008-2009)

Until 2008, Housing New Zealand only ended tenancies for severe anti-social behaviour, or illegal activity, through the Tenancy Tribunal. A shift in this policy was approved by the Executive Team in December 2008, when it was decided that tenancies should normally be ended by a 90 day notice. Reasons for this included (but were not limited to)⁴⁹:

- Housing New Zealand's perceived inability to decide, based on its own policies and criteria, who remains in its tenancies and who does not
- inconsistencies in decision making around whether to make an application to the Tribunal.

Internal controls were established around Housing New Zealand's decision to issue a 90 day notice, to ensure a consistent and appropriate⁵⁰ use of this mechanism to end tenancies. This included a robust review process with sign off at a senior level⁵¹.

Housing New Zealand first utilised a 90 day notice under its new policy in February 2009 after a tenant advised that their property had been burgled and ransacked by members of the local Mongrel Mob. The incident received extensive media coverage. Housing New Zealand issued 90 day notices to neighbouring tenants who had been involved in the burglary and who were arrested by Police.

Updates to Encouraging Good Neighbour Behaviour policy (2010)

Housing New Zealand's Encouraging Good Neighbour Behaviour policy (EGNB) was updated in 2010 to provide a more fulsome description of unlawful activity. This description distinguished between the use of the property in unlawful activity (such as selling drugs from the property), and undertaking unlawful activity at the property (such as smoking cannabis). Selling drugs from the property would be a breach of the Residential Tenancies Act, while smoking of the drug would not⁵².

The EGNB policy provided for ending a tenancy for serious ongoing anti-social behaviour that affected the wider community. Housing New Zealand applied this policy to unlawful activity that may or may not directly be a breach of the Residential Tenancies Act.

Suspension policy introduced (2011)

A further aspect of the zero tolerance approach was the suspension policy⁵³ introduced on 30 November 2011. Tenants or any other person residing at the tenancy could now have their eligibility to be housed by Housing New Zealand suspended for serious and/or repeated anti-social behaviour (including illegal activity). Credible evidence of unlawful activity had to exist. Suspension was for one year after the tenancy end date.

The ability to suspend tenants was incorporated into the EGNB policy when it was updated again in 2012.

In late 2015, the Executive Team discussed options to increase the amount of time a tenant could be suspended from living in a Housing New Zealand property, from one year to three years in certain circumstances.⁵⁴ Ultimately, this did not eventuate, but it highlights the emphasis Housing New Zealand was placing on zero tolerance at that time.

⁴⁹ Executive Team paper: *Effective decision making around when and how tenancies are terminated*, December 2008.

⁵⁰ While private landlords are entitled to issue a 90 day notice for any reason, subject only to the requirement of the Residential Tenancies Act 1986 that it not be discriminatory (section 12) or retaliatory (section 54), Housing New Zealand has only issued 90 day notices when necessary under its policies and subject to its overriding obligations to act reasonably and in accordance with natural justice. Housing New Zealand's use of 90 day notices has on occasion been challenged by tenants in the Tribunal and before the Human Rights Review Tribunal.

⁵¹ Sign off was originally by the Chief Executive or General Manager. This sign-off was delegated to a Regional Manager level during 2015, before being escalated to the Chief Operating Officer level again in November 2017.

⁵² Housing New Zealand's EGNB and anti-social behaviour policies regard drug dealing as a form of anti-social behaviour due to its impact on the community. Housing New Zealand will take action in respect of tenants selling any drugs from their properties. Housing New Zealand's response to using drugs has, however, depended on the wider circumstances. Considerations in relation to methamphetamine smoking, as compared for example to cannabis smoking, have included the risk of unpredictable and violent behaviour associated with methamphetamine use and also the property damage caused by methamphetamine smoking.

⁵³ Suspensions Policy (25 October 2011)

⁵⁴ Executive Team minutes - 1 December 2015

Update of methamphetamine policies (2016)

A significant update of Housing New Zealand's methamphetamine policies and procedures was completed through the Methamphetamine Contamination Policy Project in 2016. The new policies reinforced the zero tolerance approach to methamphetamine use in properties, and set out procedures for managing tenants who were considered responsible for the contamination, and well as those who were not. Staff regularly referred to the zero tolerance policy to tenants, neighbours, stakeholders, and the media.^{55 56}

Decisions to take action (such as rehousing, charging for damage or suspending tenants) from this point were to be based on whether there was credible evidence that the tenant was responsible for the contamination. Guidance was provided to staff, with process documents referring to 'reasonable grounds' or 'sufficient evidence'.

The relevant procedure explicitly instructed tenancy managers to complete a request for suspension in cases where:

- test results were above Ministry of Health guidelines, or latterly the New Zealand standard (NZS8510:2017); and
- Housing New Zealand had reasonable grounds (and credible evidence) to suspect the tenant was responsible for the contamination.

Following the release of the procedures, messaging to staff and the media emphasised that methamphetamine use was an illegal activity and tenancies were being ended because of that, not only due to the property being contaminated⁵⁷. Operational managers sought further clarification on this policy, which was provided in September 2016 by the methamphetamine programme. Tenancies could now be ended due to illegal activity (smoking or manufacturing methamphetamine), for any level of property contamination. Housing New Zealand did not require confirmation of this illegal activity by the Police or Courts.

Shift to sustaining tenancies (2017)

Housing New Zealand's approach to illegal activity began to shift in late 2016, with a renewed focus on sustaining tenancies. This change in approach had to be carefully considered to ensure that staff health and safety issues were taken into account. In late 2017, Housing New Zealand signalled that it would cease the termination of tenancies for methamphetamine contamination, other than for when methamphetamine manufacture had been discovered. For cases of methamphetamine use causing contamination, Housing New Zealand has now adopted a model whereby tenants are transferred to another property if required, and encouraged to seek assistance from drug rehabilitation services. Housing New Zealand stopped suspending tenants for methamphetamine contamination in early 2018 to align with this approach.

Poor communication with tenants

Alongside the zero tolerance approach Housing New Zealand took towards tenants using methamphetamine in its properties, there is evidence of a failure to communicate clearly with affected tenants. This relates particularly to the issuing of notices to end tenancies (7 day or 90 day notice) alongside the continued use of a letter advising the tenant that their property was contaminated with methamphetamine and that they should leave the property immediately for health and safety reasons.

While well intentioned, this letter did not take into account the position of tenants who were not familiar with their rights and who confused the letter with a notice to end the tenancy. For a period in 2016, the letter also included a paragraph stating that a 90 day notice would shortly be issued. This paragraph was removed in May 2016 to reduce confusion for staff and tenants. However, the letter remained as a standard letter to be sent as part of the process. Housing New Zealand was criticised by the Tenancy Tribunal as late as November 2017, in a finding⁵⁸ that states:

⁵⁵ Meth factsheet for tenants (April 2016)

⁵⁶ Media statement: *Housing New Zealand takes a firm stance on methamphetamine* (29 April 2015)

⁵⁷ Methamphetamine Management Programme Board Memo, Using methamphetamine – management of unlawful activity, 5 September 2016

⁵⁸ *Housing New Zealand v Martin* TT Manukau 4101426 6 November 2017

“Housing New ZealandC has been addressed before on the content of the letter ... and it is disappointing to see that it remains in use. It tells the tenant to move immediately. It asserts methamphetamine contamination above acceptable guidelines without advising the level of contamination or the Ministry of Health guidelines on the minimum level of methamphetamine that is acceptable.

While the second paragraph of the letter then retreats to ‘recommending’ that the tenant leaves, the third advises of the risks of remaining and warns about the need to avoid rooms in the premises that make people feel unwell. Many Housing New ZealandC tenants are disadvantaged and few will have the capacity to appreciate the nuances in the letter; “please move out immediately” is more likely to read as a notice to quit immediately than a polite suggestion. [Tenant] left the meeting with Housing New Zealand upset and angry. She then received three letters, but had not been provided with a copy of the report on the methamphetamine contamination results despite having asked for one at the meeting. That fact is recorded in one of the letters. She was clear in her understanding that she was required to leave immediately.

I find, in the face of Housing New ZealandC’s confusing and contradictory correspondence with Ms Martin, that the effect of the letter was the same as a section 59 notice. Another letter advises her that she is responsible for the contamination (without telling her what the level is) and that she “needs to address these issues immediately...”

[Tenant] said, and I find her wholly credible, that she believed she had to go immediately. She is not, and nor are many tenants, familiar with the content of the Residential Tenancies Act 1986 and she relied entirely on Housing New ZealandC to dictate the terms of her tenancy.”

The continued use of this letter was a clear failure by Housing New Zealand to develop collateral appropriate to its customer base. The use of this letter has been discontinued.

REHOUSING TENANTS

Rehousing tenants from methamphetamine affected Housing New Zealand properties has been an option under Housing New Zealand policy since the early 2000s.

The policy that was introduced in 2004 noted that a decision to house an applicant with a known history of methamphetamine manufacturing was at the discretion of the regional manager and was to be the exception rather than the rule. Any such applicants housed were to be intensively managed, with the tenancy to be inspected every six weeks for the first year and then quarterly for the length of the tenancy.

In 2016, a new policy was developed which outlined an approach to rehousing tenants based on whether they were considered to be responsible for the contamination or not. Tenants who did not contaminate the properties were moved to another Housing New Zealand property that met their needs with reasonable moving costs paid. Housing New Zealand also chose to provide grocery vouchers or pay grants to some tenants who may have been placed in a contaminated property. These payments were made by Housing New Zealand without going through the Tribunal. This practice was implemented after a Tribunal case awarded a former Housing New Zealand tenant compensation for loss of belongings that were destroyed, and exemplary damages for stress caused to the tenant.⁵⁹

Housing New Zealand chose to take a firm approach towards tenants who were considered responsible for contamination. These tenants had their tenancies ended by 7 day notice, and were suspended from living in a Housing New Zealand property for one year. Housing New Zealand managers could, in exceptional circumstances, use their discretion to rehouse tenants responsible for contamination. In some instances, the new property was baseline tested before the tenant moved in and was tested at regular intervals during the tenancy.

⁵⁹ *Wharehinga v Housing New Zealand Corporation TT Gisborne 4028986*, 7 December 2016

In some situations the tenant was believed to be responsible for contamination, but there was insufficient evidence to end the tenancy on these grounds. In these cases Housing New Zealand managers could use their discretion to either rehouse the tenant or end the tenancy with a 90 day notice, based on the tenant's circumstances.

TENANT BELONGINGS IN CONTAMINATED PROPERTIES

Work was undertaken in late 2015 to determine Housing New Zealand's approach and obligations when managing a tenant's belongings in a methamphetamine affected property.

Guidelines⁶⁰ were published which noted that Housing New Zealand would offer to remedy (by offering compensation, replacing or decontaminating) a tenant's belongings found to be contaminated above the Ministry of Health threshold – where the tenant was not responsible for contamination; or there was confirmed cross contamination. If compensation was considered, an inventory of goods was to occur and be reviewed by a licenced second hand dealer or charity to establish a valuation of the goods. A compensation offer would then be made.

In June 2016, Housing New Zealand's frontline staff asked for information they could share with tenants to help them understand how to manage and/or clean any affected or potentially affected belongings. While there was some information in the 2010 Ministry of Health guidelines, Housing New Zealand sought advice from industry professionals who were carrying out the testing and decontamination of state housing. Their advice was that decontamination of belongings was very difficult and most would not attempt to do so.

With no formal research available on cross contamination, Housing New Zealand staff reviewed a sample of methamphetamine test reports of Housing New Zealand properties where a property and belongings had both been tested. The review found there was no observable pattern showing cross contamination from a contaminated room to belongings placed in the room. There was also no observable pattern showing cross contamination from contaminated belongings placed into a room. The results were therefore inconclusive. The ESR also carried out a review based on Housing New Zealand data and came to similar conclusions.

Further policy clarifications relating to tenant belongings were agreed in October 2016. These included guidance on when Housing New Zealand would test possessions and how the results of tests would be interpreted against the Ministry of Health threshold. The policy position was that Housing New Zealand would not decontaminate items. However payment could be made to affected tenants on a case by case basis, with Regional Manager approval. The key consideration for making a payment was that the tenant was not considered responsible methamphetamine contamination in the property – i.e. they were inadvertently placed into a contaminated property.

Training material for staff was developed and delivered and all letters to tenants were revised. A letter confirming methamphetamine contamination at the property was also created for tenants who may decide to approach their insurer or MSD for assistance with affected belongings.

BASELINE TESTING OF VACANT PROPERTIES

Housing New Zealand reviewed its approach to methamphetamine detection and management in March 2014, due to concerns raised when a sale property in Whanganui was found to have methamphetamine levels above Ministry of Health guidelines. Universal baseline testing of vacant properties was considered as part of this review.

The conclusions were that the costs of universal baseline testing were not in proportion to the likely occurrence of methamphetamine contamination. It was also noted that baseline testing all vacant properties would cause delays, resulting in longer vacancies. It was decided that Housing New Zealand would continue with its approach of testing only on suspicion and baseline testing between tenancies was not implemented.

⁶⁰ T-250 version 1 'Guidelines for managing tenant belongings affected by methamphetamine contamination', 31/03/2016

In July 2015 Housing New Zealand considered the issue of baseline testing again as part of the Methamphetamine Contamination Policy Project. The drivers to introduce baseline testing identified at this time were to:

- ensure properties are not contaminated over Ministry of Health guideline levels prior to re-letting (meeting Residential Tenancy Act 1986 requirements)
- protect the safety of staff and contractors entering vacant properties (Health and Safety at Work Act 2015)
- ensure that Housing New Zealand could accurately assess whether a tenant caused contamination
- reduce retrospective testing of properties (carried out when a current tenant claims their property is contaminated), as it is complex and costly.

Analysis undertaken at the time estimated that the potential costs to baseline all vacant properties could be as high as \$21.2m per annum⁶¹, including the cost of lost rental income. Baseline testing would also result in increased decontamination and reinstatement costs, estimated to be between \$9 million and \$10 million per annum.

Housing New Zealand decided not to progress with universal baseline testing of vacant properties. Senior Housing New Zealand staff members recall the reasons for the decision being due to the expense, time lag to get properties back into service and a lack of industry capacity to undertake tests.

Housing New Zealand's new approach to tenancy management

In 2017 Housing New Zealand's sustaining tenancies approach, which began in 2016, was strengthened. This signalled a renewed focus on the wellbeing of the people living in Housing New Zealand properties.

Housing New Zealand tenants often have high and complex needs. Tenants can have a range of challenges, including mental health issues, drug and alcohol addictions, being victims of domestic violence, and having experienced rough sleeping and homelessness. These tenants frequently need additional support to help them be successful in their homes and communities.

Housing New Zealand is also working to introduce a tenancy management model that focuses on sustaining tenancies. As part of this new model Housing New Zealand will only end a tenancy in limited circumstances.

This new approach represents a substantial change for Housing New Zealand and requires a new suite of operating processes. A new customer strategy, which is in the final stages of development, will inform the basis of this model. Over the next two years, all of Housing New Zealand's operational policies will be reviewed to ensure they align with a sustaining tenancies focus.

Housing New Zealand has made significant changes in the way it works with tenants. In the past year, it has:

- *introduced pre-placement interviews* to allow Housing New Zealand to better understand the tenant's situation and to match them to a property that meets their needs. This also provides an opportunity to identify other information that could be useful, for example if the applicant has mental health needs or is working with Probation Services or Corrections.
- *stopped ending tenancies for methamphetamine contamination*, except in cases where the drug was being manufactured at the property
- *stopped suspending tenants*
- employed additional tenancy managers, including *intensive tenancy managers*, who will work with individual Housing New Zealand tenants who are most at risk of losing their tenancies, and tenants who need additional support.

The full implementation of the sustaining tenancies approach is a high priority for Housing New Zealand.

⁶¹ Depending on the testing methodology adopted

Management of methamphetamine contaminated properties

Housing New Zealand is making extensive changes to the way it manages methamphetamine contaminated properties. It recognises that the former Ministry of Health guidelines and the New Zealand standard specified unsafe methamphetamine contamination levels in residences, but neither determined how Housing New Zealand should manage its affected tenancies. Policies related to methamphetamine contamination are being reviewed in line with Housing New Zealand's sustaining tenancies approach.

Tenants who suffer from the health effects of drug addictions will be supported by assisting them to connect with the appropriate drug rehabilitation services, while keeping them in their homes where possible. If they need to move due to high contamination of the property, Housing New Zealand will transfer them to another suitable home.

Part 2

Outcomes for Tenants and Properties

Outcomes for Tenants and Properties

This part of the report looks at the outcomes for tenants living in Housing New Zealand properties that were tested for methamphetamine, as well as the outcomes for properties. It responds to the request for information regarding the number of tenants that may have been affected.

In order to assess the outcomes for tenants, Housing New Zealand looked at the number of tests completed at properties, and what that meant with regards to ending tenancies, suspensions, rehousing tenants, and establishing damage debt. Key elements of this information are illustrated in the graphic on the following page.

Housing New Zealand also reviewed a number of case studies to understand individual tenant experiences, their interactions with Housing New Zealand, and the outcomes of these. A summary of this review is provided in this part of the report, with more detail attached in Appendix F.

Tenant and property information

SCOPE AND INCLUSIONS

Some key points to note about the information presented here are that:

- information has been sourced for the period 2004 to 2018, with a focus on tests performed between July 2013 and May 2018. This covers the period during which Housing New Zealand's methamphetamine testing activity increased.
- the information presented includes all properties Housing New Zealand owned and managed during this time, including Home Lease Programme (HLP)⁶² properties and Community Group Housing (CGH)⁶³ properties. Some of the properties represented may no longer be owned or managed by Housing New Zealand.
- the starting point for information gathering was that a methamphetamine test⁶⁴ had been performed on a Housing New Zealand property, including tests on vacant properties, leased properties about to be handed back to their owners, and tenanted properties.

LIMITATIONS OF THE INFORMATION PRESENTED

It has not been possible to provide a detailed inventory of outcomes for each individual tenancy affected in the time available to complete this report. This is largely due to the way relevant information has been captured and stored in Housing New Zealand systems and files over time. The figures used in this report are as at 12 July 2018 and are not an exhaustive list. They are subject to change.

Confidence in the completeness and accuracy of information captured is lower for the earlier years (2004 to 2013). However, Housing New Zealand did test fewer properties over this period, with the number of positive tests ranging from two to 13 per year. Confidence is higher for information captured between 1 July 2013 and 31 May 2018.

Data sources used and methodology are described in some detail in Appendix E. An indication of the tasks that would still be required to provide a complete data set is also included in this appendix.

⁶² Housing New Zealand leases properties from private owners and uses them to provide state housing to households in need (these properties are referred to as HLPs). The leasing arrangement is set out in a commercial lease between Housing New Zealand and the owner covering a period of several years.

⁶³ Community Group Housing (CGH) provides rental housing to community service providers, where the private sector is unable to do so. Examples of clients these providers are working with include people who have physical and/or intellectual disabilities, residential alcohol and drug services, women who require refuge etc. CGH properties are owned by Housing New Zealand or leased from private owners for CGH purposes.

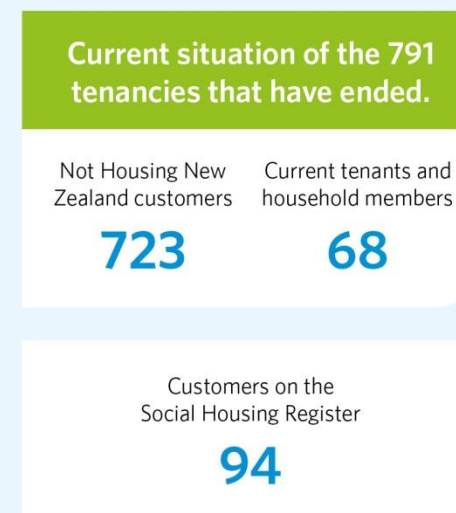
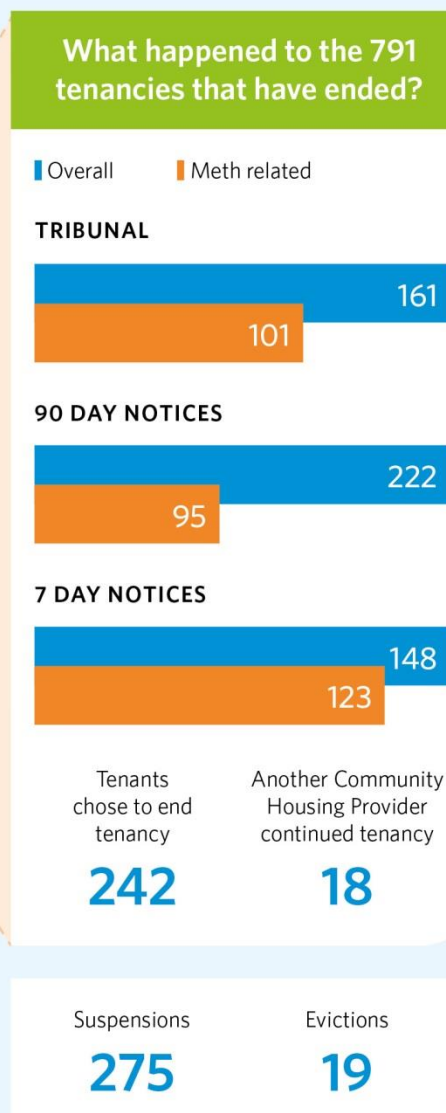
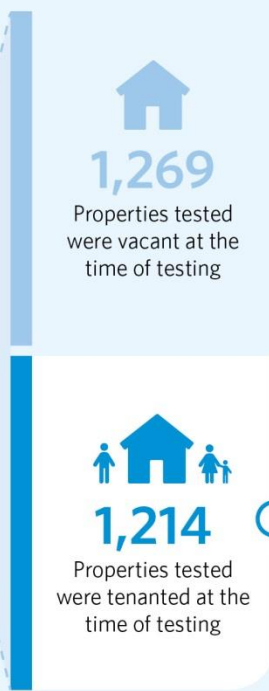
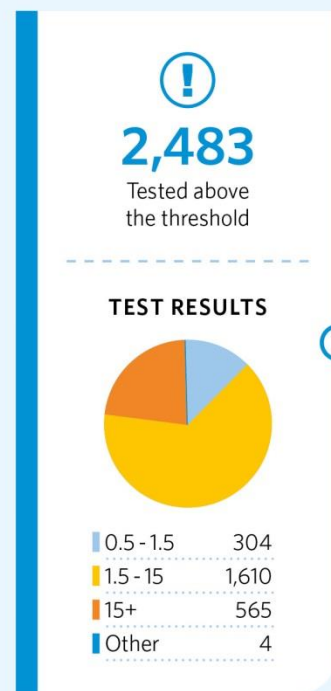
⁶⁴ either the Initial or suspicion test was used

Methamphetamine Testing Outcomes

From 1 July 2013 - 31 May 2018

4,958 tests

From all tenancies (103,929) and properties (70,994) in service over this period



Methamphetamine testing outcomes glossary

Term	Description
All Tenancies	The total number of distinct tenancies that were active at some point between 1 July 2013 and 31 May 2018.
All properties	The total number of distinct properties that were managed by Housing New Zealand at some point between 1 July 2013 and 31 May 2018.
Tests	The number of initial tests performed. Follow-up tests are not included. There may have been multiple tests per property and/or tenancy.
Test Results	Multiple locations were tested in each property and, where possible, the highest reading is represented here. Note that although the standards state “not higher than”, in reports where the level matches the boundary of the standard, the result was considered above threshold. i.e. a result of 1.5 exactly was considered above threshold rather than below.
Tested above the threshold	The test result is above the Ministry of Health or Standards New Zealand threshold that was in place at the time.
Tested below the threshold	The test result is below the Ministry of Health or Standards New Zealand threshold that was in place at the time.
Vacant	The number of properties where no tenancy was in place at the time of the request date of the test.
Tenanted	The number properties where a tenancy was in place at the time of the test request date.
Tenant Transferred	The tenant was moved to another Housing New Zealand property under a Housing New Zealand business initiated transfer process.
90 Day Notice	A 90 day notice was issued to end the tenancy.
7 Day Notice	A 7 day notice was issued to end the tenancy.
Tribunal Actions	The tenancy was ended through the Tenancy Tribunal and the tenant did not receive a 7 day notice or 90 day notice. Tenants who received a 7 day notice or 90 day notice could also have gone to the tenancy tribunal.

Another Community Housing Provider continued tenancy

The property was transferred to another Community Housing Provider.

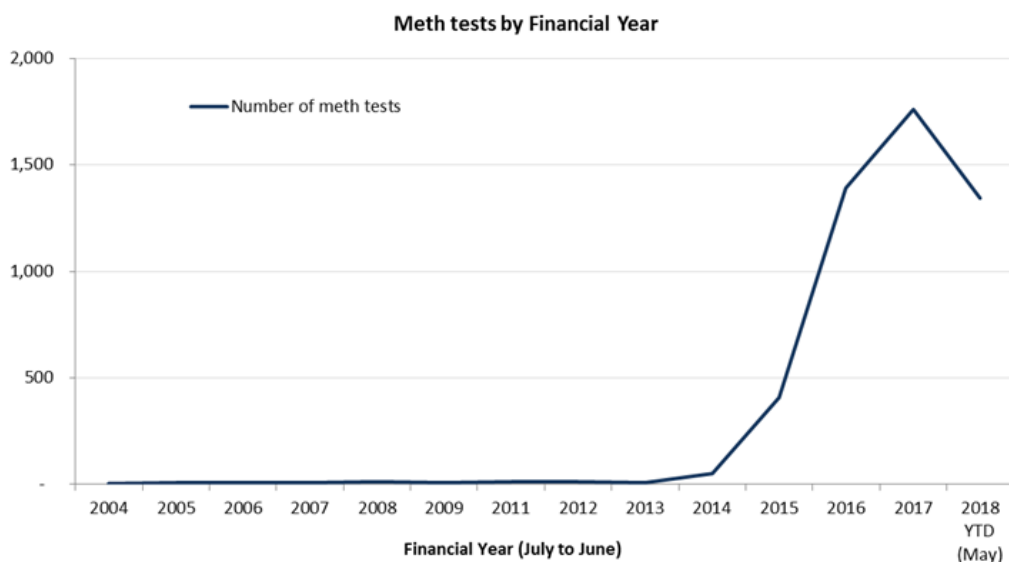
Social Housing Register

The original main tenant (whose tenancy ended) is now on the MSD Social Housing (SH) Register. This number is indicative only as the Social Housing register is managed by Ministry of Social Development.

Tenant and property information findings

Testing has increased since 2014

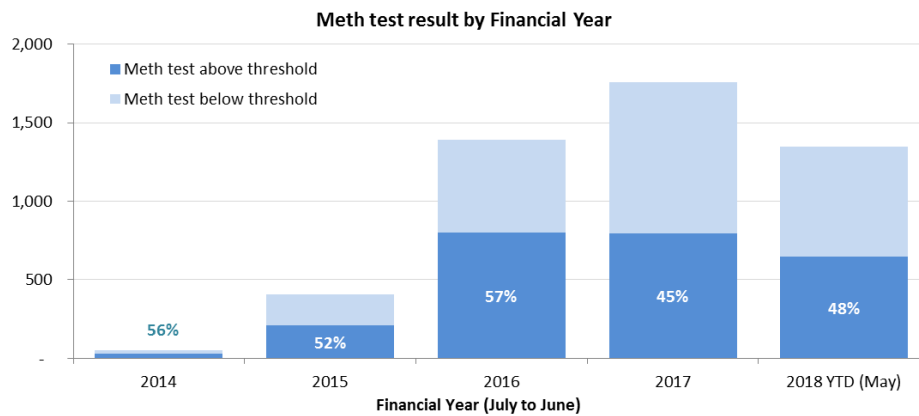
The number of initial tests performed by Housing New Zealand has increased significantly since 2014. Testing peaked in 2016/17 with around 1,750 tests performed that year.



Half of the properties tested were above the threshold

Approximately 5,000 initial or suspicion methamphetamine tests were performed on properties from July 2013 to May 2018. Of these, 50 percent (2,483) were above the threshold⁶⁵ in place at the time of testing.

⁶⁵ Tested above the threshold was based on the current guidelines at the time of the test



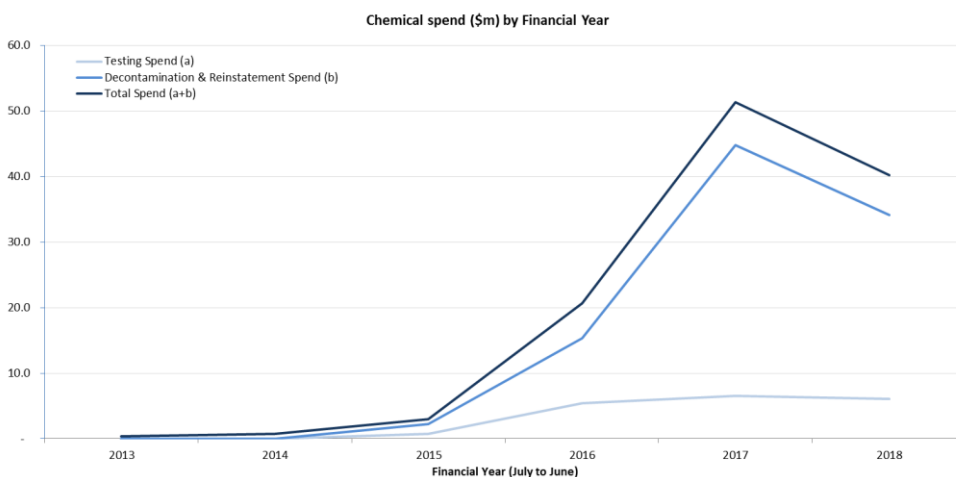
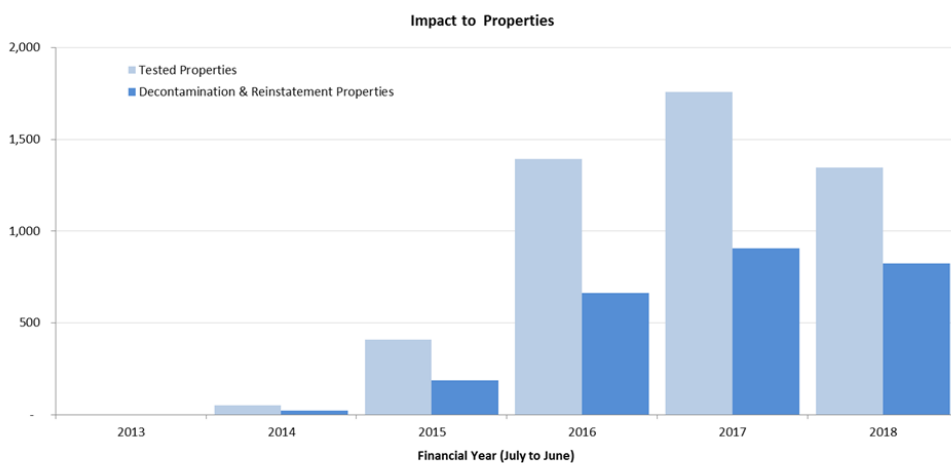
Costs to remediate these properties

Between July 2013 and June 2018 Housing New Zealand spent approximately \$19 million on chemical testing and \$101 million on decontaminating and reinstating⁶⁶ these properties to a lettable standard. During this period over 40 properties were demolished either due to the level of contamination or the property was ear marked for future redevelopment opportunities⁶⁷.

⁶⁶ These figures are still to be audited and subject to change. Chemical testing, decontamination, and reinstatement contains other chemical testing besides methamphetamine.

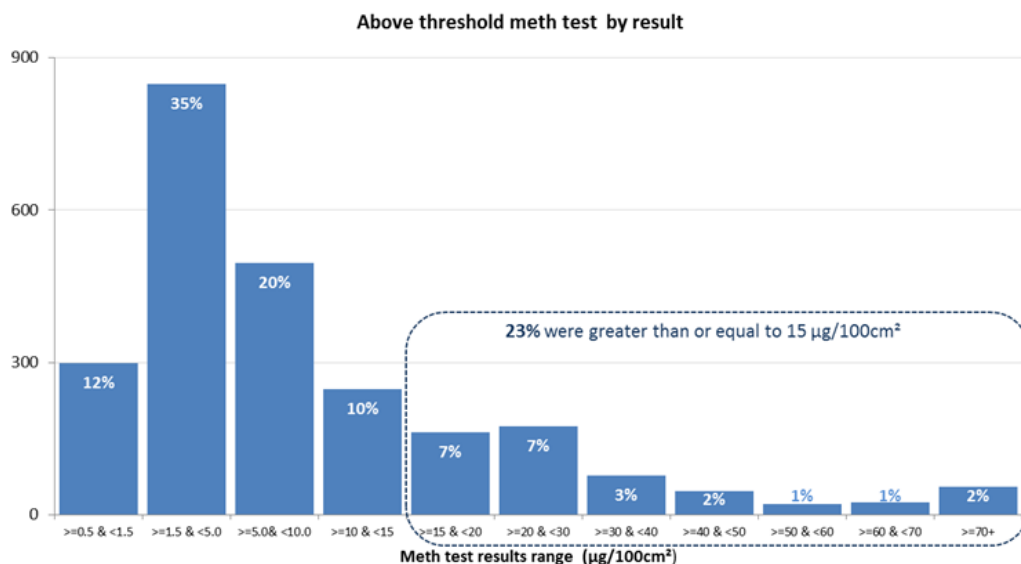
⁶⁷ Properties demolished were also for redevelopment opportunities identified post methamphetamine contamination.

The graphs below illustrate the number of properties tested and decontaminated, as well as the increase in associated costs over the past six years.



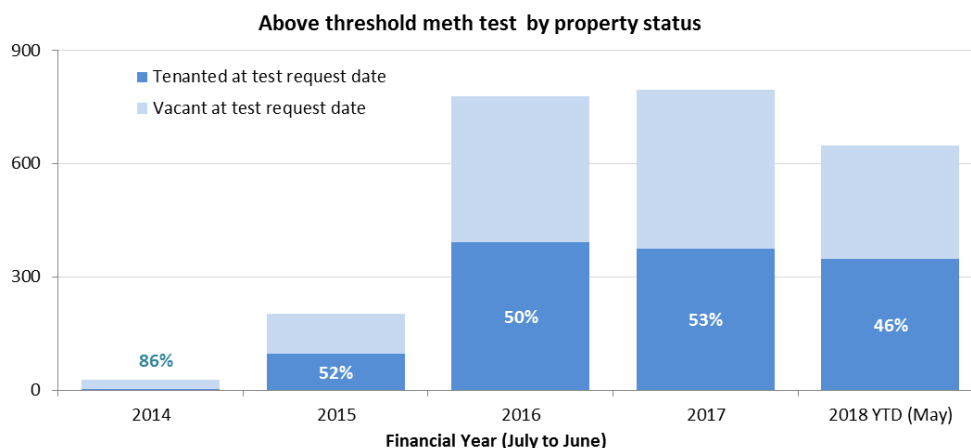
Of the properties tested above the threshold, just over one in five were above 15µg/100cm²

Of the 2,483 properties found to have a reading above the relevant guideline, approximately one fifth (565) had a reading of 15µg/100cm² or higher. This provides an indication of the potential change in volume of affected properties following Housing New Zealand’s adoption of 15µg/100cm² as the threshold for remediation.



About half of the properties tested at above threshold were tenanted

Out of the approximately 2,483 properties tested above threshold, around half (1,214) were still tenanted at the time of testing.



Almost two out of every three affected tenants (65 percent) left the contaminated property and were not-rehoused

Tenants who were considered responsible for the contamination had their tenancies ended through a 7 day notice, 90 day notice or Tenancy Tribunal order and were not re-housed. Some of these tenancies also ended for other reasons (for example, rent debt). Almost two thirds (791) of tenancies in properties found to be contaminated above the threshold fell into this category.

The actions that Housing New Zealand took in relation to these tenants varied dependent on a range of circumstances including other tenancy issues, such as rent arrears and other instances of anti-social behaviour.

Just over one in five affected tenancies (22%) were moved to another Housing New Zealand property

Housing New Zealand's policy was that tenants who were not responsible for contaminating their properties should be moved to another Housing New Zealand property that met their needs. In some instances the tenant was believed to be responsible for the contamination, but there was insufficient evidence to end the tenancy on these grounds. In these cases Housing New Zealand managers could use discretion to either rehouse the tenant or end the tenancy with a 90 day notice, based on the tenant's circumstances.

Looking at actual outcomes for tenanted properties tested above the threshold, 264 tenancies were moved to another Housing New Zealand property (out of 1,214 affected tenancies) through a Housing New Zealand business initiated transfer.

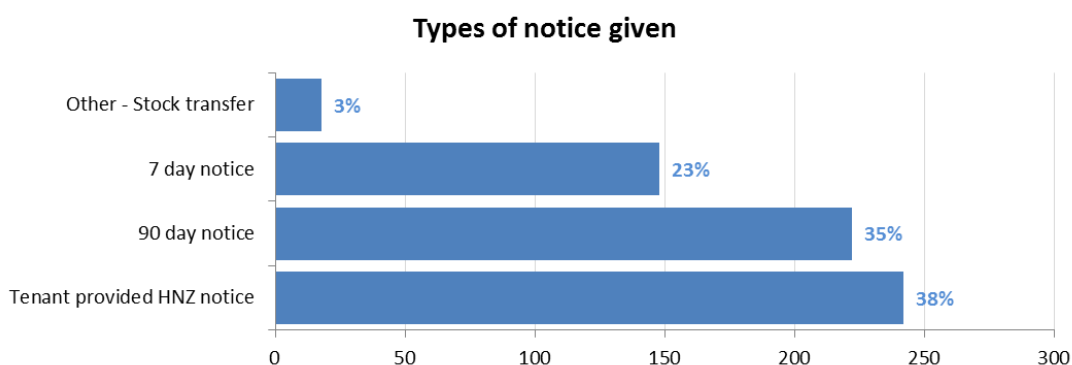
Just over one in ten tenants (13 percent) remain in their property

Currently there are 159 tenants who still reside in the property that was tested and found to have methamphetamine levels over the threshold. The majority of these are from recent tests, so action may not have been taken to rehouse tenants where contamination levels are above $15\mu\text{g}/100\text{cm}^2$. There are a few instances where cleaning could have occurred while the property was still occupied (if the contamination was only in specific areas, such as a garage).

Types of notice given to end the tenancies

Below is a breakdown on the different types of notice given to end 630 of the affected tenancies⁶⁸:

- 222 tenants received a 90 day notice to vacate (95 for methamphetamine, 127 for other reasons)
- 148 tenants received a 7 day notice to vacate (123 for meth, 25 for other reasons)
- 242 tenants were ended by the tenant providing Housing New Zealand notice that they were ending their tenancy
- 18 tenancies were part of stock transfers to other community housing providers. Housing New Zealand does not know if their tenancies ended or whether they still remain in these properties.



Other actions taken by Housing New Zealand

Suspensions - Out of the 791 tenants found to be responsible for the contamination, 35 percent (275) were suspended from being housed by Housing New Zealand for a period of a year.

Damage charges – Approximately \$6.8 million in damages were charged to 542 tenants in relation to methamphetamine contamination in the period from July 2013 to May 2018⁶⁹. Initial analysis indicates that \$2.07 million (30 percent) was awarded through the Tenancy Tribunal. In addition to this, Housing New Zealand has made \$460,000 in adjustments and has transferred \$6.07 million from the tenants damage

⁶⁸ Based on manual excel spreadsheets.

⁶⁹ \$6.8m relates to charges established on the tenant's damage account. Meth damage can cover testing, decontamination, reinstatement charges, and costs for Housing New Zealand disposing of their household items.

account to their write off account⁷⁰. Less than two percent of this, or \$112,000, has been recovered to date from the tenants, and Housing New Zealand has stopped all recovery action in relation to these charges⁷¹.

Tribunal action – Out of the 791 tenants who had their tenancies ended, 384 went through the Tribunal. Of these, 173 were for methamphetamine related issues⁷².

Evictions – Only 19 of these 791 tenants have been evicted from their properties. Note - an eviction occurs where a possession order has been made by the Tenancy Tribunal and a tenant has not vacated the property by the date set out in the order. Civil enforcement can occur, led by a District Court bailiff acting under District Court Act 2016 powers.

Current situation of former tenants

Given the information kept by Housing New Zealand, this is what is known about the current circumstances of the 791 tenants who had their tenancies ended⁷³.

- 9 percent have been rehoused by Housing New Zealand, as either tenants or occupants in Housing New Zealand homes
- 12 percent are on the Social Housing register

Housing New Zealand does not hold information about the circumstances of the remaining 80 percent of these customers and is only made aware of these circumstances if they reapply for social housing.

Case studies

In addition to taking a broad look at information available over time, 34 sample cases have been reviewed in depth. The purpose of these case studies is to identify and better understand issues with how policies were applied in practice.

Review approach

The review focussed on four decisions taken by Housing New Zealand, leading to particular tenant outcomes, namely decisions to:

- test a Housing New Zealand premises for methamphetamine contamination
- end a tenancy
- suspend a tenant from Housing New Zealand housing and/or
- recover methamphetamine related costs from a tenant.

Methodology to select files

Housing New Zealand selected tenants that represented the range of possible scenarios where a property tested positive for methamphetamine over the threshold. These include tenants whose tenancies had been ended, those who had been charged for methamphetamine related damages, tenants who had repaid some of the charges and properties that were not tested until after the tenant left. It also includes instances where Housing New Zealand paid some compensation to the tenant due to exposure to methamphetamine in the property.

Some scenarios were chosen due to their particularly complex nature.

⁷⁰ This debt remains collectable from the tenant but Housing New Zealand has stopped all recovery action in relation to these charges

⁷¹ Unable to confirm if this is in relation to meth damage, other tenant damage or rent arrears.

⁷² Meth issues could relate to vacating the property or methamphetamine related damages.

⁷³ As at end 31/05/2018.

Summary of Findings

A full set of findings is set out in Appendix F.

The case studies highlight examples of cases where mistakes have been made at an individual level, with operational practice departing from policy to the detriment of the tenant. The key points are:

Decision to test the property

- Housing New Zealand's policy requires that there are reasonable grounds to suspect contamination before a decision is made to test a property for methamphetamine.
- One case has been found out of the 34 where Housing New Zealand has acted contrary to its own policy. In this example, poor tenant behaviour (which included threatening, intimidating, and abusing neighbours) was given as the reason for carrying out the testing. In these circumstances, it would have been prudent to seek information from Police about any drug-related incidences at the premises or drug-related issues experienced by the tenant before taking a decision to proceed with testing.

Decision to end a tenancy

- A key theme emerging from the case studies is the multiplicity of factors that may contribute to Housing New Zealand making a decision to end a tenancy, including but not limited to methamphetamine contamination. Other key considerations include anti-social behaviour, as well as rent arrears. While some Housing New Zealand tenants have experienced adverse outcomes in situations where methamphetamine contamination has been detected, the existence of methamphetamine contamination may have been a secondary reason for the decision to end a tenancy, or not an operative reason at all.

Decision to end a tenancy on 7 days notice

- In many situations, Housing New Zealand made the decision to end a tenancy on seven days' notice following confirmation of methamphetamine contamination at levels exceeding the applicable remediation threshold. Notices tended to be issued after Housing New Zealand received testing results expressly stating that the premises were not suitable to be occupied because levels of methamphetamine contamination exceeded the applicable remediation threshold. The highest reading in one case was $46\mu\text{g}/100\text{cm}^2$ and in another it was $36.6\mu\text{g}/100\text{cm}^2$.
- However, two examples have been found where independent testing companies have made recommendations that a premise is not habitable, which were not supported by the results of their own testing. For example, in one case the only test returning a result exceeding the threshold was the garage door. Housing New Zealand should have taken greater care to examine the test results before acting. In both cases the notice was either withdrawn or the tenant rehoused by Housing New Zealand. Notwithstanding that, considerable distress was caused.

Decision to suspend from Housing New Zealand housing

- Four cases have been found where mistakes were made in applying Housing New Zealand's suspension policy. Specifically, in these cases Housing New Zealand has not provided a sufficient level of detail to enable a tenant to respond meaningfully to a notification that they were being considered for suspension. It is important that Housing New Zealand provides a clear explanation, enabling the tenant to respond, in accordance with natural justice rules.

Decision to rehouse

- The case studies suggest that, particularly since 2017, Housing New Zealand has utilised its business initiated transfer procedure more extensively to rehouse tenants, even where those tenants may be eligible for suspension under Housing New Zealand's suspension guidelines.

Decision to seek to recover methamphetamine related costs from tenants

- The case studies highlight a key issue with the implementation of Housing New Zealand's policies around recording methamphetamine related costs. This involves situations in which Housing New

Zealand has charged tenant accounts for methamphetamine related costs, without bringing a claim against those tenants in the Tenancy Tribunal or District Court. This practice is a departure from Housing New Zealand's own policies around charging for damage and disregarded Housing New Zealand's responsibility to follow the rules of natural justice.

Police information

- On the basis of documents made available within the timeframe for the file audit, the case studies suggest that record keeping of conversations with police has been inconsistent and that the effect of police decisions may not have always been well understood. There is an opportunity for improved operational policy and staff training in these areas.

Part 3

Providing Assistance to Affected Tenants

Providing Assistance to Affected Tenants

Introduction

Some of the most vulnerable people in New Zealand live in Housing New Zealand's houses, including not only the main tenant but also other household members and tenants' families. The ending of a tenancy can result in flow on effects for these individuals, including homelessness. This part of the report discusses the assistance Housing New Zealand can provide to those tenants who have been affected by Housing New Zealand methamphetamine policies and practices in the past.

A number of steps were put in place immediately following the release of the Chief Science Advisor's report in May 2018, including adopting a higher safe contamination threshold. Housing New Zealand also put debt recovery related to methamphetamine on hold, removed suspensions from former tenants who had left due to methamphetamine contamination, and stopped all pending Tenancy Tribunal action against affected tenants.

As well as these immediate steps, Housing New Zealand is proposing further operational actions, including a grant to assist affected tenants. This section of the report details Housing New Zealand's proposed assistance and how it will be implemented.

Assistance for affected tenants

Housing New Zealand will provide assistance for affected tenants to acknowledge the hardship they have experienced. In addition to the actions already taken, this assistance will include:

- a grant paid to affected tenants, consistent with the approach taken in the past where tenants were not deemed responsible for contamination
- housing affected tenants who are on the social housing register
- refunding to tenants any methamphetamine related debt that has been paid to Housing New Zealand
- exploring the establishment of a fund to provide addiction and rehabilitation support services.

This section of the report discusses:

- An assessment of Housing New Zealand's policies and procedures
- Adverse outcomes for tenants and other household members
- Housing New Zealand's proposed assistance to affected tenants
- Implementation and next steps.

Housing New Zealand's policies and procedures

Housing New Zealand's past policies were based on the operating environment at the time

As discussed in part one of this report, Housing New Zealand has implemented a range of policies in relation to methamphetamine use or manufacture in its properties. Broadly, these policies have included:

- ending the tenancy in order to remediate the property
- rehousing tenants who were considered responsible for contaminating properties
- suspending tenants who were considered responsible for contaminating properties (particularly, but not exclusively, if manufacture or dealing was involved)
- assisting with disposal of tenant belongings where tenants were rehoused into another Housing New Zealand property, in order to reduce the risk of cross-contamination

- providing information to tenants on the risks of remaining in contaminated properties and/or of retaining contaminated possessions (although, in the latter situation, if a tenant was not being rehoused, disposal of possessions was a tenant decision)
- baseline testing new tenancies where the occupants had a history of methamphetamine use
- seeking to recover costs associated with testing, cleaning, reinstating, demolishing, or the loss of value of a property, from the tenants and/or other persons, through the Tenancy Tribunal or District Court.

In developing these policies, Housing New Zealand considered the legal and regulatory context of the time and sought to balance a number of sometimes competing factors. Further information on this is attached in Appendix G. These factors include:

- **Providing a safe and healthy property for tenants.** Housing New Zealand took the view that premises with methamphetamine contamination exceeding the Ministry of Health remediation threshold applicable at the time were not safe. This view has also been held by the Tenancy Tribunal over time.
- **Ensuring properties are maintained to a good standard and the costs of damage are recovered where possible.** Housing New Zealand treated the cost of remediating methamphetamine contamination in the same way that it treats other tenant damage to property. The Tenancy Tribunal upheld Housing New Zealand's view that methamphetamine contamination be considered as "damage" under s40 of the RTA.
- **Managing anti-social behaviour and illegal activity** associated with methamphetamine manufacture and use and the affect this may have on communities.
- **Health and safety of staff and contractors** who could be exposed to methamphetamine contaminated properties, as well as violent and unpredictable behaviour associated with methamphetamine manufacture and use.

Findings regarding the implementation of policies

In considering what assistance can be provided to affected tenants, Housing New Zealand has taken into account that while it generally implemented its policies correctly, there have been occasions where mistakes have been made.

Key issues identified in part two of this report include:

- ensuring that there are reasonable grounds to suspect contamination before a decision is made to test a property for methamphetamine
- ending tenancies on 7 days' notice based on recommendations by independent testing companies that a premises was not habitable when the companies' recommendation was not in fact supported by the results of their own testing
- misapplying suspension guidelines
- charging a tenant's account for methamphetamine-related costs without first making an application to the Tribunal to establish that the tenant was liable to pay those costs.

Where these issues have surfaced through the course of tenant engagement with Housing New Zealand they have been rectified. There may be other instances where tenant outcomes have been negatively affected but the issues have not yet been identified.

Adverse outcomes for tenants and other household members

Housing New Zealand acknowledges that some of its tenants have experienced harm or loss as a result of previous operational policies for addressing methamphetamine-related issues. Part two provides an overview of those affected and the harm or loss that has occurred for these households.

These include:

- loss of a tenancy
- loss of possessions that were identified as being potentially contaminated and therefore unsafe
- loss of access to Housing New Zealand housing for a period of time (where a tenant was suspended)

- the costs of finding alternative housing (where the tenant was not rehoused)
- loss of money and/or a lower credit rating arising from a tenant being required to pay for methamphetamine-related costs, including testing, decontamination, and reinstatement.

Housing New Zealand’s proposed assistance to affected tenants

Housing New Zealand recognises that its tenants’ lives are complex, and each case of methamphetamine contamination has many different factors involved. An outcomes based approach is proposed to help affected tenants recover from their experiences and to ease the hardship caused as a result of Housing New Zealand’s policies. Under this approach, options for assistance will be focussed on activities that Housing New Zealand can offer through its operations. These operational actions are not compensation for loss (and do not recognise any legal or moral liability for Housing New Zealand), but are actions intended to improve the situation for tenants in hardship.

Housing New Zealand has provided discretionary grants to tenants in cases where the tenant was not responsible for the contamination. The proposed assistance will extend that approach to all tenants.

An outcomes based approach versus compensation

Many tenants lost household furniture through methamphetamine contamination – either because they were asked not to bring it into a new Housing New Zealand property because it might be unsafe, or because they chose to leave it behind when exiting a tenancy and it was destroyed.

A compensation approach would assess the value of goods disposed of, in an attempt to put the tenant back in the position they were in before the harm was caused. This may be hard to quantify and could vary significantly from tenant to tenant.

In contrast, an outcomes based approach of a discretionary grant would be based on the estimated average cost of buying essential household items (e.g. beds for every occupant, sofa, dining table and chairs) to allow tenants to purchase items they need for their household. This approach is consistent with payments made by Housing New Zealand in similar circumstances in the past.

Housing New Zealand has a range of operational tools available that can be used to improve the situation for tenants who have experienced hardship as a result of decisions made as a result of methamphetamine contamination in the past. The table below sets out operational actions Housing New Zealand can take to provide assistance to tenants affected by Housing New Zealand former policies regarding methamphetamine.

Table One: Operational actions to provide assistance to affected tenants

New tenancy	Housing New Zealand can place former tenants who are on the social housing register in one of its houses. If a former tenant is in need of housing but not on the social housing register, it can encourage them to apply to MSD to get on the register so that it can house them. Housing New Zealand will work with MSD to manually place affected tenants on the social housing register into its houses.
Discretionary grant for costs associated with moving	A discretionary grant can assist customers with the cost of moving into a new tenancy. This could include moving costs and costs for the transfer or set up of essential services such as power.
Discretionary grant for household items	A discretionary grant can assist customers to purchase new household items, it might be calculated on the average cost of buying essential household items that the customer is in need of and can be made as a cash payment, or in vouchers.

Cancel debt	Housing New Zealand can cancel debt that is owed to it for methamphetamine related reasons. Housing New Zealand has already stopped its collection of debt repayments, and it can cancel the debt completely.
Refund debt payments made	A refund could be made to tenants who have paid some amount of methamphetamine related debt to Housing New Zealand for the amount that they have paid.
Ask debt collection agents to reverse changes to credit ratings	Housing New Zealand can notify debt collection agents that the tenants should not have been charged the debt, and they can reverse any changes to credit ratings.
Provide a personal apology to tenants who experienced poor outcomes	Housing New Zealand can apologise to tenants who have experienced poor outcomes.

Housing New Zealand is also exploring the possibility of establishing a fund that affected tenants and their families can access to cover the costs of addiction treatment and rehabilitation services, or other support they may need. Housing New Zealand will work with its stakeholders, particularly the Ministry of Health, in developing this concept to ensure that a partnership approach is taken and that the services provided are well targeted, accessible and effective.

Assessing eligibility for assistance

Housing New Zealand will establish clear criteria to assess whether a tenant has been affected or not. An indicative approach to this is presented below.

Table Two: Indicative approach to identifying affected tenants

Affected tenants	Tenants not eligible
<ul style="list-style-type: none"> ◦ Tenants whose Housing New Zealand tenancy was ended due to methamphetamine contamination ◦ Tenants who have been charged for costs related to remediation of methamphetamine contamination at their Housing New Zealand tenancy where the tenancy was ended for other reasons 	<ul style="list-style-type: none"> ◦ Tenants who have been convicted of methamphetamine related charges (manufacture or supply) at their Housing New Zealand tenancy

Implementation and next steps

Housing New Zealand is establishing a dedicated team to implement this assistance programme. The team will be responsible for contacting affected tenants, and for ensuring there are easily accessible channels for any person to contact Housing New Zealand to discuss their experience in relation to methamphetamine contamination.

The next steps are for Housing New Zealand to:

- confirm the details of the approach, including the definition of affected tenants and the amount of grant that will be paid
- confirm the dedicated team to administer the assistance provided and agree governance and reporting arrangements
- continue to refine its data to ensure that all affected tenants are captured
- continue to administer the existing 0800 number to capture all customer enquires and ensure all customers are identified.

Part 4

Findings and Conclusions

Findings and Conclusions

Improvement opportunities

Housing New Zealand has identified a number of opportunities for improvement through the development of this report. These relate to two main areas, namely the development and implementation of operational policy and processes, and record keeping and information management.

Development and implementation of operational policy

Housing New Zealand failed to take a customer centred approach when developing its methamphetamine management policies, which is evident in the confusing and sometimes conflicting communication to tenants advising them that their properties were contaminated.

Mistakes have been made at an individual level and there are instances where Housing New Zealand practice departed from operational policy.

Examples have been found of policy being adopted in a purely reactive manner, with the reasons for the decisions not adequately recorded or examined. There are also instances of inadequate documentation around the development and adoption of key policies.

Once a policy change is implemented it must be monitored to ensure that unintended consequences are quickly identified and addressed. This effort needs to be adequately resourced and supported by Housing New Zealand management and the Board.

The Board has recognised the need to take a more active role in monitoring the development and implementation of operational policy in the future. A process has recently been established to ensure ongoing and comprehensive Board review of all Housing New Zealand operational policies.

Record keeping and information management

The compilation of records relating to tenancies affected by Housing New Zealand's methamphetamine management policies has taken longer and been more resource intensive than first anticipated. This is due to the way in which information was recorded in different systems over time, and also because of poor record keeping in some cases.

System improvements are required to ensure that important information relating to tenancies and outcomes for tenants is captured and readily available in Housing New Zealand's core systems. For example, records relating to issuing notices to end tenancies have been kept manually on a range of different spreadsheets over time. Housing New Zealand is unable to guarantee that its records are complete. There is also no central register of settlements made to tenants.

Housing New Zealand processes require staff to keep detailed file notes on every action and interaction with the tenant in its core tenancy management system. However, instances have been found where these notes are not located in core systems. Quality control measures must be placed in relation to record keeping, so that performance in this area can be monitored and improved, as is the case with other key performance indicators.

The Housing New Zealand Board and Executive Team are actively considering the lessons learnt through the development of this report. A comprehensive review of Housing New Zealand's operational policies is underway by the Board.

Key findings

The key findings of this report are as follows:

- Housing New Zealand adopted a policy of zero tolerance to illegal activity in its tenancies over the period discussed in this report. Focusing on zero tolerance was wrong and ignored many of the issues that resulted in access to a state home in the first place. It had a range of poor outcomes for tenants and their household.
- In determining whether houses were safe to live in, Housing New Zealand took a conservative and risk adverse approach to health risks and, from 2014 onwards, applied existing Ministry of Health guidelines for instances of both methamphetamine manufacture and use in its properties. These 2010 guidelines were developed solely in relation to contamination resulting from manufacture, and in hindsight, HNZ was wrong to apply them more broadly. Although Housing New Zealand sought scientific opinion on this issue, it chose not to take a leadership role in investigating the issue independently of established channels. The New Zealand standard, and then the Chief Science Advisor's report, identified a much higher threshold than the 2010 guidelines.
- Housing New Zealand failed, in some individual cases, to follow the principles of natural justice, by applying its suspension policy without providing sufficient detail to allow tenants to respond meaningfully to a notification that they were being considered for suspension; and in seeking to recover costs for methamphetamine contamination from tenants without with out bringing a claim against those tenants in the Tenancy Tribunal or District Court.
- Housing New Zealand failed, in some individual cases, to take sufficient care in examining methamphetamine test results before seeking to end a tenancy.
- Housing New Zealand must continue to improve its policy development and implementation to ensure that it takes appropriate care when interacting with tenants, who are some of the most vulnerable people in our communities. Housing New Zealand failed to take a customer centred approach when developing its methamphetamine management policies.
- Housing New Zealand's Board must have greater involvement and oversight as key operational policies are developed. The Board has recognised the need to take a more active role in monitoring the development and implementation of operational policy in the future.
- Housing New Zealand is unable to guarantee that its records in relation to tenancies affected by methamphetamine contamination are complete. This is due to deficiencies in its record keeping and because of the number of different systems that have been used to store information over time. System improvements are required to ensure that important information relating to tenancies and outcomes for tenants is captured and readily available in Housing New Zealand's core systems.

Housing New Zealand's new approach

- Today, Housing New Zealand's focus is on the health and wellbeing of the families in its homes, and supporting them to sustain their tenancies. One of the organisation's long-term objectives is to provide increased support for people experiencing drug addiction and drug related harm.
- Housing New Zealand's zero tolerance approach to illegal activity shifted in late 2016, with a renewed focus on sustaining tenancies. A review of methamphetamine related policies started in mid 2017 and updated policies and processes were issued in October 2017.
- In December 2017 Housing New Zealand signalled that it would stop the termination of tenancies for methamphetamine contamination, unless there was clear evidence of methamphetamine manufacture. In cases where contamination is caused by methamphetamine use, this is now considered a drug addiction issue and Housing New Zealand will help tenants to seek rehabilitation services and any other support they may need. Housing New Zealand stopped suspending tenants for methamphetamine contamination in early 2018. Evidence or allegations of illegal activity brought to Housing New Zealand's attention are referred to the Police.
- The publication of the Chief Science Advisor's report on 29 May 2018 has provided Housing New Zealand with the confidence it needs to raise the threshold for remediation to 15µg/100cm². No action will be taken where contamination levels are at or below this threshold. Where contamination is above the threshold, tenants and their families will be supported to move to another property.

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- The Board is taking a more active role in monitoring the development and implementation of operational policy. System improvements are underway to ensure that information relating to tenancies and outcomes for tenants is captured and readily available in Housing New Zealand's core systems.

Appendices

Appendix A – Letter from Housing New Zealand Board Chair to Minister of Housing and Urban Development



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12 June 2018

Hon Phil Twyford
Minister of Housing and Urban Development
Private Bag 18041
Parliament Buildings
WELLINGTON 6160

Dear Minister

Thank you for discussing the report on Housing New Zealand's (HNZ) policies, processes and the outcome around methamphetamine (meth) contamination in its properties.

It is agreed that the report should be structured in three parts, which will cover:

1. HNZ policies and processes
2. the outcome for people living in contaminated homes and the outcome for the contaminated properties
3. redress and areas requiring action.

The first part of the report will cover facts about HNZ's policies and process. It will also address the external environment it operated in including the relevant available guidance available from the Ministry of Health, the Residential Tenancies Act, the Tenancy Tribunal's approach, test practices, and employer obligations to staff and contractors. We will also provide you with the key documents of these and any significant internal documentation.

As part of this section we would also include a chronology of how policies and processes have evolved to date. The outcome of this section will show why HNZ applied the processes it did and what mechanisms there were in place for HNZ to determine and review its policies.

The second part of the report would cover the outcomes for the people living in an HNZ property and the property itself. For the people this will include facts and analysis on the number of:

- the number of tenancies ended and the reason for this
- people evicted
- people suspended
- tenants that were taken to the Tenancy Tribunal and the outcome of this, including summary of evidence, copies of the decision and the case reference
- tenants who had to pay for the cost of remediation, the status of any costs (in any form) including the amount awarded, the amount repaid to date and the terms of any repayment plan.

Our intention will be to provide a detailed list of the individual tenancies but given the short timeframe for this work and the substantive amount of files that will need to be consulted this may not be possible. If a detailed list is not available we will provide as detailed a categorisation as possible.

For the property outcomes it will include details on:

- each property that was tested
- the level of contamination from the test results
- the date of test, cost of testing, test results (addresses and names redacted)

The outcome of the third section will show how tenants were treated, and therefore highlight areas to consider for potential redress.

The third section of the report will cover what redress or further steps may be appropriate for any unfairness that may have occurred to tenants. This information will also consider the legal and moral obligation to do so. This section will cover the following key points:

- lifting our suspension policy
- paying costs associated with moving or rehousing
- refunding damage costs.

However, this is not an exhaustive list and we will reflect if there are any systemic issues in how we implement operational policy and processes. Essentially, I anticipate that this section will provide a series of recommended actions for HNZ to undertake.

HNZ has established a project team to work on producing this report.

HNZ has identified possible options to have the report independently peer reviewed. I anticipate that the completion of the report will take approximately 6 weeks.

Kind regards



Adrienne Young-Cooper
Chair

Appendix B – Detailed chronology

2004 to 2009

Overview

The first Housing New Zealand policy addressing the management of methamphetamine in its properties was established in 2004. This year also marks the first material Tenancy Tribunal ruling against a private landlord⁷⁴ for renting contaminated premises that had previously been used as a methamphetamine laboratory.

Contamination of properties through manufacture was the primary focus of policy during this period. Housing New Zealand took a zero tolerance stance to manufacturing from the start. Housing New Zealand's obligation to provide a safe and healthy environment for families, as well as staff and contractor health and safety have been key drivers behind methamphetamine policy since this time.

There was no New Zealand standard or guideline for methamphetamine testing and decontamination at this time. Housing New Zealand relied on the expertise of companies that were qualified to test for contamination.

Housing New Zealand's '*Encouraging Good Neighbour Behaviour*' (EGNB) policy was introduced in 2009, providing direction for staff when dealing with anti-social behaviour, including unlawful activity. The EGNB policy set out an objective to support and encourage tenants to act as good neighbours who contribute positively to community life. It defined both good neighbour behaviour and anti-social behaviour. The policy was primarily a tool directed towards ensuring that anti-social behaviour was proactively addressed.

This policy was relevant to Housing New Zealand's management of methamphetamine manufacture and use, as unlawful activity was included in the definition of anti-social behaviour. The policy stated that Housing New Zealand would not tolerate unlawful activity in its properties. It allowed for tenancies to be ended through 90 day notices where the anti-social behaviour was serious or ongoing. Up until this time, Housing New Zealand had relied on the Tenancy Tribunal to end tenancies for severe anti-social behaviour or illegal activity.

PRE-2004

New Zealand's first methamphetamine laboratory (lab) was discovered in 1996, with the annual number of methamphetamine labs detected by the New Zealand Police each year increasing dramatically from 9 in 2,000 to 135 in 2009. In 2003, methamphetamine was reclassified from Class B2 to Class A to better reflect the risk of harm through use of the drug⁷⁵.

DECEMBER 2004

Methamphetamine management policy

By December 2004, the manufacture of methamphetamine in properties was enough of an issue for Housing New Zealand to publish a policy and procedure document entitled '*Methamphetamine (P) and Housing New Zealand Corporation tenancies*'⁷⁶.

⁷⁴ *Wilson v Residential Premises Management Ltd, trading as Quinovic Property Management* TT Waitakere 1708/3, 11 June 2004

⁷⁵ *Misuse of Drugs (Changes to Controlled Drugs) Order 2003*

⁷⁶ T-126 Tenancy Procedure: Methamphetamine (P) and Housing New Zealand Corporation tenancies, V1 (2004)

Representatives from other agencies and departments were consulted during the development of the policy including NZ Police, Ministry of Health, Department of Building and Housing, Local Authorities, Environmental Science and Research Ltd (ESR) and Forensic and Industrial Science Ltd⁷⁷.

The document focussed heavily on premises where methamphetamine was manufactured. The procedure was triggered by suspicion of manufacturing – either through tenancy inspections, information received from Police or a third party, or concerns raised by a current tenant that their tenancy may have been used previously to manufacture methamphetamine.

Other key elements of the policy at this point were that:

- no Housing New Zealand staff were to enter a property that was suspected of being used for the manufacture of methamphetamine until deemed safe to do so by experts (due to health and safety risks)
- Housing New Zealand had a zero tolerance stance toward methamphetamine manufacture and use and to tenants who were involved with it
- Housing New Zealand would seek to recover any costs associated with the clean up and repair of property from its tenants and could also refuse to house those tenants in future
- a decision to re-house any applicant with a known history of methamphetamine manufacture would be at the discretion of the regional manager and as an exception rather than the rule. Where regional manager approval was given, the tenancy had to be intensively managed.

DECEMBER 2008 TO APRIL 2009

New Approach to Ending Tenancies and Encouraging Good Neighbour Behaviour policy

Housing New Zealand began to consider changing its process for ending tenancies, including for situations where anti-social or serious criminal behaviour (including methamphetamine manufacture) had occurred. The Executive Team approved these changes in a paper in December 2008.⁷⁸

Housing New Zealand had previously been reluctant to issue 90 day notices to end tenancies under the *Residential Tenancies Act 1986*. Instead, it preferred to have tenancies ended through the Tenancy Tribunal. The paper suggested that Housing New Zealand, given its status as a social landlord, should be taking responsibility for determining which tenants remain in its houses. The paper also noted that it was critical to establish clear, fair and robust policies about when and how tenancies were to be ended. All decisions to end tenancies were to be centralised to the Director Operations level, to ensure an appropriate level of control over the decision making.

90 day notices began to be issued in response to incidents of anti-social behaviour from March 2009^[1].

This was implemented more fully as part of the *Encouraging Good Neighbour Behaviour* (EGNB) policy, adopted in April 2009. The EGNB policy set out an objective to support and encourage tenants to act as good neighbours who contribute positively to community life. It defined both good neighbour behaviour and anti-social behaviour.

Anti-social behaviour was defined as “any behaviour by a tenant, a tenant’s family member or a visitor that unreasonably interferes with another person or person’s right to use and enjoy their home or neighbourhood”. The policy aimed to provide clear direction for staff to identify, prioritise and appropriately respond to anti-social behaviour.

This policy was relevant to Housing New Zealand’s management of methamphetamine manufacture and use, as unlawful activity was included in the definition of anti-social behaviour. The policy stated that Housing New Zealand would not tolerate unlawful activity in its properties. The policy allowed for tenancies to be

⁷⁷ Email from Business Advisor- Housing Services to HS Regions, Methamphetamine (P) in Housing New ZealandC Tenancies, 1 December 2004

⁷⁸ Meeting of the Executive, ‘Effective decision making around when and how tenancies are terminated’ – December 2008

^[1] 90 day notices key messages, 25 March 2009

terminated through 90 day notices and/or the Tenancy Tribunal where the anti-social behaviour was serious or ongoing.

Employer Obligations to Staff and Contractors

The methamphetamine management policy first published in December 2004 shows that staff and contractor health and safety has long been a key concern for Housing New Zealand.

There is a clear policy statement that staff and contractors should not enter a property suspected of being used for the manufacture of methamphetamine until deemed safe to do so by experts. This was due to known health and safety risks and Housing New Zealand's responsibility under the *Health and Safety in Employment Act 1992* to take all practicable steps to make sure that employees are kept safe.

Scientific and Regulatory Environment

No New Zealand standard or guideline existed for methamphetamine testing and decontamination at this time.

Housing New Zealand policies were silent on testing and decontamination levels during this period. Housing New Zealand relied on the expertise of either ESR or Forensic and Industrial Science Ltd to test for and confirm contamination⁷⁹.

Housing New Zealand also relied on contractors qualified in dealing with hazardous substances (as defined by the *Hazardous Substances and New Organisms Act 1996*) to ensure that properties were appropriately decontaminated. Three preferred suppliers are listed in the methamphetamine management procedures.

Tenancy Tribunal Approach

Wilson v Residential Premises Management Ltd, trading as Quinovic Property Management

The Tenancy Tribunal issued its first material decision about a rented property contaminated by being used as a methamphetamine lab on 11 June 2004⁸⁰. The Tribunal ruled that knowingly or recklessly renting out contaminated premises is a breach of a landlord's obligation to provide premises in a reasonable state of cleanliness. This obligation is set out in Section 45(1)(a) of the *Residential Tenancies Act 1986* (RTA).

Compensation of \$990 was ordered to reflect the landlord's breach in providing a property that was known to be contaminated at the start of the tenancy and the resulting stress for the tenants.

Mabbett v Hudson & Others

In a further case in 2009⁸¹, a tenant claimed compensation from the landlord relating to losses suffered allegedly as a result of pre-existing methamphetamine contamination at the premises. There was no dispute that the premises were contaminated (the decision does not discuss the level of contamination).

The Tribunal found that:

- there was insufficient evidence to find the landlord knew or should have known that the premises was contaminated
- nevertheless, the landlord was obliged to comply with s 45 of the RTA and he could not avoid that obligation. The tenant would have expected him to comply with that obligation
- the landlord had breached his obligation to provide the premises in a reasonable state of cleanliness under s45

⁷⁹ As noted in T-126 Tenancy Procedure: Methamphetamine (P) and Housing New Zealand Corporation tenancies, V1 to V3 (2004 to 2011)

⁸⁰ *Wilson v Residential Premises Management Ltd, trading as Quinovic Property Management TT Waitakere 1708/3*, 11 June 2004

⁸¹ *Mabbett v Hudson & Others TT Palmerston North 09/01485/PM*, 27 October 2009

-
- the landlord's breach substantially reduced the benefit of the tenancy agreement to the tenant, warranting a refund of all rent paid during the tenancy.

Media Activity

There was little media activity throughout this time period related to methamphetamine – what was reported related to the increasing popularity of the drug and its association with gang activity.

Key Documents

- T-126 Tenancy Management Procedure: 'Methamphetamine (P) and Housing New Zealand Corporation Tenancies' (V1 December 2004) and (V2 March 2009)
- Meeting of the Executive, 'Effective decision making around when and how tenancies are terminated' (December 2008)
- 'Encouraging Good Neighbour Behaviour' policy (April 2009).

2010 to 2013

Overview

During this period, the use and manufacture of methamphetamine emerged as a significant social issue as its effects on families and communities became more widely publicised through the media. Methamphetamine lab explosions made media headlines, as well as the associated gang involvement and violence. The dangers of contamination from methamphetamine labs began to be a significant cause of concern for property owners.

The Ministry of Health 'Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites' were published in August 2010, recommending a decontamination level of 0.5 µg/100cm².

Over this period, Housing New Zealand's approach remained focussed on methamphetamine lab detection and management. Properties used as labs were decontaminated in line with the new Ministry of Health guidelines. Methamphetamine lab awareness training targeted at frontline roles was introduced in February 2011 and ran until October 2014.

Also during this period Housing New Zealand's zero tolerance approach to illegal activity was reiterated, parallel with the following developments:

- A 2010 update to the EGNB policy providing a clear distinction between using the premises for illegal activity and illegal activity performed on the premises
- A Customer Risk Register, introduced in February 2010, included a category for rating customers who might pose a safety hazard to staff or contractors, due to drug manufacturing or selling activity
- In April 2011 Cabinet recommended, as part of a set of decisions on changes to eligibility for state housing, that former Housing New Zealand tenants would be suspended for one year for serious breaches of their tenancy agreement. The Housing New Zealand Board approved this policy in October 2011 and the suspension policy introduced in November 2011. Previous tenants and household members could have their eligibility for state housing suspended for one year for serious and/or repeated anti-social behaviour (including illegal activity).

JANUARY 2010

Update to Encouraging Good Neighbour Behaviour (EGNB) policy

The EGNB policy was updated in January 2010⁸² to include a detailed definition of unlawful activity. This definition distinguishes between:

- the use of the property in unlawful activity, for example selling drugs from the property or producing drugs at the property, and
- undertaking unlawful activity in a Housing New Zealand property – for example smoking cannabis or downloading movies to a computer (which are not necessarily a breach of the RTA).

Unlawful activity which is not a breach of the RTA is addressed by this policy, as it is concerned with serious ongoing anti-social behaviour that affects the community. The policy states that if the alleged illegal behaviour is viewed by Housing New Zealand as unacceptable, the regional manager should decide on a case to case basis whether to end the tenancy.

The policy also explicitly notes that Housing New Zealand has a 'zero tolerance' position in respect to the manufacturing of methamphetamine. Housing New Zealand's policy position on methamphetamine manufacturing in its properties has been unambiguous since the first methamphetamine policy was published in 2004. The policy position on contamination from smoking methamphetamine in properties was

⁸² Encouraging Good Neighbour Behaviour Policy, January 2010

unclear during this period. The numbers of contaminated properties found continued to be relatively low over this period (between 4 and 13 per year) and the majority are believed to be clandestine laboratories.

FEBRUARY 2010

Establishment of Customer Risk Register

A customer risk register was introduced in February 2010⁸³. This included policies and systems to identify and keep a record of customers who could pose a hazard to staff and contractors. The objective was to ensure that Housing New Zealand met its obligations under the *Health and Safety in Employment Act 1992*.

Criteria for a customer to be rated as “A1” on the register is that there is a suspicion that drugs are being manufactured or sold on the premises, and that there is a risk of explosion, exposure to toxic chemicals, illicit drugs and threats to personal safety. The required mitigation is that no staff or contractors are to visit category “A” customers without a hazard management plan and the prior approval of the security advisor.

Use of the customer risk register was later included in the methamphetamine procedure (first published in 2016⁸⁴). This required tenancy managers to apply an “A1” rating to all adult members of a household and any associates if there were reasonable grounds to suspect the property was contaminated. This rating was to be re-assessed and possibly removed if the test results came back below the Ministry of Health guidelines or NZS 8510:2017.

AUGUST 2010

Ministry of Health Guidelines published

2010 marks the publication of the *Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites*. The guidelines were published by the Ministry of Health as part of its function under s 3A of the *Health Act 1956*. The guidelines were not made pursuant to any legislative or regulatory authority and had advisory status only.

These guidelines recommended decontamination of clandestine methamphetamine labs to a level of 0.5 µg/100cm². Accordingly Housing New Zealand adopted these guidelines, as the only New Zealand specific guideline available at this time.

MARCH 2011

Methamphetamine (P) and Housing New Zealand Corporation Tenancies (T-126) procedures

The Methamphetamine (P) and Housing New Zealand Corporation Tenancies procedures were updated in 2011 to include:

- common signs for recognising a methamphetamine lab and
- references to the Ministry of Health ‘Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites’ which were published in 2010.

The focus of Housing New Zealand procedures remained on methamphetamine lab identification and remediation during this period.

Advice to evacuate tenancy letter introduced

A standard letter titled “*Advice to evacuate tenancy – possible chemical contamination*” was introduced and referred to in the updated procedures. It was intended to be sent following advice about potential manufacturing from the Police or on receipt of a Cleansing Order from a Council.

⁸³ Project Completion Report Customer Risk Indicator Project (CRIP), June 2010

⁸⁴ CA-716 Managing Methamphetamine (P) in Housing New Zealand properties version 1, 30 March 2016

This letter reflects Housing New Zealand's belief that it should warn tenants of the health risks of potential chemical contamination. It read:

"Housing New Zealand is arranging for testing to be carried out at your tenancy for possible chemical contamination.

In the interests of the health and safety of you and your family, we ask that you and all those who live at the property vacate immediately until it is deemed safe to return. If you choose to remain at the tenancy, you do so at your own risk."

Various versions of this letter remain in use until May 2016.

NOVEMBER 2011

Suspension Policy

A suspension policy⁸⁵ was introduced on 30 November 2011 whereby tenants or any other person residing at the tenancy could have their eligibility for state housing suspended for serious and/or repeated anti-social behaviour (including illegal activity). Credible evidence of unlawful activity had to exist. Suspension was for a year after the tenancy end date.

Housing New Zealand had identified an issue in its ability to manage its tenancies, namely that there was no way to prevent former tenants who exhibited anti-social behaviour from immediately returning to the waiting list and being rehoused. In response, Housing New Zealand, as the Government's primary housing policy advisor at the time, drafted a Cabinet paper which outlined a proposed suspension programme. The reasons for suspending tenants were that:

- some former tenants, whose tenancies had been ended for serious breaches of their tenancy management (including anti-social behaviour), remained eligible to immediately reapply for state housing
- Housing New Zealand did not have the authority to decline to rehouse any tenant whose tenancy was recently ended
- a continual recycling of tenants whose behaviours imposed an unacceptably high cost on taxpayers and communities, and undermined the integrity and credibility of state housing assistance programmes.

To enable Housing New Zealand to implement the policy, an amendment was required to the Social Allocation System eligibility criteria. On 6 April 2011 Cabinet agreed to allow suspensions for up to one year, and provided for suspensions to be waived for former tenants, taking into consideration:

- any housing-related hardship
- the interests of any affected children
- whether the applicant is taking steps to repay debt owing to Housing New Zealand or the Crown
- the likelihood of the tenant committing a similar tenancy breach in the future.⁸⁶

In October 2011 Housing New Zealand's Board approved the introduction of the suspension policy which was operationalised in November 2011.⁸⁷

Customers could apply for a waiver in case of hardship. As a general guide, the policy stated that Housing New Zealand would not waive a suspension where the customer had been charged or convicted of drug dealing or manufacture or drug growing in one of its properties. Only one case has been found where a customer explicitly suspended for methamphetamine contamination of a property had their suspension waived (in October 2016). All methamphetamine related suspensions were cancelled in June 2018.

⁸⁵ Board Paper Suspensions Policy 25 October 2011, and Suspension and waiver guidelines – T-234

⁸⁶ SOC Min (11) 6/2 "Improvements to the Housing New Zealand Corporation's Social Allocation System"

⁸⁷ Minutes of a meeting of the Board of Housing New ZealandC - Suspensions Policy (25 October 2011)

JANUARY 2012

Update to Encouraging Good Neighbour (EGNB) policy

An update to the EGNB policy was approved by the Executive Team on 30 January 2012. This was prompted by an internal review following the decision of the Human Rights Tribunal in *Winther & others vs Housing New Zealand (HRRT 02/11)*.

The update included (but was not limited to):

- clarification that the definition of anti-social behaviour includes behaviour which is not a breach of the Residential Tenancies Act 1986
- clarification of when and how 90 day notices were issued, in particular that 90 day notices were to be used as the primary mechanism for ending a tenancy
- an assurance that the EGNB policy aligned with the suspensions policy and fully recognised the tenant's right to a fair hearing.

Employer Obligations to Staff and Contractors

Housing New Zealand's methamphetamine policy⁸⁸ was updated in July 2011, with additional information on the adverse health effects of exposure to methamphetamine laboratory chemicals.

P-Lab Awareness training provided by Methcon was introduced in February 2011 and would run until October 2014. Key learning outcomes included frontline staff understanding how to keep themselves safe, understanding Housing New Zealand's process regarding methamphetamine labs and the signs to identify a methamphetamine lab. In all, 218 people completed this training between 2011 and 2014.⁸⁹

Scientific and Regulatory Environment

The Ministry of Health published the '*Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites*' (the NZ methamphetamine guideline) in August 2010, in response to growing concern over the contamination left behind at clandestine methamphetamine labs.

At this point, the recommended remediation level for a dwelling that had been used as a clandestine methamphetamine lab was 0.5 µg/100cm².

The guidelines state that they have no statutory effect and are of an advisory nature only.

Housing New Zealand continued to rely on the expertise of either Environmental Science and Research Ltd (ESR) or Forensic and Industrial Science Ltd to test for and confirm contamination.

The following advice was provided in a Forensic and Industrial Science Ltd testing and inspection report relating to a specific property⁹⁰ in August 2011, and is reflective of the use of the Ministry of Health guidelines at this time:

"Due to the presence of methamphetamine residues at levels well above the Ministry of Health remediation guideline of 0.5µg/100cm² we recommend that decontamination is undertaken in the dwelling and garage.

We are unable to determine whether the presence of methamphetamine residues is indicative of:

- a) personal use of methamphetamine;*
- b) processing of methamphetamine;*

⁸⁸ T-126 Methamphetamine (P) and Housing New Zealand Tenancies

⁸⁹ P-Lab Awareness course (February 2011 – October 2014)

⁹⁰ Auckland City Council issued a cleansing order for this property after being advised from the Police on potential manufacture. The highest methamphetamine level was 14.65 found on a window sill.

c) one or more episodes of ‘cooking’ methamphetamine.

It is not possible to determine the timing of methamphetamine contamination by considering the analytical results given here in isolation from other information.

These test results mean that contaminants are present. The contaminants detected represent a possible risk to human health.”

Housing New Zealand’s methamphetamine policies were updated in 2011 to refer to 2010 Ministry of Health Guidelines, but only in the context of determining whether the level of contamination is so high that it would be uneconomical to take any course of action other than demolishing the property.

Housing New Zealand also continued to rely on contractors qualified in dealing with hazardous substances (as defined by the *Hazardous Substances and New Organisms Act 1996*) to ensure that properties were appropriately decontaminated. The same three preferred suppliers were listed in the updated methamphetamine policies.⁹¹

Tenancy Tribunal / District Court Approach

McFadyen v Epsom Management Ltd

A Wellington District Court ruling from March 2013⁹² emphasised the obligation on landlords to provide premises free of contamination.

The Tenancy Tribunal had ordered the tenants to pay compensation to the landlord for rent arrears after they ceased paying rent due to an unknown form of contamination (tests could not find a cause) that affected the tenants’ health and ability to remain in the premises.

The tenants appealed to the District Court where the Tenancy Tribunal order was substituted with an order that the landlord pay the tenants for the cost of removing their household belongings. Her Honour found that:

“The starting point in my decision is whether the premises were fit for the purpose of a residential tenancy; and the tenants were not provided with habitable premises.”

Media Activity

Between 2010 and 2013, media began paying more attention to the presence of clandestine laboratories, with an increase in reporting of explosions of labs, and related demolitions of contaminated properties. There was also a focus on avoiding purchasing houses that had been used as labs⁹³, and articles on the general presence of the drug and its effect on society⁹⁴. In 2014, Police released statistics to the media which showed that between 2000 and 2013, there were 1,809 labs discovered throughout the country⁹⁵. There was some mention of Housing New Zealand throughout this time, namely in reference to methamphetamine lab explosions or fires.

⁹¹ CA-716 *Managing Methamphetamine (P) in Housing New Zealand managed properties*

⁹² *McFadyen v Epsom Management Ltd* DC Wellington CIV-2013-085-000021, 6 March 2013

⁹³ *How to avoid buying a P lab* – NZ Herald (9 January 2010)

⁹⁴ Carton, Tony. *The War on P (Pure, Methamphetamine) in New Zealand, a Moral-Panic?* (published 30 June 2016).

⁹⁵ *Methamphetamine crackdown: Crushing the P lab scourge* – NZ Herald (19 March 2013)

Key Documents

- 'Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites' (August 2010) – Ministry of Health
- T-126 Tenancy Management Procedure: 'Methamphetamine (P) and Housing New Zealand Corporation Tenancies' (V3 March 2011)
- Encouraging Good Neighbour Behaviour policy (January 2010)
- Project Completion Report: Customer Risk Indicator Project (June 2010)
- Board Paper Suspensions Policy (25 October 2011)
- Meeting of the Executive Team, Encouraging Good Neighbour Behaviour policy (30 January 2012).

2014

2014 Overview

2014 was a turning point in Housing New Zealand's approach. Its methamphetamine policy was expanded to include the risks of exposure to methamphetamine use, as well as manufacture. This change was in response to a review of vacant properties tested in Wanganui and concern for staff and contractor health and safety. The result was a notable increase in the number of tests undertaken by Housing New Zealand in subsequent years.

The review of Whanganui properties also confirmed Housing New Zealand's approach to testing properties in line with the Ministry of Health's guidelines for properties contaminated by methamphetamine use, as well as those used as labs. This approach would remain throughout 2014 and 2015.

A decision was also made not to pursue baseline testing of all vacant properties before they were re-tenanted. This decision took into account both the cost of proactive testing and the number of potential positive tests. Only four percent of the Wanganui sample tested positive.

The EGNB policy was also refreshed to provide a clearer process for staff. To reflect their plainer intent, they were now called the "Anti-Social Behaviour guidelines".

MARCH 2014

Review of Whanganui Test Results

In March 2014, Housing New Zealand was advised by a potential purchaser of a Housing New Zealand property in Whanganui that the property had been found to be positive for methamphetamine following the use of a "self test" kit⁹⁶. The property was subsequently tested by Housing New Zealand and found to have methamphetamine levels above the Ministry of Health guidelines ($0.5 \mu\text{g}/100\text{cm}^2$).⁹⁷

Housing New Zealand decided to test all Whanganui properties either already on the market or about to be placed on the market, due to the potential risk to Housing New Zealand's divestment programme in the area. This sample was also expected to establish a "strike rate" for methamphetamine contamination across the larger portfolio. 74 properties in all were tested between April and July 2014 and 3 (or 4.1 percent) were found to have readings above the Ministry of Health threshold.

A review was subsequently undertaken by senior managers and the findings were presented to the Executive Team on 16 September 2014. The review concluded that:

- the costs of proactive testing (of all vacant Housing New Zealand properties across the country) did not seem to be in proportion to the likely "strike rate" (4.1 percent) of contaminated properties i.e. testing on suspicion appears appropriate to the level of likely occurrence of methamphetamine contamination
- given the lack of information on self test kits, in particular a lack of information about the accuracy of the tests, they should not be used in Housing New Zealand properties
- further research into the effectiveness of methamphetamine detectors in properties would be required before they can be considered
- current policy should be modified to align with current practice and expand the processes to recognise the **increasing risk of exposure to methamphetamine use** along with manufacturing
- all frontline staff and contractors are required to undergo regular training in recognising signs of methamphetamine **manufacture and use**.

⁹⁶ Email from Private Secretary – Housing to Housing New Zealand – "FW: Did housing NZ knowingly try to sell a house that tested positive for methamphetamine?" – 11 April 2014

⁹⁷ Methamphetamine Contamination (Wanganui results)/P Lab training – 16 September 2014

The methamphetamine policy documentation was not formally updated to reflect this change until 2016, but practice did begin to shift at this point to include testing on suspicion of smoking. This is evident by the subsequent increase in properties testing positive for methamphetamine contamination nationally (a shift from 28 tested positive in the 2013/14 financial year to 229 tested positive in the 2015/16 financial year).

From this point, Housing New Zealand also began to test properties before they were put on the market for sale.

MAY 2014

Anti-Social Behaviour Guideline

Work was undertaken to rework guidelines in response to feedback that the processes and systems used to manage anti-social behaviour were unwieldy and complicated⁹⁸. The *Encouraging Good Neighbour Behaviour* policy was revamped into an *Anti-Social Behaviour Guideline*⁹⁹ (ASB) in May 2014. Extensive refresher training was provided to frontline staff in July 2014.

The Anti-Social Behaviour Guideline aimed to provide:

- a simplified and clearer process which was easier to understand and apply
- a consistent application of the process in all regions
- improved and clearer reporting
- clearer messages to customers when Housing New Zealand was dealing with anti-social behaviour
- more favourable Tenancy Tribunal outcomes for Housing New Zealand due to having a clearer process and better application of that process.

This guideline pertained to Housing New Zealand's response to methamphetamine use and manufacture, as examples of high severity ASB included:

- continual use of drugs at the property
- cultivation/manufacture and supply of any class of controlled drugs, as set out in the Misuse of Drugs Act 1975
- tenants charged with drug offences.

Employer Obligations to Staff and Contractors

The requirement for staff and contractors to undergo regular training to recognise the signs of methamphetamine manufacture and use and the appropriate Housing New Zealand response was reiterated at the time the Whanganui trial results were presented.¹⁰⁰

Since 2011 training had been available through Methcon. In all, 218 staff undertook the training between 2011 and October 2014. The focus of this training was on "P-Lab Awareness".

Training was not provided directly to contractors, except for guidance on identification and management of hazards (including methamphetamine) which was included in the contractors' induction package. Housing New Zealand fulfils obligations to ensure contractors are aware of hazards through a number of other methods, including spot checks, audits and reviews of incident data and supervision records.

⁹⁸ Change Request – Antisocial Behaviour Kotahi process

⁹⁹ T-229 Anti-Social Behaviour Guideline, Issue 1, 27 May 2014

¹⁰⁰ Appendix 2, Housing New Zealand Corporation Executive Team paper, Methamphetamine Contamination (Wanganui Results)/P Lab Training, 16 September 2014

Scientific and Regulatory Environment

The Ministry of Health 'Guidelines for Remediation of Clandestine Methamphetamine Laboratory Sites (2010)' continued to be the only available New Zealand guidelines for remediation until they were replaced by an interim recommendation from the Ministry of Health in October 2016.

Media Activity

Methamphetamine related media enquiries started increasing in 2014¹⁰¹.

Of particular interest is a request from the Wanganui Chronicle (18 March 2014) asking for information after a member of the public informed them about a positive test on a property that Housing New Zealand had placed on the market for sale.

Key Documents

- Housing New Zealand Corporation Executive Team paper, Methamphetamine Contamination (Wanganui Results)/P Lab Training, 16 September 2014
- Anti-Social Behaviour Guideline (T-229)

¹⁰¹ Draft Methamphetamine (P) Stocktake of policy and process, May 2014

2015

Overview

The health and safety of Housing New Zealand staff and contractors came into focus in 2015. Contractors began to raise concerns related to some methods of testing and decontamination. Further, a contractor was seriously injured in a deliberate dog attack while carrying out a methamphetamine test. In response, Housing New Zealand made a suite of changes to testing and remediation practices.

The numbers of properties Housing New Zealand tested for methamphetamine contamination increased sharply during this time. This was due to Housing New Zealand's increasing vigilance in identifying potential methamphetamine use in its properties. Approximately 200 properties were tested in 2014/15, up from around 50 the previous year. A dedicated Chemical team was established to manage the increased level of testing, decontamination and reinstatement.

Also at this time, the first major review of Housing New Zealand's methamphetamine contamination policies commenced. This was in response to increased methamphetamine-related activity. Housing New Zealand's zero tolerance approach continued to be reinforced during interactions with tenants and in the media.

PRIOR TO MAY 2015

Testing and decontamination process

When Housing New Zealand suspected a property was contaminated, an accredited lab (accredited by the International Accreditation New Zealand (IANZ)) was engaged to complete an initial test. The initial test indicated if the property was contaminated above the Ministry of Health guidelines or not. If the test came back above Ministry of Health guidelines, Housing New Zealand would undertake a comprehensive test to determine the specific levels of contamination and recommendations for decontamination. Testing was undertaken by Dowdell, Forensic & Industrial Science, and The New Zealand Drug Detection Agency Limited. The testers were independent of the decontamination companies used.

There were two types of initial tests used: a laboratory tested swab test which provided a specific level of methamphetamine contamination; and an initial screening test which produced an instant reading indicating only a "positive/negative" result. This type of instant test is not referred to a laboratory as it is effectively designed as a field test which provides an immediate response.

Housing New Zealand used three methods for decontaminating a property:

1. foaming method using hydrogen peroxide - the most common method as it was effective across most levels of decontamination
2. stripping out the property - which could include removal of walls, ceilings, and floor coverings
3. demolition of the property.

Demolition would only take place in the most severe cases.

MAY 2015

Contractor health and safety concerns

In May 2015 Housing New Zealand's contractors became increasingly concerned about the health and safety of their staff as it related to methamphetamine contamination. Feedback was received about two of the testing and decontamination methods used by Housing New Zealand at the time – the initial instant screening test and the foaming method of decontamination.

Concerns were raised that as the instant screening test does not provide an actual reading, there was some risk that test results just below Ministry of Health guidelines were not being identified for remediation.

One Performance Based Maintenance Contractor (PBMC)¹⁰² requested that all properties that had an initial test with results above the undetectable level should automatically have a comprehensive test undertaken.

PBMC contractors also raised concerns about the chemicals used in the foaming method believing these to be in breach of Health and Safety legislation. Housing New Zealand investigated these concerns, however there was conflicting advice about the appropriateness of the chemicals involved.

In light of these concerns, a PBMC contractor advised Housing New Zealand that they would not carry out any work at a vacant property where Housing New Zealand had used the “foaming method” to decontaminate a property, or where the initial test results had been received through an instant screening approach.

As a result of the contractor concerns and to mitigate any risk, Housing New Zealand stopped using the instant screening test and the foaming decontamination method from 6 May 2015.¹⁰³

Changes to testing process

A two step testing approach was introduced involving an Initial Swab Test followed by a Comprehensive Test.

The Initial Test of five swabs per house met the minimum requirement outlined in the 2010 Ministry of Health Guidelines and any swab results above $0.03 \mu\text{g}/100\text{cm}^2$ would trigger a Comprehensive Test (air test, checking for volatile organic compounds (VOCs) which are the precursors for manufacturing or harmful toxic chemicals lingering in the air). Where a methamphetamine lab was suspected, testers were able to conduct a Comprehensive Test immediately without the Initial Test.

Testing for VOCs even in properties where methamphetamine was barely detectable was in response to the *pending Health and Safety at Work Act (2015)* which put a greater responsibility on a Person Conducting a Business or Undertaking (PCBU) and business owners to ensure safe working environments for their workers. Housing New Zealand properties are a workplace for staff and contractors.

In August 2016, Housing New Zealand discontinued testing for VOCs as these were being removed anyway in the decontamination process.

Changes to decontamination process

Decontamination would be completed by triple-washing the affected areas with sugar soap. Stripping out the property was mandatory for areas where contamination was $4.0 \mu\text{g}/100\text{cm}^2$ or above (because the triple wash method is not effective for levels of contamination above $4.0 \mu\text{g}/100\text{cm}^2$).

By making these changes, it was understood that it may increase the time properties remain vacant and the instances of properties being stripped out – and both could result in an increase in costs.¹⁰⁴ However, Housing New Zealand took a health and safety approach above these other business considerations.

AUGUST 2015

Methamphetamine contamination policy review

The findings from the Whanganui Review in 2014¹⁰⁵ led to recommendations for improvements in both policy and process for managing methamphetamine contamination in Housing New Zealand properties. The following improvements were recommended:

- clarify accountabilities and responsibilities for escalation, management of testing and remediation, and reporting to external agencies (e.g. Police) where appropriate

¹⁰² one of several large contractors who complete repairs and maintenance of state housing across New Zealand.

¹⁰³ Memo: Interim Testing & Remediation Approach – P Contamination (6 May 2015)

¹⁰⁴ Note, these were not quantified at the time

¹⁰⁵ Housing New Zealand Executive Team, Methamphetamine Contamination (Wanganui Results)/ P Lab training, 16 September 2014

- reinforce the requirement to report all levels of suspicion and to test based on suspicion and/or evidence provided
- modify the policy to align with current practice and expand the processes to recognise the increasing risk of exposure to methamphetamine use along with manufacture
- review reporting requirements to provide a centralised “end to end” reporting of suspicion, reasons for suspicion, status, outcome and associated costs
- reinforce the requirement for all frontline staff and contractors to undergo regular training in recognising the signs of methamphetamine manufacture and use and the appropriate Housing New Zealand response.

In response, the Methamphetamine Contamination Policy Project¹⁰⁶ was established on 4 August 2015 (with Executive Team approval¹⁰⁷). The key deliverable of the project was to produce renewed policy and procedures for the end to end process, including roles and responsibilities, and reporting requirements.

The objectives of this project were later incorporated into the Methamphetamine Contamination Programme in 2016¹⁰⁸.

OCTOBER 2015

Dog attack and interim process changes

A contractor and senior tenancy manager were sent to conduct a methamphetamine test at a tenancy in Mt Albert (Auckland) in October 2015. While inside the home, the tenant locked the contractor inside with dogs who then attacked the contractor, who suffered significant lacerations.

This triggered the development of the “Interim Process for Requesting and Undertaking Methamphetamine Testing on Tenanted Properties” in November 2015. The interim process:

- set expectations around safe work plans and what was to be included in the plans
- specified that the only testing to be carried out was comprehensive testing
- acknowledged that there may be situations where the safety risk to staff and contractors is too great for testing to proceed – in these cases Housing New Zealand was to wait for evidence necessary to end the tenancy
- instructed that two Corporate Care¹⁰⁹ workers would provide security services to the tester and tenancy manager/tenancy during testing.

OCTOBER-NOVEMBER 2015

Establishment of a specialist team to manage meth testing and remediation

With a growing level of methamphetamine activity in 2014 and 2015, a small team of four staff was created to manage the end to end process of arranging the testing, decontamination and reinstatement of affected properties. Around 200 properties were tested in the 2014/15 financial year, up from around 50 the previous year.

In late 2015, the activity related to methamphetamine contamination had increased to such an extent (around 1,300 tested in the 2015/16 year), that a larger Chemical Team of 12 staff was formed with sub-teams covering testing/decontamination and reinstatement.

¹⁰⁶ Project initiation document: Methamphetamine Contamination Policy Review (28 July 2015)

¹⁰⁷ Executive minutes not recorded – approval of project was confirmed by relevant Housing New Zealand staff and the initiation of the review.

¹⁰⁸ Programme Plan: Methamphetamine Management Programme

¹⁰⁹ a security company contracted by Housing New Zealand

DECEMBER 2015

Zero tolerance approach

Although a zero tolerance policy had been in place since 2004¹¹⁰, Housing New Zealand had a renewed focus on this in 2015 when discussing tenant activities with neighbours, stakeholders and media, especially in the context of methamphetamine manufacture or use as an illegal behaviour at the property.¹¹¹

Tenancies were ended either through the Tenancy Tribunal, or via 90 day notice only. Ending tenancies for anti-social behaviour were approved by the regional manager, on the recommendation of the area manager.

If a tenant was to be suspended from living in a Housing New Zealand property for up to a year, this would be approved by the General Manager. In addition, the General Manager's approval was required for staff to apply to the Tenancy Tribunal to end the tenancy and, if required, evict the tenant.¹¹²

In late 2015, the Executive team discussed options to increase the amount of time a tenant could be suspended from living in a Housing New Zealand property – from 1 year to 3 years.¹¹³ Ultimately, this did not eventuate, but it highlights the seriousness with which Housing New Zealand was taking the issue.

Key Tenancy Tribunal cases

Two cases in 2015, both involving Housing New Zealand, show the Tribunal's acceptance of the general understanding at the time that contamination above the Ministry of Health guidelines was akin to damage of the property and meant the property was uninhabitable.

Housing New Zealand Corporation Ltd v Teepa¹¹⁴

Housing New Zealand ended a tenancy under s 59A of the *Residential Tenancies Act 1986 (RTA)*. A methamphetamine testing company had issued a report finding that the premises were "uninhabitable because of methamphetamine contamination" with "8 of the 12 swabs taken exceeding the MOH Guidelines".

The Tribunal found:

- the report provided reasonable grounds to conclude the premises was "so seriously damaged as to be uninhabitable", justifying termination under s 59A; and
- methamphetamine contamination was "damage" under s 40 of the RTA. The Tribunal observed that "premises could be damaged by methamphetamine use or manufacture in a similar way to premises damaged by smoke from a fire". There was damage to a number of items that needed to be disposed of, including painted plaster board walls, wallpaper and heaters.

Consequently the Tribunal found that Housing New Zealand was entitled to cancel the tenancy with seven days' notice under s 59A. No compensation was sought.

Ahu v Housing New Zealand Corporation Ltd¹¹⁵

Housing New Zealand ended the tenancies on seven days' notice under s 59 of the RTA on the basis that the premises were uninhabitable due to methamphetamine contamination. The tenant refused to vacate the premises. Housing New Zealand applied for a possession order. (Housing New Zealand did not seek any compensation.)

¹¹⁰ T-126 Tenancy Management Procedure: Methamphetamine (P) and Housing New ZealandC Tenancies (1 December 2004)

¹¹¹ Media statement: Housing New Zealand takes a firm stance on methamphetamine (29 April 2015), various media responses

¹¹² T-229v3 – Anti-Social Behaviour Guideline

¹¹³ Executive Team minutes - 1 December 2015

¹¹⁴ Housing New Zealand Corporation Ltd v Teepa TT Manukau 15/04385, 7 August 2015

¹¹⁵ Ahu v Housing New Zealand Corporation Ltd TT Auckland 15/02298, 27 November 2015

The tenant challenged the validity of the termination notice on several grounds, including:

- that Housing New Zealand could not prove that she had caused the alleged contamination; and
- that Ministry of Health Guidelines applied only to remediation of clandestine methamphetamine labs.

The Tribunal granted Housing New Zealand's application for a possession order and dismissed the tenant's application. The Tribunal found that:

- Housing New Zealand did not need to show that the tenant had caused the contamination
- Housing New Zealand had proved on the balance of probabilities that the contamination at levels above the Ministry of Health Guidelines threshold meant the premises were so seriously damaged as to be uninhabitable. In particular, the Tribunal:
 - acknowledged that while the MOH Guidelines were directed towards remediation of clandestine labs, they addressed "the risk to human health from the occupation of a dwelling contaminated... at levels above the cited threshold";
 - noted that equivalent Australian guidelines ("Clandestine Drug Laboratory Remediation Guidelines" (2011)) made "clear that contamination regardless of whether caused by cooking in a clandestine laboratory or from smoking by a user of the drug, will contaminate the inside surfaces of buildings" and that there was no reason why the position in New Zealand should be any different; and
 - concluded that this approach was supported by "... sound public policy and community health reasons to support a robust approach being taken by the Tribunal where laboratory testing, using internationally recognised methodology, discloses methamphetamine contamination of premises at levels exceeding the threshold referred to in the [MOH Guidelines]".

Increasing media attention on methamphetamine

Increasing media attention took place throughout 2015, with a particular focus in May 2015.¹¹⁶ Key topics included individual properties (vacant contaminated properties, evicted tenants), and release of information that indicated a large jump in the number of positive tests between 2014/15 and 2015/16¹¹⁷.

In response, Housing New Zealand issued a media statement in April 2015¹¹⁸ reinforcing its "zero tolerance" approach to illegal behaviour in its properties, including the manufacture and use of methamphetamine:

"Housing New Zealand took a firm stance on those who used or manufactured methamphetamine in one of its properties. We do not tolerate criminal activity in our homes. If we find that methamphetamine is being used or manufactured we will terminate the tenancy."

...Housing New Zealand will pursue tenants for costs associated with property damage caused through recreational drug use or the manufacture of the drug.

(excerpt)

There was also a significant media focus on the perceived dangers of methamphetamine contamination, with articles promoting advice to private home owners and landlords to help them avoid costs associated with methamphetamine contamination.

Key documents

- Memo: Interim Testing & Remediation Approach – P Contamination (6 May 2015)
- Project Initiation Document: Methamphetamine Contamination Policy Review (28 July 2015)
- Interim Process for Requesting and Undertaking Methamphetamine Testing on Tenanted Properties (19 November 2015)

¹¹⁶ Review of responses to media enquiries

¹¹⁷ Multiple responses to request for official information

¹¹⁸ *Housing New Zealand takes firm stance on methamphetamine* (April 2015), www.hnzc.co.nz

2016

Overview

2016 saw another sharp increase in the number of properties Housing New Zealand tested for methamphetamine, as Housing New Zealand continued its operational focus on methamphetamine use. Approximately 1,300 properties tested in 2015/16.

The Public Service Association (PSA) wrote to Housing New Zealand in January 2016 expressing concern for staff members who inadvertently entered contaminated properties. In response, Housing New Zealand commissioned a medical opinion, which concluded that simply visiting homes in which methamphetamine had recently been used would result in minimal actual harm. This was issued to all staff and contractors. Additional training was also provided for frontline staff.

The introduction of the Health and Safety at Work Act (HSWA) on 4 April 2016 increased Housing New Zealand's focus on employer and contractor health and safety.

As a result of the increased activity and heightened health and safety concerns, Housing New Zealand commissioned Deloitte to undertake a review of their methamphetamine response. The findings of the review informed the establishment of a comprehensive methamphetamine management programme.

The programme included an extensive rewrite and release of methamphetamine policies and procedures. Housing New Zealand's revised methamphetamine procedures provided detailed guidance on making decisions on whether to rehouse tenants, charge for damage or end tenancies and suspend tenants from state housing. These decisions were based on whether there was credible evidence that the tenant was responsible for the contamination or not.

Housing New Zealand also commissioned independent scientific advice on the level of methamphetamine contamination that could be used as a testing and remediation threshold. There was no consensus view on this threshold. As a result, Housing New Zealand decided to keep using the existing threshold¹¹⁹ until the revised interim threshold was released by the Ministry of Health in October 2016. Housing New Zealand had an opportunity to provide housing sector leadership at this point however it took the conservative approach of using the Ministry of Health guidelines and waiting for the development of a NZ standard instead of continuing to investigate the issue independently of established channels, such as the Standards committee.

Housing New Zealand adopted the Ministry of Health revised interim threshold as soon as it became available in October 2016. The interim thresholds applied to methamphetamine contamination from use as well as from manufacture. From this point, Housing New Zealand was applying the threshold in the way intended by the Ministry of Health.

Housing New Zealand was also represented on the "Methamphetamine Testing and Remediation Standards Development Committee" established in May 2016, to develop the new NZ Standard.

Towards the end of 2016, the methamphetamine management programme provided an additional policy clarification for staff. They were now able to manage evidence of methamphetamine use at a Housing New Zealand property as unlawful activity, even if the level of contamination at the property was below Ministry of Health guidelines. This further reinforced the zero tolerance approach to methamphetamine use as an illegal activity.

¹¹⁹ Memo – Advice on Methamphetamine Threshold, Acting Chief Executive to Chair Housing New Zealand (1 August 2016)

FEBRUARY 2016

Void Baseline Testing Pilot

A baseline testing pilot was set up to methamphetamine test all void properties in the Morningside area (Auckland) during the period February 2016 to June 2016. The pilot was initiated and run by local operational staff.

This pilot was already underway when the Methamphetamine Programme was being stood up, and was included within the scope of the programme brief (7 April 2016). The programme scope statement indicates that nationwide implementation was an expected outcome from this pilot. However, this did not eventuate after the pilot was closed at the end of June 2016.¹²⁰

MARCH 2016

Policy and process documents rewritten

Policies and procedures for managing methamphetamine contamination were extensively rewritten and published at the end of March 2016¹²¹ as part of the Methamphetamine Contamination Policy Project. These documents provided the core guidance for operational staff.

These refreshed documents included:

- guidance for managing instances of methamphetamine contamination from use, as well as manufacture within Housing New Zealand properties
- a statement that Housing New Zealand would comply with the legislative and regulatory framework contained in the Health and Safety in Employment Act 1992 and the Ministry of Health Guidelines relevant to methamphetamine contamination
- reinforcement of the zero tolerance approach to the manufacture, sale and use of methamphetamine in Housing New Zealand properties
- a statement that Housing New Zealand would seek recovery of costs associated with confirming, reinstating, demolishing, or the loss of value of a property, from the tenants and/or other persons, through the Tenancy Tribunal or District Court
- a focus on the wellbeing and safety of Housing New Zealand's tenants, contractors, and other persons potentially coming into contact with contamination
- instructions whereby Housing New Zealand would arrange to transfer a tenant to another home, or cover the costs of temporary accommodation, if Housing New Zealand believed the tenant was not responsible for the contamination. Housing New Zealand would also cover the tenant's moving costs
- instruction for the situation where Housing New Zealand had grounds to suspect the tenant was responsible for the contamination, but with insufficient evidence. The tenancy could be terminated through a 90 day notice with the agreement of the Regional Manager. As an alternative, based on the tenant's circumstances, the Regional Manager could also agree to rehouse the tenant. Where this was arranged, the new property was baseline tested
- adoption of a risk based approach for the management and control of methamphetamine contamination in properties. This included a statement that a test would be undertaken on any property where Housing New Zealand had reasonable grounds for suspecting the property could have methamphetamine contamination. Extensive guidance and examples were provided on potential sources for suspicion (see below).

¹²⁰ Email to PBMC contractor – 23 June 2016

¹²¹ P-250, CA-761 and T-250

Potential sources for suspicion that could trigger this process were (list is provided in full):

- A current tenant may complain of health issues while living in a Housing New Zealand property and request action
- A tenant has admitted to methamphetamine use at the property
- A complaint (anonymous or named) may be received by the customer support centre
- A 90 day notice has been issued, the tenant has vacated and a decision has been made to test the void property
- A senior/tenancy manager may be aware of drug activities at the property linked to anti-social behaviour
- A senior/tenancy manager may discover drug or methamphetamine paraphernalia during a property visit or any inspection (including annual, pre-vacation or final)
- A senior/tenancy manager may see or be aware of behaviours symptomatic of methamphetamine use of people at the property
- A Housing New Zealand staff member or contractor may experience issues or physical effects while inside or after visiting a property
- Media reporting of tenant involvement in drug related activity
- A neighbour may provide information or allege drug related activities at a property (note: care must be taken to make sure the allegation is not vexatious or retaliatory as a result of neighbour conflict)
- Police or another third party may provide credible evidence to Housing New Zealand staff
- Media enquiry/allegation
- A Housing New Zealand contractor or sub contractor scoping or working at a property may have suspicions (e.g. drug paraphernalia)
- Unauthorised activity at a void property (e.g. a break-in) has raised suspicions of new or further methamphetamine use/manufacture.

Additional training material was also available internally from July 2016 to help frontline staff understand and use the new procedures.

Advice to move out letter updated

The standard letter already in use advising tenants to move out of their tenancies due to the health risk of contamination was updated and re-published alongside the new procedures.¹²²

Tenant welfare was a strong motivating factor when drafting these letters. The idea was that Housing New Zealand should warn tenants to leave as quickly as possible, as the dwelling was confirmed to be contaminated and presumed to be a health risk to families. The letter was intended to be personally delivered to the tenant as soon as the test results were available and whilst a 90 day notice was being drafted to end the tenancy. The letter read:

“The test results have now confirmed your property has methamphetamine residue at a level above the Ministry of Health Guidelines.

In the interests of the health and safety of you and your family, we recommend you all leave the property immediately.

¹²² letter 05-103v1 - published 31 March 2016

If you choose to stay in the property, you do so at your own risk. If any family member feels nauseous or complains of sore eyes or burning skin, please contact a doctor immediately. If these symptoms occur in specific areas of the property (for example, hallway, bedroom, garage), we recommend you avoid these areas as much as possible to keep exposure to a minimum.

We also wish to advise that we will shortly give you 90 days formal notice under Section 51(1)(d) of the Residential Tenancies Act 1986 that your tenancy with Housing New Zealand will end. The end date will be specified in the letter we will send.”

This letter was updated again in May 2016 when the process for ending tenancies was simplified to reduce confusion for staff and tenants. The paragraph advising that a 90 day notice would be issued was removed from the letter at this point.¹²³

MARCH 2016

Guidelines provided for managing tenant belongings

Guidelines were published at the end of March 2016¹²⁴ to define Housing New Zealand’s approach and obligations when managing a tenant’s belongings in a methamphetamine affected property. During the development of these guidelines, options were considered against the provisions in the *Residential Tenancies Act 1986* (RTA) and the 2010 Ministry of Health Guidelines – in particular, section 6.4 ‘Removal and remediation of contaminated materials’.

Key points included:

- the RTA puts no specific obligation on landlords to compensate, replace or decontaminate a tenant’s belongings found to be contaminated by methamphetamine
- despite this, Housing New Zealand would offer to remedy (by offering compensation, replacing or decontaminating) a tenant’s belongings tested and found to be contaminated above the Ministry of Health guidelines – where the current tenant was not responsible for contamination; or there was confirmed cross-contamination
- tests of a sample of belongings would occur at the same time as the property test
- if compensation was considered, an inventory of goods was to occur and be reviewed by a licenced second hand dealer or charity to establish a valuation of the goods. A compensation offer would then be made.

Several standard letters were also issued to support the guidelines. The letters informed tenants about potential issues with contaminated belongings and provided information directly from the only technical advice available – the 2010 Ministry of Health Guidelines. Letters stated variously:

“Please be aware you may not be able to remove items from the property that we suspect may be contaminated. We will discuss this with you.”

“Please note that personal belongings, furniture, appliances and rubbish remaining within the property could also be chemically contaminated. To assist you in managing these items, please refer to the attached notes taken from the Ministry of Health ‘Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites.’”¹²⁵

MARCH 2016

Transfer of properties to Tamaki Regeneration Company

Under the Social Housing Reform Programme, Housing New Zealand transferred 2,708 properties to the Tamaki Regeneration Company (TRC) on 31 March 2016. Housing New Zealand had an agreement with

¹²³ letter 05-103v2 – published 12 May 2016

¹²⁴ T-250 version 1 ‘Guidelines for managing tenant belongings affected by methamphetamine contamination’, 31/03/2016

¹²⁵ letters 05-101v1, 05-104v1, and 05-104v1

TRC around methamphetamine contaminated properties due to be transferred to TRC. The party who was responsible for decontamination and reinstatement differed, depending on when the contamination was found before the transfer date. These are outlined below:

- **6 months or more before transfer:** All decontamination and reinstatement work for properties found to be contaminated was completed by Housing New Zealand
- **3–6 months before transfer:** Housing New Zealand was responsible for all decontamination work and nearly all reinstatement work. Exceptions would be managed through discussions with TRC – for example a property may take longer than 6 months to decontaminate, Housing New Zealand might have finished decontaminating the property, and TRC may have completed the reinstatement work
- **3 months or less before transfer:** Housing New Zealand would decontaminate the property and TRC would complete reinstatement work
- **After transfer date:** TRC was responsible for all decontamination and reinstatement work.¹²⁶

MARCH 2016

Participation in Gang Intelligence Centre

As part of the 2014 Whole-of-Government Plan to Reduce Harms caused by NZ Adult Gangs and Transnational Crime Groups, the NZ Gang Intelligence Centre (GIC) was established on 1 March 2016 to combine intelligence across government agencies and allow better targeting and coordination of policies directed at reducing gang-related harms. Housing New Zealand was an active partner in the GIC, and seconded an Intelligence Analyst to the centre to focus on short-term and strategic data analysis. The analysis was provided to Housing New Zealand to assist with the management of anti-social behaviour and criminal activity in Housing New Zealand properties (including methamphetamine related activity).

An associated Agreed Information Sharing Agreement between Housing New Zealand and Police was overseen by the Methamphetamine Management Programme.

APRIL 2016

Review of Housing New Zealand Methamphetamine contamination response (Deloitte report)

A review of Housing New Zealand's methamphetamine management and strategic response was commissioned from Deloitte in February 2016 by the Chief Financial Officer and Risk and Assurance Manager; and delivered in April.

The purpose of the review was to give the Housing New Zealand Board and Executive team an external view of Housing New Zealand's methamphetamine management approach and an assessment of future related risks.

Key findings noted that:

- no global scientific consensus could be found regarding the level of contamination at which human health is adversely affected by tertiary exposure to methamphetamine as a contaminant (that is, through use in a residence as opposed to manufacture)
- Housing New Zealand could be either over-responding or under-responding to methamphetamine contamination; however there were currently no standards for testing and decontamination in New Zealand, only guidelines that were produced by Ministry of Health in 2010
- the current issues and future risks of methamphetamine contamination affecting Housing New Zealand had not been adequately defined
- Housing New Zealand's approach and actions to date had focussed primarily on remediation or risk treatment rather than "prevention"

¹²⁶ Agreement for sale and purchase of Real Estate relating to Tauranga portfolio – Housing New Zealand Corporation and AP Properties Tauranga 2016 LP (15 December 2016)

- Housing New Zealand could take a more strategic and deliberate approach to sector-wide and industry collaboration to address the drivers of methamphetamine contamination and effective remediation management
- Housing New Zealand was unable to quantify the scale of the problem, because it was not practical to test all its properties for contamination
- Housing New Zealand may not be able to implement baseline void testing – the testing and remediation industry did not have the capacity to handle the required volume.

The paper was discussed by the Executive Team on 12 April 2016 and the Board on 3 May 2016.

Executive team minutes noted:

- the challenge of developing and appropriately funding a strategy to deal with the methamphetamine issue in the absence of an agreed NZ standard for testing and decontamination
- the development of such a standard was at least 12 to 18 months away
- Housing New Zealand had an opportunity to demonstrate leadership in this area and help shape the cross-agency response to this wider social issue
- this was a priority work programme and should be resourced accordingly.

Board Minutes indicated that:

- there was robust discussion with concern centred on tenant health and measuring effect into the future
- advice was given regarding the risks being managed while no specialist or scientific evidence was in place
- guidelines were in place for management at the frontline.

The Deloitte report was used to inform the objectives, scope, and work plan of the Methamphetamine Management Programme.¹²⁷

Establishment of the Methamphetamine Management Programme

The Methamphetamine Management Programme was established in response to methamphetamine management pressures and risks, as articulated in the Deloitte review. The need for a programme had already been identified by members of the Executive team in January that year¹²⁸. The Programme Brief was developed alongside the Deloitte review and presented to the Executive Team at the same meeting and approved on 12 April 2016. Note, although the brief was only presented in April, programme related work was already well underway.

The programme was resourced and supported with a Governance Board established and third tier manager appointed as lead, with support from a full time Programme Manager

The programme scope¹²⁹ was broad and incorporated all methamphetamine related work already underway, including:

- a comprehensive re-write and extension of policy, process and guidelines available to operational staff and contractors (the work already underway under the Methamphetamine Contamination Management Policy Project was incorporated into the Programme)
- a Standards and Methods work stream to “ensure Housing New Zealand practices and processes are evidence based and well researched”. This work stream included seeking independent scientific advice on permissible contamination thresholds
- participation in development of the New Zealand Standard for remediation (NZ 8510:2017)

¹²⁷ Methamphetamine Management Programme: Brief (7 April 2016)

¹²⁸ Memorandum from General Manager Canterbury Redevelopment to Chief Operating Officer and General Manager Asset Development, 31 January 2016.

¹²⁹ The programme ran in this form until it was closed in early February 2017. Outstanding tasks (policy and procedure updates) continued to be managed through a Methamphetamine project. See “Closure Report – Methamphetamine Management Programme, 7 February 2017.

-
- oversight of the Auckland Void Baseline pilot.

MAY 2016

Changes to process for ending tenancies

An interim process change was made to the way tenancies were ended once a property was found to be contaminated with methamphetamine above the Ministry of Health guidelines.

The previous process involved serving first a 90 day notice, followed by a 7 day notice on the grounds the property is uninhabitable. Feedback had been received that serving two notices under different sections of the RTA was causing confusion for staff and tenants.

The new process involved:

- first sending a letter recommending the tenant move out in the interests of their health and safety
- issuing a 7 day notice and transferring the tenant to another property - if the tenant was not believed to be responsible for the contamination
- issuing a 7 day notice letter and ending the tenancy - if credible evidence existed that the tenant was responsible for the contamination
- issuing a 90 day notice and ending the tenancy - if the tenant was believed to be responsible but evidence did not exist which would establish this to the Tenancy Tribunal's satisfaction.

In each case, the tenant's circumstances were to be considered as well as the need to remove them from the affected tenancy as soon as practical.

Each decision to end a tenancy (by 90 day or 7 day notice) required approval by the Area Manager and Regional Manager. Discretion remained to transfer any of these tenants to another Housing New Zealand property if appropriate.¹³⁰

MAY 2016

Participation in development of new NZ Standard

Housing New Zealand participated in the "*Methamphetamine Testing and Remediation Standards Development Committee*" administered by MBIE in conjunction with Ministry of Health and other departments and industry experts. This committee was established in May 2016 to address the need for guidance on methodologies, procedures and other supporting materials to enable a consistent and effective approach to managing, testing and remediation of contaminated properties.

Housing New Zealand's participation involved regular committee meeting attendance at MBIE for the Housing New Zealand representative. Committee members divided up different parts of the standard to work on, and the Housing New Zealand representative contributed (with others) to the decontamination section of the standard. Housing New Zealand also advocated against the mandatory reporting of contamination to local authorities (and inclusion on LIMs), to avoid stigma and devaluation of Housing New Zealand properties given potential divestment programmes.

The Ministry of Health commissioned an ESR report to inform the development of the new Standard, which was publically released in October 2016.

¹³⁰ Business Alert – Interim Change to Methamphetamine Process for Termination – use of 90 day notice and 7 day notice, 12//5/2016

JUNE TO AUGUST 2016

Research on cross contamination of tenant belongings

In June 2016, Housing New Zealand frontline staff asked for information they could share with tenants to help them understand how to manage and/or clean any affected or potentially affected belongings. While there was some information in the 2010 Ministry of Health guidelines, Housing New Zealand sought advice from industry professionals who were currently carrying out the testing and decontamination of state housing. Their advice was that decontamination of belongings was very difficult and most would not attempt to do so.

With no formal research available on cross contamination, Housing New Zealand staff reviewed a sample of methamphetamine test reports of Housing New Zealand properties where a property and belongings had both been tested.

The review found:

- no observable pattern showing cross contamination from a contaminated room to belongings placed in the room
- no observable pattern showing cross contamination from contaminated belongings placed into a room.

The results were therefore inconclusive. ESR also carried out a review based on Housing New Zealand data and came to similar conclusions.

JUNE – JULY 2016

Investigation into appropriate decontamination levels

As part of the Methamphetamine Management Programme, Housing New Zealand sought independent scientific advice to determine if the levels to which it was testing its properties was appropriate, given the available guidance at the time.

A report was commissioned from Dr Nick Kim, School of Public Health, College of Health, Massey University by the Housing New Zealand Methamphetamine Programme Standards and Methods work stream. The objective was to obtain independent advice on managing potential health and safety risks associated with contamination, as well as the appropriate threshold for remediation.

Dr Kim's academic area includes environmental analytical chemistry and risk assessment, particularly in relation to chemical contamination issues.

Dr Kim was asked to provide an opinion on:

- the nature of the recommended clean-up guideline ($0.5 \mu\text{g}/100\text{cm}^2$) for methamphetamine residues from surfaces
- any information about surface methamphetamine loadings that might be linked to potential for adverse health effects
- expected natural rates of loss of methamphetamine residues on surfaces over time.

The report was delivered on 13 June 2016, and conclusions of note included that:

- the current Ministry of Health remediation guideline of $0.5 \mu\text{g}/100\text{cm}^2$ does not denote the onset of a quantifiable health risk. It is a risk-based guideline value and as such, includes large safety factors to allow for differences in sensitivity between individuals, as well as exposure over a long period
- in Dr Kim's opinion, $12 \mu\text{g}/100\text{cm}^2$ represents a lowest surface methamphetamine loading at which adverse health effects could become remotely plausible in the most sensitive receptor (infants)
- properties where methamphetamine residues are less than $12 \mu\text{g}/100\text{cm}^2$ should really not be referred to as 'contaminated' by methamphetamine
- when applied to cases where methamphetamine has not been manufactured, use of phrases such as 'methamphetamine contamination of properties' and 'houses contaminated by methamphetamine' are

misleading because they imply that methamphetamine residues are present at levels that are hazardous to human health.

Peer review was sought and received from four other scientists on this advice, including

- Dr Leo Schep (Poisons Centre)
- Peter Cressey (ESR)
- Dr Jackie Wright (Environmental Risk Sciences)
- Jeff Fowles (Tox-Logic Consulting, California) (requested to review by the Ministry of Health)

Three of these reviewers did not fully support Dr Kim's conclusion. Specifically, one reviewer did not believe that the analysis presented by Dr Kim provided a convincingly improved alternative to the current standard or that from California. Another expressed the opinion that the report did not support a change as it provided no new information than that available at the time of publication of the Ministry of Health guideline.

The Housing New Zealand board asked Dr Kim¹³¹ to provide an opinion on a reasonable and manageable safe level of methamphetamine contamination to guide Housing New Zealand's operating procedures if it were to depart from the Ministry of Health threshold prior to the development of a New Zealand standard. Dr Kim suggested 1.5 µg/100cm² as an interim level and 3.0 µg/100cm² as a final figure.

Dr Kim later clarified his position in July 2016¹³², cautioning that he would recommend seeking confirmatory sign-off from the Ministry for the Environment and Ministry of Health before adopting the 1.5 µg/100cm² threshold he had suggested. The reason for this sign-off was to confirm that the higher figure was a valid selection under the Ministry for the Environment's guideline hierarchy and to confirm that the Ministry of Health was comfortable with the use of the alternative figure. He did not believe that there would be an issue getting this agreement. Dr Kim also noted that the adoption of a higher figure (e.g. 3 µg/100cm² or 6 µg/100cm²) should not rest on the opinion of one toxicologist, but needed to be made by a toxicological reference group through a consensus process, in the same way as was done for the national environmental standard for contaminants in soils. According to Dr Kim the decision-making function of a technical advisory group of this type would generally rest with senior toxicologists employed by Government Ministries.

These responses were outlined in a memo addressed to the Acting Chief Executive from the Methamphetamine Programme lead, dated 27 July 2016. The memo recommended that Housing New Zealand continue to support the development of a New Zealand Standard and not implement an interim standard at that time. It also recommended that Housing New Zealand request that Ministry of Health publically release the threshold that would be included in the New Zealand Standard once it was confirmed.

One of the key reasons for adopting the interim Ministry of Health guideline instead of an independent guideline was the need to address the concerns of both staff (represented by the Public Service Association) and contractors in relation to their health and safety.

Housing New Zealand did subsequently adopt the Ministry of Health interim guideline when it was released three months later on 26 October 2016.

While this process was being managed operationally through the Methamphetamine Programme, the Chair of the Board was kept updated on the advice received by the Acting Chief Executive.¹³³

5 SEPTEMBER 2016

Confirmation of approach to unlawful activity

The new methamphetamine policy and procedures published in March 2016 focused on taking action with tenants dependent on whether the property was found to be above or below the Ministry of Health (MoH)

¹³¹ Email to Dr Kim 23 June 2016

¹³² Email from Dr Kim 25 July 2016

¹³³ Memo - Advice on Methamphetamine Threshold, 13 July 2016 and Memo – Advice on Methamphetamine Threshold, 1 August 2016

threshold of $0.5\mu\text{g}/100\text{ cm}^2$. The procedures reflected this and therefore actions to terminate a tenancy were only applicable where the property has tested above the Ministry of Health threshold.

A memorandum prepared for the Methamphetamine Management Programme Board dated 5 September 2016 noted that:

“Since the release of the methamphetamine procedures, a number of staff briefings have taken place and media and public attention has increased. During this time, messaging to staff and the media has emphasised that methamphetamine use is an illegal activity and tenancies are ended because of that, not just due to the property being contaminated.

Currently there are varying operational practices and the programme has identified that clear direction needs to be provided for staff from People and Property management.”

The Programme Board was asked to confirm that staff members were to manage evidence of methamphetamine use at a Housing New Zealand property as unlawful activity and/or anti-social behaviour, regardless of the level of contamination to the property and take appropriate action as per existing policy.

This approach was agreed by the Programme Board and procedures (CA-716) were updated to reflect the change in December 2016.

Applications to end a tenancy due to illegal behaviour or anti-social behaviour had to be approved by the Acting General Manager Tenancy Services (second tier) during this time.

OCTOBER 2016

ESR Report

The Ministry of Health commissioned an ESR report - ‘Review of Remediation Standards for Clandestine Methamphetamine Laboratories: Risk Assessment recommendations for a New Zealand Standard’¹³⁴ to support the development of the new standard for remediation of methamphetamine contaminated properties (NZS8510).

The report, dated 7 October 2016, aimed to “provide a proposed standard for methamphetamine (MA) residues in remediated houses previously used as clandestine laboratories, based on a review of published and online literature, international health authority websites, reports, and journal articles relating to health effects and exposures to MA”.

The primary focus of the ESR report was on clandestine labs; however it did provide a proposed guideline for remediation of non-lab houses. This guideline was $1.5\mu\text{g}/100\text{cm}^2$ for non-lab houses with carpet and $2.0\mu\text{g}/100\text{cm}^2$ for non-lab houses without carpet. This guideline was 3–4 times higher than the guideline previously in place since 2010 ($0.5\mu\text{g}/100\text{cm}^2$).

Announcement of Ministry of Health interim guidelines

The new guideline, as outlined in the ESR report, was publically announced by the Ministry of Health on 26 October 2016. This announcement was eagerly awaited by Housing New Zealand, with the likely operational effect of the proposed change already noted at the Housing New Zealand Board meeting of 18 October 2016.

Key Messages prepared by the Press Secretary to the Minister for Housing were provided to Housing New Zealand on 25 October 2016 and note that:

“The report recommends that the current contamination level that prompts a clean-up... is four times higher for houses where the drug has only been used and where there isn’t any carpet.”

¹³⁴ Note that Jeff Fowles and Peter Cressey, scientists that had previously provided peer review to the advice provided to Housing New Zealand by Dr Kim, were among the authors and peer reviewers of the ESR report.

and

“Housing Ministers are very keen for Housing New Zealand to implement an ‘interim guideline’ as soon as practicably possible to get houses that have been assessed as contaminated under the current (very strict) guidelines back into circulation.

While it appears the NZ guidelines are stringent, Housing New Zealand is responsible for some of the country’s most vulnerable people so it must continue to take a conservative approach to ensure the health and safety of tenants. That is to never house someone in a property that is currently considered to be contaminated (over the Ministry of Health’s guidelines).”

Adoption of Ministry of Health interim guidelines

Housing New Zealand adopted the new interim guidelines immediately after they were announced, with in-flight tests managed on a case by case basis by the Chemical Team. At this point, Housing New Zealand had 50 vacant properties tested above the old 0.5µg/100cm² guideline but below the new guideline. These properties were returned to the letting pool as soon as all maintenance work could be completed.

Housing New Zealand estimated that adopting the new guidelines would reduce the number of properties requiring remediation by 25% (based on properties tested the previous year)¹³⁵.

A business alert was sent to staff on 24 November 2016 noting the new interim guideline levels. Methamphetamine policy and procedure documents were updated and released to the business on 5 December 2016 together with updated letters and email templates.

Housing New Zealand also hosted a number of workshops and forums across the country to update contractors on Housing New Zealand’s implementation of the new guidelines.

Refinement of testing procedure

During the same period, Housing New Zealand released a revised testing procedure which asked its testers to take multiple samples from surfaces to enable more targeted decontamination based on the materials and surfaces tested. For example, levels above 4.0 µg/100cm² on a door or a doorframe did not necessarily result in the removal of all walls or ceilings, as was previously the practice.

OCTOBER TO DECEMBER 2016

Further refinement of policy around managing tenant belongings

On 19 Oct 2016, a detailed paper ‘Tenant Belongings affected by methamphetamine’ was prepared and presented to the Methamphetamine Programme Board. The Board agreed with all recommendations and the rationale for them. These covered:

- when Housing New Zealand would test (suspected contamination was caused by prior tenant) or would not test (suspected contamination was caused by current tenant)
- to interpret results against the Ministry of Health threshold
- making a payment/grant to affected tenants on a case by case basis, with Regional Manager approval, when property and belongings both tested above the Ministry of Health threshold. The key consideration for making a payment was that the tenant was not considered responsible methamphetamine contamination in the property – i.e. they were inadvertently placed into a contaminated property
- that Housing New Zealand would not decontaminate items
- to provide tenants with information on what could and could not be cleaned
- Housing New Zealand would dispose of contaminated belongings (with tenant permission)

¹³⁵ ref AH 16 080

-
- abandoned belongings from a methamphetamine property were to be disposed of as contaminated waste
 - where a transfer to another Housing New Zealand property was approved, the moving company were to be informed that the goods could potentially have been contaminated.

The Belongings policy was revised over several months to accommodate these approvals and two changes in thresholds (Ministry of Health, then the New Zealand standard). Training material for staff was developed and delivered and all letters to tenants were revised. A letter confirming methamphetamine contamination at the property was also created for tenants who wished to approach their insurer or Ministry of Social Development for assistance with affected belongings.

Employer Obligations to Staff and Contractors

Concerns raised by PSA

Staff and contractor concerns about their safety when entering potentially contaminated properties, which began to be raised in 2015, increased through 2016.

The PSA (Public Service Association) wrote to the Chief Operating Officer on 28 January 2016 expressing concern about secondary exposure to staff members who enter tenancies that are contaminated, where the organisation is not yet aware of the contamination.

In response, the Housing New Zealand Health, Safety and Security Manager commissioned a medical opinion into the potential harm through exposure due to the work carried out by staff and contractors, from two occupational medical specialists (Dr Courtney Kenny and Dr Chris Walls). An advisory paper was issued to all staff and contractors on 12 February 2016 with this advice in a Q&A format. The contents were reassuring, with the conclusion that although health and safety risks from exposure to contaminants were low, staff needed to control the risk through situational awareness, hand washing and “if in doubt - get out”

The advisory included the following assurance from Dr Kenny:

“ it is my opinion that there can be minimal actual harm to employees from simply visiting a home in which ‘P’ has recently or at any time been used. There may occasionally be some odours of chemical residues, or of smoke or other substances, which could be unpleasant or possibly cause a mild irritant reaction, but these would not be expected to cause any allergic reaction, or any other significant or prolonged harm to physical health.

There cannot reasonably be considered to be any possible long-term harm to the health of staff members under the circumstances described”

This view is endorsed by Dr Walls. The document goes on to assure staff that short exposure is unlikely to increase risk of cancer. The paper also states that the scientists were not aware of any known/ confirmed immunological sensitivity to methamphetamine among non-users.

The PSA followed up with another letter to the Chief Operating Officer (9 March 2016) noting that inspections can take longer than 15 minutes (the potential period of exposure described in the questions posed to the occupational medical specialists). The letter also:

- noted the obligation under the Health and Safety at Work Act 2015 to protect staff and contractors by eliminating or minimising risks in the work place
- stated that Housing New Zealand need to test all of its tenancies within a defined timeframe and
- recommended that Housing New Zealand takes the lead with other government agencies to fund research regarding second hand contamination.

There was no formal response from Housing New Zealand to this letter.

Health and Safety considerations when introducing interim guidelines

Staff and contractor health and safety was a key concern noted when the new Ministry of Health interim guidelines were introduced at the end of October 2016, as the new guidelines were 3-4 times higher than the previous guideline.

The paper presented to the Board on 17 October 2016, relating to the adoption of the new thresholds noted that:

“The risk to our tenants, our staff and our contractors are of paramount concern for management. In addition, the use of methamphetamine in our homes and communities is linked to increasing crime and anti-social behaviour, and creates significant risk to people’s health and safety. These risks are not just to users, but also to their families and anyone that enters a Housing New Zealand property contaminated by use or manufacture.”

Housing New Zealand held workshops with contractors on the changes due to the adoption of the ESR report recommendations in November 2016. The purpose of these workshops was to discuss the impacts of the new guidelines, and to reassure contractors that the increased levels did not constitute an undue health and safety risk to their staff.

Key Tenancy Tribunal Cases

Two key cases involving Housing New Zealand have been identified in 2016.

The first case illustrates how Housing New Zealand could seek and be awarded compensation for testing and remediation costs from tenants, on the basis that the premises were damaged by contamination by methamphetamine above Ministry of Health guidelines.

The second case illustrates the view held by the Tribunal, in December 2016, that methamphetamine contamination from smoking is highly likely to be detrimental to the health of children living in those properties.

Housing New Zealand Corporation Ltd v Harrison¹³⁶

Housing New Zealand sought compensation for damage to premises caused by methamphetamine contamination, as six of the 11 methamphetamine test results were above the Ministry of Health guidelines. There was no appearance from the tenant. The Tribunal found that the premises were damaged by contamination by methamphetamine and ordered the tenant to pay \$17,658.75 compensation for testing and remediation costs.

Wharehinga v Housing New Zealand Corporation¹³⁷

This Gisborne tenant sought compensation and exemplary damages from Housing New Zealand in December 2017, on the basis that Housing New Zealand had placed her in a property that was contaminated with methamphetamine at levels exceeding the ESR Review levels.

The tenancy lasted for two years and ended after methamphetamine testing showed that the property was contaminated with readings of between 0.5 µg/100cm² and 3.6 µg/100cm². Housing New Zealand tested the property after information from an anonymous source stated that methamphetamine had been smoked in the house. The tenant strongly denied the allegation.

The Tribunal found that on the balance of probabilities the contamination had occurred prior to the start of the tenancy at levels amounting to a breach of Housing New Zealand’s obligation to provide the premises in a reasonable state of cleanliness under s 45 of the RTA.

¹³⁶ Housing New Zealand Corporation Ltd v Harrison TT Christchurch TT4033506, 5 August 2016

¹³⁷ Wharehinga v Housing New Zealand Corporation TT Gisborne 4028986, 7 December 2016

The Tribunal awarded \$5,000 compensation to the tenant for the loss of the possessions that were disposed of; and \$3,000 exemplary damages because of the stress caused to the tenant.

The tenant also claimed that her children suffered from breathing problems and eczema on their skin and that these conditions were caused by their exposure to methamphetamine. While the Tribunal accepted that there is a strong likelihood that the tenant's children were affected by the presence of methamphetamine in the home, there was insufficient evidence to confirm this.

It is of note that the Tribunal order refers to a published study referenced in the Ministry of Health guidelines¹³⁸, which stated:

"Levels observed during "smoking" are in contrast to those levels observed during cooking...The potential for children or others to be contaminated in a home where methamphetamine has been smoked is, however, highly likely. The potential effects of this exposure to children present within these residences are unknown at this time."

The Tribunal noted that Housing New Zealand's actions were in the "middle to high range" of the possible level of breach of its obligations, which it sought to reflect in the quantum of the exemplary damages award.

Ministerial Correspondence

Ministers were very engaged with the methamphetamine issue and the formulation of the new Standard and the release of the Ministry of Health ESR report. Throughout 2016, Ministers asked Housing New Zealand for a significant amount of information about methamphetamine in its properties, which was provided verbally through meetings with officials, the Chief Executive Officer, and the Board Chair, briefings, ad hoc notes, and informal enquiries from ministerial offices. For example, eight ad hoc briefing notes were requested, six of which were asked for between October and December 2016. Housing New Zealand responded to at least 45 additional informal enquiries from ministerial offices (many more were likely not formally recorded in Housing New Zealand's systems).

In particular, Ministers were interested in how an increased guideline recommended in the ESR report would affect Housing New Zealand's operations, levels of contamination of affected properties, the number of properties that could be more quickly re-let and related cost savings for properties that would no longer need decontamination. There was also a considerable level of interest in ending tenancies of tenants who were living in contaminated houses, and Housing New Zealand's policy of only re-housing tenants that were not considered to be responsible for the contamination.

Ministers also questioned the guidelines to which Housing New Zealand tested its properties, and asked whether Housing New Zealand would consider raising the level ahead of any further guidance from the Ministry of Health or the Standards committee work that was to be released the next year. Housing New Zealand advised that it had sought out its own scientific advice, but that there were risks involved with setting its own level, including:

- health and safety concerns of staff and contractors
- engaging with testing and decontamination companies, who may have concerns about a differing level than that available from the Ministry of Health
- the fact that the Standards committee would be releasing a new standard in the coming months
- contamination in the context of the Social Housing Reform Programme and transfer of properties to Community Housing Providers.

Former Ministers had signalled that they were disappointed that the new levels as set out in the ESR report would not free up more houses (approximately 50 had tested under the new guideline), However, Ministers

¹³⁸ Martyny J, Arbuckle S, McCammon C, et al. 2004b. Methamphetamine Contamination on Environmental Surfaces Caused by Simulated Smoking of Methamphetamine (Denver CO: National Jewish Medical And Research Centre)

were publicly supportive of Housing New Zealand's decision to stick to the guidance that was available at the time.

Media Activity

Media activity related to methamphetamine contamination ramped up in 2016, with the formation of the Standards Committee and the Ministry of Health's release of the ESR report. A significant amount of media attention was directed at Housing New Zealand's application of the Ministry of Health 2010 guidelines, and the effects this had on its tenants. During 2016 Housing New Zealand fielded over 60 media enquiries related to methamphetamine, most notably during October of that year.

April–September 2016

Media during this time focussed on the appropriateness of the Ministry of Health's 2010 guidelines, and that it was meant to indicate a level of methamphetamine residue of labs post-clean up. They were widely used for testing for residue, including for residue caused by use of the drug. There was much discussion around the need for clarity and for new guidelines. There was also a great deal of commentary on the prevalence of methamphetamine contamination in the wider housing sector – the Otago Daily Times reported that there may be an understated danger from methamphetamine contamination due to a lower number of tests completed in Otago compared to the rest of New Zealand¹³⁹. In addition, Stuff.co.nz reported about the methamphetamine testing and decontamination industry growth to deal with the methamphetamine 'epidemic'¹⁴⁰.

Stuff.co.nz ran a story in June quoting Dr Nick Kim from Massey University as saying that the Ministry of Health guidelines were being inaccurately applied and that trace methamphetamine residue from use of the drug does not pose a health risk. The former Minister of Social Housing also commented in the article that she was concerned that the health risk was overstated.¹⁴¹

In August the former Minister responsible for Housing New Zealand stated that although he supported Housing New Zealand's approach to the safety of its tenants by following what guidance it had at the time, he was eager for a review of the contamination levels.¹⁴²

October–December 2016

The release of the Ministry of Health's ESR report in October sparked significant media coverage. A large focus of attention was about tenants and how they had been treated when their homes were found to be contaminated – especially those that were considered responsible for contaminating the property. Housing New Zealand was accused of leading a 'witch-hunt' for culpable tenants, running stories of tenants who had their tenancies ended but were adamant that they did not contaminate their property.¹⁴³ On 28 October 2016 the Law Society called for Housing New Zealand to review its eviction policies related to methamphetamine. The Law Society believed that tenants were being unfairly suspended from living in a state house, that they were paying too much for remediation; and that Housing New Zealand should baseline test its properties.¹⁴⁴

In October, Radio NZ reported that Housing New Zealand had been warned that it was "misusing" the guidelines:

"The guidelines are very clear - that they are only for use in houses where methamphetamine has been manufactured. We have pointed out (to Housing New Zealand) and communicated that these guidelines are clearly for use in houses where meth has been manufactured". (Director of protection, regulation and assurance, Dr Stewart Jessamine)¹⁴⁵

¹³⁹ Meth danger may be understated – Otago Daily Times (30 April 2016)

¹⁴⁰ The industry growing around the meth epidemic – Stuff.co.nz (9 June 2016)

¹⁴¹ Officials reviewing P contamination guidelines, as expert says risk overstated – Stuff.co.nz (28 June 2016)

¹⁴² English calls for more specific housing meth tests – Radio NZ (5 August 2016)

¹⁴³ Housing New Zealand accused of meth witch-hunt – Radio NZ (12 December 2016)

¹⁴⁴ Law Society calls for Housing New Zealand to review meth evictions – Radio NZ (28 October 2016)

¹⁴⁵ Housing New Zealand ignored warnings over meth evictions – Radio NZ (28 October 2016).

This led to some confusion, and the Ministry of Health refuted this assertion by issuing a statement clarifying their position¹⁴⁶:

“The Ministry’s 2010 Guidelines are called: ‘Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites’. Within the Guidelines it says they cover two specific areas of methamphetamine ‘clean-up’ – removal and remediation (p2).

Ministry of Health staff have met with Housing New Zealand staff on a number of occasions since these guidelines were developed and underpinning those conversations has always been the Ministry’s view that the Ministry’s guidelines only cover clandestine laboratories and this has been routinely pointed out.

The Ministry does not have any formal communications or notes related to these meetings that it is aware of. The Ministry is aware that Housing New Zealand states that it was not officially advised by the Ministry of Health.

The Ministry of Health believes there is little to be gained now from further review of what is now passed.

The Ministry accepts that until the latest recommendations in the ESR report released this week, there has been no official New Zealand guidance on clean up related solely to methamphetamine use.

The Ministry of Health works collaboratively and cooperatively with Housing New Zealand and that will continue.”

After the Ministry of Health released the above statement, Radio NZ again inaccurately reported that the Ministry had warned Housing New Zealand about the guidelines.¹⁴⁷

Radio NZ was particularly active during this time, frequently quoting the New Zealand Drug Foundation, who had been critical of Housing New Zealand’s approach to methamphetamine testing and ending tenancies.

On 1 November 2016 Housing New Zealand’s Chief Operating Officer sent an opinion piece to various media to clarify its position and to address concerns. The piece focussed on the health and safety of tenants, and that Housing New Zealand’s decisions reflected that:

“It is... disappointing to see the media coverage where Housing New Zealand has been accused of ‘misusing’ the MOH’s guidelines and associated negative commentary. We have never misused the guidelines but we, like every other landlord, applied the guidelines we had to work with. The MOH has supported us and has not accused Housing New Zealand of misusing its guidelines.”...

...“There has been some commentary around the support and compensation of tenants around meth contamination. Our focus is about protecting them and their families. If a house is not fit for purpose, we will find our tenants alternative housing that is safe.”...

...“We do not “split up families”. We work hard to provide homes to vulnerable families. If we find or witness child welfare issues or other serious difficulties within households, we have an important obligation to report and to work with other agencies working to help these families.”

Key Document List

- P-250 Policy for Managing Methamphetamine (P) in Housing New Zealand Managed Properties (V1 31 March 2016)
- CA-716 Managing Methamphetamine (P) in Housing New Zealand properties (V1 31 March 2016)

¹⁴⁶ Email of 27 October 2018 – Housing New Zealand and Ministry of Health media teams

¹⁴⁷ Housing New Zealand unsure how many tenants kicked out for meth - Radio NZ (1 November 2016)

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- T-250 Guidelines for managing tenant belonging affected by methamphetamine contamination (V1 31 March 2016)
 - Housing New Zealand Corporation Review of P Contamination Management and Strategies (8 April 2016) - Deloitte
 - Methamphetamine Management Programme: Brief (7 April 2016)
 - Methamphetamine Management Programme Plan (27 July 2016)
 - Standards and Methods Stream Project Initiation Document, Methamphetamine Management Programme V1.0 (5 September 2016)
 - Methamphetamine health update for Staff (12 February 2016)
 - Technical commentary and opinion relating to the nature, health significance and persistence of trace of methamphetamine on indoor surfaces (13 June 2016), Dr Nick Kim
 - Memo – Advice on Methamphetamine Threshold, Acting Chief Executive to Chair Housing New Zealand (13 July 2016)
 - Memo – Advice on Methamphetamine Threshold, Acting Chief Executive to Chair Housing New Zealand (1 August 2016)
 - Email correspondence – Methamphetamine Programme Manager and Dr Nick Kim (July 2016)
 - Review of Remediation Standards for Clandestine Methamphetamine Laboratories: Risk Assessment recommendations for a New Zealand Standard, ESR, (7 October 2016)
 - Board Paper, Ministry of Health methamphetamine contamination threshold (17 October 2016)
 - Methamphetamine Management Programme Board memorandum – Using methamphetamine – management of unlawful activity (5 September 2016)
 - Business Alert – Interim Change to Methamphetamine Process for Termination – use of 90 day notice and 7 day notice (12 May 2016)

2017

Overview

The NZ Standard for “*Testing and decontamination of methamphetamine-contaminated properties*” (NZS 8510:2017) was released in July 2017. This standard was immediately adopted by Housing New Zealand.

Housing New Zealand’s methamphetamine procedures were updated accordingly and included further advice on how to deal with contaminated tenant belongings. Tenants were warned that their belongings could be contaminated. Housing New Zealand provided discretionary grants to tenants in cases where the tenant was not responsible for the contamination.

At this time, Housing New Zealand began to implement a sustaining tenancies approach. Work began on a policy shift from focussing on the illegality of drug abuse, to supporting tenants who struggle with addictions (including drug addictions).

MARCH 2017

Tauranga stock transfer

In March 2017 Housing New Zealand transferred 1,138 properties in Tauranga to Accessible Properties New Zealand Ltd (APL), a community housing provider, under the Government’s Social Housing Reform Programme. Part of this work was to determine if there was any methamphetamine contaminated stock, and how to manage the risks associated with this.

The Sale and Purchase Agreement between Housing New Zealand and APL¹⁴⁸ stated that Housing New Zealand would reimburse APL for costs related to properties that were found to be methamphetamine contaminated above the guidelines or standards available at the time of testing. The agreement covered:

- comprehensive test costs (if levels above MOH guidelines)
- decontamination costs
- reinstatement costs
- cost of alternative accommodation for tenants (up to a certain level)
- loss of income related rent for the property during the remediation period.

APL could seek reimbursement within the 12 month period from the March 2017 transfer date. At the time, APL indicated they intended to test every property transferred within that 12 month timeframe.

Housing New Zealand provided APL with a list of properties that were:

- occupied but identified as contaminated
- vacant and undergoing remediation (some of these were completed by Housing New Zealand after the transfer)
- those awaiting test results
- suspected of being contaminated with the suggestion they are tested.¹⁴⁹

Of the 1,138 properties transferred, 147 properties were found to be over the guideline at the time (1.5 µg/100cm²). Costs incurred to date and paid to APL are approximately \$4.2 million¹⁵⁰.

¹⁴⁸ Sale and purchase agreement, 15 December 2016

¹⁴⁹ List of transfer properties, 15 December 2016

¹⁵⁰ Internal Housing New Zealand records

JUNE 2017

New Zealand Standard released

NZS 8510:2017 was released by Standards New Zealand on 29 June 2017.¹⁵¹

The new standard provided guidance on methodologies, procedures, and other criteria aimed at ensuring the methods of testing properties for the presence of methamphetamine provide reliable results. The Standard also ensured that the decontamination of contaminated properties is effective, reduces harm, and enables properties to be safely reoccupied.

The Standard set maximum acceptable levels of methamphetamine residue to guide decisions on decontamination. The level for high-use areas, such as bedrooms, living areas, kitchens, bathrooms, laundries and sheds/garages, is 1.5 µg/100cm². The standard also allowed for a limited-use area level of 3.8 µg/100cm², which are only likely to be accessed for short periods of time (such as crawl spaces).

Housing New Zealand adopted the standard immediately following its release. As Housing New Zealand was already using the Ministry of Health interim guidelines, the impact on Housing New Zealand's operations was not significant.

OCTOBER 2017

Refresh of Housing New Zealand policy and process documents

Housing New Zealand refreshed its methamphetamine-related policy and process documents in October 2017, incorporating the new NZS 8510:2017 levels.¹⁵²

Greater guidance was provided for staff on how to deal with tenant belongings¹⁵³. These included clarifications on when and why tenant belongings are tested, and when to use a "discretionary grant". The issuing of these grants was to be decided on a case-by-case basis, and were only to be offered to tenants who were not believed to be responsible for contamination at their current property (for example if they had inadvertently been placed into a contaminated property). The amount paid was at the discretion of Housing New Zealand.

Advice to move out letter extended to refer to tenant belongings

The standard letter advising tenants to move out of their tenancies due to the health risk of contamination was extended to include reference to tenant belongings. The letter was to be provided to tenants following a conversation regarding methamphetamine test results from their tenancy, and now reads as follows:

"Unfortunately the test results have now confirmed your property has meth above the meth contamination levels in NZS 8510:2017. Your belongings (household contents) may be contaminated too. For you and your family's health and safety, we recommend you all leave the property immediately. While we recommend you vacate the premises, your belongings still remain your responsibility. Housing New Zealand takes no responsibility for any household contents left in the vacant property.

If you wish to store your belongings, you can arrange to put your items in storage at your own expense.

Keeping contaminated belongings may pose a health and safety risk to you and your family. For the health and safety of you and your family, and based on the previous Ministry of Health Guidelines, it is recommended you dispose of any items that:

- *could come into contact with young children or babies*

¹⁵¹ NZS 8510:2017 *Testing and decontamination of methamphetamine-contaminated properties*

¹⁵² P-250 v3, CA-716 v3, T-250 v2 and associated collateral

¹⁵³ T-250 - Guidelines for Managing Tenant Belongings Affected by Methamphetamine (Meth) Contamination, version 2 (16 October 2017)

-
- are absorbent and difficult to clean including soft furnishings (for example, couches, mattresses and pillows).

Items that could be cleaned are:

- fabric items that can be placed into a washing machine
- 'hard surface' items that are non-porous (for example wooden table, bedside cabinet and coffee table)
- metallic items
- glass items.

If an item is sentimental, valuable or an important document, you will need to decide if you want to keep it and try to clean it.

If you choose to keep your belongings, you do so at your own risk.

If any family member feels nauseous or complains of sore eyes or burning skin, please contact a doctor immediately. If these symptoms occur in specific areas of the property (for example, hallway, bedroom, garage) or from certain items, we recommend you avoid these areas and items as much as possible to keep exposure to a minimum.

If you would like to get rid of items immediately, please dispose of them properly at a landfill as contaminated waste.

Housing New Zealand is not responsible for replacing belongings.

Establishing tenant responsibility - credible evidence

Prior to 2017, there was no detailed guidance of what evidence was required to establish if a tenant was responsible for contaminating a property. References to a requirement that Housing New Zealand has 'reasonable grounds' or 'sufficient evidence' are cited in prior process documents, as well as examples of what evidence could be taken into account¹⁵⁴. In 2017 Housing New Zealand included details regarding what was considered to be 'credible evidence' relating to accessing properties for tests based on suspicion, and establishing tenant responsibility for the contamination.

Credible evidence is evidence 'worthy of belief or believable', given the circumstances. However, the Tenancy Tribunal requires a higher level of evidence – if Housing New Zealand were to take a tenant to the Tribunal to recover costs associated with contamination (considered damage to the property), Housing New Zealand had to prove tenant responsibility on the 'balance of probabilities'. This meant that it must be more likely than not that Housing New Zealand's version of events was true – the Tribunal would weigh up all the evidence provided by both Housing New Zealand and the tenant.

Levels of evidence required:

- credible evidence – required by Housing New Zealand for requesting a methamphetamine test on suspicion that the tenant caused contamination of the property
- balance of probabilities – required by the Tenancy Tribunal for its decisions, such as ending a tenancy or ordering a tenant to pay for the costs of remediation.

Note that another level of legal evidence exists – "beyond all reasonable doubt", but this is not applicable since it is only relevant to criminal proceedings.¹⁵⁵

¹⁵⁴ CA-716 *Managing Methamphetamine (P) in Housing New Zealand managed properties v2* (6 December 2016)

¹⁵⁵ CA-716 *Managing Methamphetamine (Meth) in Housing New Zealand Managed Properties v3* – 16 October 2017

Increasing focus on sustaining tenancies

In 2016/17 the Government asked Housing New Zealand to take on new roles beyond its core functions of tenancy and asset management¹⁵⁶. This included an increased focus on sustaining tenancies, which was a significant aspect of Budget 2016.

In 2017 Housing New Zealand's change from a focus on illegal activity and property damage to a sustaining tenancies approach, became more evident. A new operational policy was in the early development stages. It focused on the health risks of living in a contaminated property, supporting tenants who struggle with addiction, and balancing the effect this has on the property.¹⁵⁷

By December 2017 Housing New Zealand advised the Minister of Housing and Urban Development that it had stopped ending tenancies for methamphetamine use.¹⁵⁸

Scientific and Regulatory Environment

Institute of Environmental Science and Research (ESR)

The ESR accessed data collected during the testing of Housing New Zealand managed properties over a period of approximately two years. This data was to be used in a project developing testing and remediation techniques that would assist with the management of methamphetamine. The intention was to assess prevalence of contamination in particular rooms or surfaces, so that they could be decontaminated most efficiently.

Housing New Zealand received regular updates on the data in the form of graphs as ESR progressed through the reports, with a final report issued on 10 August 2017¹⁵⁹. This report consolidated data from approximately 13,300 swabs, representing approximately 1,600 Housing New Zealand properties. The data was used to guide the Chemical Team's operational application of testing and decontamination methodologies.

This data was also subsequently provided to the Chief Science Advisor in 2018, to inform his report on the health effects of exposure to methamphetamine contamination in homes.

Chief Science Advisor report commissioned

In December 2017 the Minister for Housing and Urban Development asked the Chief Science Advisor to draft a report on the health effects of exposure to methamphetamine in homes.

Tenancy Tribunal key cases

Two key cases in 2017, both involving private landlords, demonstrate the Tribunal and District Court's use of Ministry of Health guidelines to determine whether a property is fit for habitation or not.

The District Court appeal decision below also demonstrates the use of the Ministry of Health guidelines in effect at the time of testing and decontamination, to determine whether the tenant should be held responsible for damage to the property or not.

Diamond Real Estate Ltd v Allan¹⁶⁰

A private sector landlord sought compensation for methamphetamine decontamination costs from a tenant, as well as rent arrears. The Tribunal ordered the tenant to pay rent arrears but not the decontamination costs. This was because the property had tested at levels above the Ministry of Health guidelines, and, as

¹⁵⁶ Briefing to the Incoming Minister – 2017 (page 7).

¹⁵⁷ BN/17/080 *Housing New Zealand Policy on the management of methamphetamine contamination in our properties* (1 December 2017)

¹⁵⁸ BN/17/080 *Housing New Zealand Policy on the management of methamphetamine contamination in our properties* (1 December 2017)

¹⁵⁹ Housing New Zealand – Methamphetamine Contamination Data Project (Update), 10 August 2017

¹⁶⁰ *Diamond Real Estate Ltd v Allan* [2017] NZDC 883

such, was decontaminated. By the time of the Tribunal hearing, the guidelines had changed, and the level at which a property was considered safe increased.

The landlord appealed to the District Court and the District Court allowed the appeal. The judge held that the matter should be reheard on the basis that the guidelines or standard in effect at the time of testing was to be applied:

... if the landlord had no choice but to test for methamphetamine and decontaminate the premises and if the premises were not “safe” in terms of the prevailing MOH guidelines at the time of testing then the premises may be said to have been damaged during the tenancy.

Lepua v Barfoot & Thompson Ltd¹⁶¹

A Tribunal hearing involving a private sector landlord in Waitakere found that the landlord had failed to provide safe and healthy premises due to methamphetamine contamination. Methamphetamine testing showed levels well above Ministry of Health Guidelines (including 82 µg/100cm² in the kitchen, 58 µg/100cm² in the dining room, and 45 µg/100cm² in the bedroom). A Police report confirmed that Police had found methamphetamine at the premises, and that a previous occupant was charged and later convicted for possessing methamphetamine.

While the evidence did not establish whether the methamphetamine contamination resulted from smoking or manufacturing, the premises was “clearly unsafe and not fit to be lived in” because the level of contamination greatly exceeded the Ministry of Health guidelines level. Consequently the landlord had breached an implied term of habitability.

The Tribunal observed that:

“Any landlord who rents out property in this day and age without having it tested for methamphetamine contamination before the tenancy starts is taking on a huge risk in a number of respects.”

The Tribunal awarded the tenants compensation of \$14,000 for loss of contaminated possessions and goods, as well as a partial rent refund of \$8,000 (roughly 66 percent of the total rent paid during the tenancy).

Media Activity

Media activity was sparked after the release of NZS 8510:2017, and there was significant interest in how Housing New Zealand was reacting to the Standard¹⁶², as well as queries about individual contaminated properties throughout the country¹⁶³. Media also spiked after the release of two responses to Official Information Act requests regarding the amount spent to test and decontaminate properties¹⁶⁴.

A typical response to enquiries about how Housing New Zealand would be implementing the guidelines is below:

“Housing New Zealand has immediately adopted the new Standard announced by the Ministry of Business, Innovation and Employment (MBIE) yesterday.

The number of contaminated houses is unlikely to change as a result of the standard given that 1.5 has been in place since October 2016. Properties over 1.5 µg/100cm² with soft furnishings required some decontamination already and most Housing New Zealand properties have soft furnishings (carpets, drapes). So, as such some level of decontamination was necessary (i.e. removal of soft furnishings, cleaning and/or removal of a contaminated surfaces, or a combination of all).

¹⁶¹ Lepua v Barfoot & Thompson Ltd TT Waitakere 4051074, 11 April 2017

¹⁶² Radio New Zealand – enquiry of 30 June 2017

¹⁶³ The Press/Stuff.co.nz – enquiry of 18 July 2017

¹⁶⁴ OIA response to Fairfax – 18 August 2017, and to the NZ Herald – 19 September 2017.

All methamphetamine cases involving Housing New Zealand tenancies before yesterday occurred under the previous Ministry of Health guidelines. These will be dealt with under those guidelines which applied at that time.

All new testing and other matters related to methamphetamine contamination will use the new MBIE standards and be applied accordingly.¹⁶⁵

Key Document List

- NZS 8510:2017 Testing and decontamination of methamphetamine –contaminated properties (July 2017)
- P-250 Policy for Managing Methamphetamine (P) in Housing New Zealand Managed Properties (V2 16 October 2017)
- CA-716 Managing Methamphetamine (P) in Housing New Zealand properties (V2 16 October 2017)
- T-250 Guidelines for managing tenant belonging affected by methamphetamine contamination (V2 16 October 2017)
- Housing New Zealand – Methamphetamine Contamination Data Project (Update) (10 August 2017), ESR

¹⁶⁵ Radio New Zealand – enquiry of 30 June 2017

2018

Overview

The report by the Chief Science Advisor, Sir Peter Gluckman, “Methamphetamine contamination in residential properties: Exposures, risk levels, and interpretation of standards.” was released on 29 May 2018. Recognising that following the New Zealand standard was causing unnecessary harm to tenants and resulting in needless expenditure, Housing New Zealand immediately adopted the recommendations in the report into its testing and decontamination practices.

Housing New Zealand is currently developing a new drug policy. It will cover drug use, manufacture and supply in its properties, in line with the current sustaining tenancies approach. Tenants who suffer from the debilitating effects of drug addictions will be supported by assisting them to connect with the appropriate drug rehabilitation services, while keeping them in their homes if possible. If they need to move due to high contamination of the property, Housing New Zealand will assist them to find another suitable home.

Internal Guidelines were prepared by Housing New Zealand for the management of methamphetamine in community group housing, home lease and emergency housing properties. These were written to provide additional clarity for staff, given the specialist nature and needs associated with these types of properties.

26 FEBRUARY 2018

Work starts on new drug policy – Key Messages to Staff

Work started on a new Housing New Zealand drug policy in late December 2017 and this work continued into 2018. This policy was initiated due to Housing New Zealand’s shift in focus to a sustaining tenancies approach, which includes providing greater levels of pastoral care to tenants.

The Drugs Policy will cover drug use, manufacture and supply in Housing New Zealand properties. It includes the steps Housing New Zealand will take to support tenants and their families to overcome the debilitating effects of drug use.

While work on a comprehensive policy is still continuing, some messages were sent out to all front-line staff on 26 February 2018¹⁶⁶. This messaging indicates a refinement of Housing New Zealand’s approach to drug use in its properties.

Key messages included:

- we will treat drug-use as a health and addiction issue. When we identify the presence of drugs in our homes we will endeavour to link tenants to the relevant support agencies
- if a home has been tested and is above New Zealand methamphetamine contamination standards we will work closely with Oranga Tamariki regarding any child welfare concerns we might have
- for tenancies where there is methamphetamine contamination we will manage future housing outcomes on a case-by-case basis to determine the tenant’s health and wellness needs depending on the level and the nature of the contamination
- there will be no change to our health and safety management approach for staff and contractors.

¹⁶⁶ Final Drug communications email 23 February 2018

Guidelines for managing methamphetamine in HLP (leased) properties

Housing New Zealand leases 2,426¹⁶⁷ properties from private owners and uses them to provide state housing to households in need (these properties are referred to as HLPs). The leasing arrangement is set out in a commercial lease between Housing New Zealand and the owner covering a period of several years. Under the terms of the lease, Housing New Zealand undertakes to hand back properties at the end of the lease term free from contaminants, as defined in the Resource Management Act 1991.

Documentation¹⁶⁸ shows that in the early 2000s, where a methamphetamine lab was confirmed in an HLP property, Housing New Zealand arranged for the property to be tested, decontaminated and reinstated, keeping the Owner fully informed throughout while meeting all costs.

This approach has been extended to methamphetamine use through the revisions of Housing New Zealand methamphetamine policy and processes from 2016 onwards. An HLP specific guideline¹⁶⁹ developed in April 2018 acknowledges the following four situations:

- where the owner requests to test their tenanted or void HLP property because they suspect contamination – Housing New Zealand determines if there are reasonable grounds based on credible evidence. If there are, Housing New Zealand arranges and carries out a methamphetamine test and any subsequent action, meeting all costs
- where the owner requests to test their tenanted HLP property for sale or insurance purposes – Housing New Zealand liaises between the owner and tenant to allow the owner access to carry out their test. If the result is above threshold, Housing New Zealand will arrange its own test and any subsequent action based on the result
- where Housing New Zealand suspects methamphetamine contamination in a tenanted or vacant HLP property – Housing New Zealand determines if there are reasonable grounds based on credible evidence. If there are, Housing New Zealand arranges and carries out a methamphetamine test and any subsequent action, meeting all costs
- where Housing New Zealand completes a baseline test prior to a lease expiring – Housing New Zealand arranges and meets the cost of a methamphetamine test some months before the lease expires. If the test gives a result above the threshold, Housing New Zealand will arrange decontamination and reinstatement prior to the lease expiring and the property being returned to the owner.

Under the terms of the commercial lease, Housing New Zealand is required to return HLP properties to their owners in a state which is in accordance with national standards. These properties are therefore still being remediated if they are contaminated at levels above 1.5 µg/100cm² (NZS 8510:2017).

To the extent that any owners have concerns with Housing New Zealand's approach to methamphetamine, the commercial lease document sets out a full confidential dispute resolution process, including access to mediation.

Guidelines for Managing Methamphetamine in Community Group Housing (CGH) properties

Community Group Housing (CGH) provides rental housing to community service providers, where the private sector is unable to do so. Examples of clients these providers are working with include people who have physical and/or intellectual disabilities, residential alcohol and drug services, women who require refuge etc.

CGH properties are owned by Housing New Zealand or leased from private owners for CGH purposes. There were 1,350 CGH tenancies as at 30 June 2018.

Since 2016, CGH properties with methamphetamine issues have been referred to in, and are generally processed in line with, Housing New Zealand's standard methamphetamine policy. However, given the

¹⁶⁷ As at 30 June 2018 - these numbers are subject to audit.

¹⁶⁸ Methamphetamine (P) and Housing New Zealand Corporation tenancies, T-126, all versions

¹⁶⁹ Guidelines for Managing Methamphetamine (Meth) in Home Lease Properties, CA-717, version 1, 24 April 2018

specialised nature and needs of Groups and their clients, some variations to the standard process were identified. As a result, a specific guideline¹⁷⁰ and collateral were developed and released in April 2018 to cover interactions with a Group involving potential or confirmed methamphetamine contamination.

The main differences with managing methamphetamine in CGH properties are:

- a CGH property will always be baseline tested before any new tenancy begins. The test report will be shared with the Group, who will be asked to sign an acknowledgement of the result when they sign the tenancy/lease agreement
- a Group may request at any time that their property be tested for methamphetamine where they suspect the property may be contaminated, however the Group may carry out the testing process themselves
- where Housing New Zealand carries out methamphetamine testing, the Group will make sure their clients using the property are cared for appropriately while testing occurs
- Housing New Zealand will work with a Group to ensure suitable accommodation is identified for any residents / clients who need to be moved due to a test result above the current contamination threshold
- Housing New Zealand does not end a CGH tenancy due to the circumstances associated with CGH Groups and their service user base.

There have been 21 cases of confirmed methamphetamine contamination in CGH properties since April 2016.

Guidelines for Managing Methamphetamine in Emergency Housing properties

Housing New Zealand is part of a Ministry of Social Development led cross-agency team set up to increase the supply of emergency housing places¹⁷¹ across New Zealand. A range of options has been used, such as purchasing or leasing land and building on it, purchasing properties or potentially using surplus Housing New Zealand properties.

Emergency housing properties owned by Housing New Zealand are in turn leased to Providers, who contract with the Ministry of Social Development to deliver tenancy management and additional support services from the property. Housing New Zealand currently provides 653 emergency housing properties (as at 30 June 2018).

The terms of the commercial lease between Housing New Zealand and the Provider require the provider to ensure the property is kept free from unsafe concentrations of contaminants and hazardous substances arising as a result of the use of the property; and, where there are unsafe concentrations, to remediate at their cost.

Housing New Zealand's main methamphetamine processes still apply, particularly relating to the health and safety of residents, staff and contractors. Due to the lease terms, however, this resulted in the development and release of a guideline specifically for emergency housing properties¹⁷² in April 2018.

The key points are that:

- the provider is required to notify Housing New Zealand as soon as they become aware of possible methamphetamine contamination in a Housing New Zealand property
- the provider is responsible for arranging any tests for methamphetamine contamination and any associated costs
- if testing shows that contaminated above the NZS8510:2017 threshold, the provider is required to arrange and meet the costs of decontamination / reinstatement of the property back to standard during the lease term

¹⁷⁰ Guidelines for Managing Methamphetamine (Meth) in Community Group Housing properties, CA-719, version 1, 20 April 2018

¹⁷¹ An 'emergency housing place' is short-term accommodation (generally up to three months, but can be longer) for a single household (individuals or family) with an urgent need for accommodation because they have nowhere else to stay, or are unable to remain in their usual place of residence. The temporary accommodation provides a place for the individual or family to stay while their needs can be understood and addressed, and longer-term sustainable accommodation can be found.

¹⁷² CA-718 Guidelines for Managing Methamphetamine (Meth) in Emergency Housing properties, 9 April 2018

- the provider is required to obtain Housing New Zealand's approval before proceeding to decontamination and reinstatement
- any fire systems must be isolated and reinstated by Housing New Zealand's compliance contractor while methamphetamine work is carried out. All costs involved in this process will be on-charged to the provider
- prior to a lease ending, the Provider must arrange a methamphetamine test and submit a clearance report / certificate to show that the property is free from contaminants, as per the lease agreement.

29 MAY 2018

The Chief Science Advisor's report by Professor Sir Peter Gluckman

The Minister of Housing and Urban Development commissioned the Prime Minister's Chief Science Advisor, Professor Sir Peter Gluckman, to undertake a review of all the available scientific and medical evidence on the risks to occupants of homes in which methamphetamine has been used or manufactured. Undertaking new research was not within the scope of the report.

The report '*Methamphetamine contamination in residential properties: Exposure, risk levels, and interpretation of standards*' was released on 29 May 2018. It makes a number of recommendations relating to the health risks from third-hand exposure to methamphetamine in residential properties (i.e. living in a house where methamphetamine has previously been smoked). These recommendations include addressing:

- composite sampling (as permitted by NZS 8510:2017)
- when testing should be undertaken
- testing methods
- circumstances in which decontamination should be undertaken
- areas for further consideration.

A key conclusion of the Chief Science Advisor's report is that methamphetamine testing should only be triggered where previous or current methamphetamine lab activity or very heavy use is suspected. If methamphetamine is not detected at levels greater than $15 \mu\text{g}/100 \text{cm}^2$, the report advises there is little cause for concern, unless there are other reasons to suspect methamphetamine manufacturing activity. This level still incorporates a 30-fold safety buffer on a conservative estimate of risk.

Operational Response to the Chief Science Advisor's report

Housing New Zealand adopted the Chief Science Advisor's report recommendations into its testing and decontaminating practice, effective from its release date.

More cost effective screening testing using lab composite testing methodology now sees:

- a minimum of one discrete wipe sample taken in every high-use-area (room) from locations that are most likely to have elevated levels for meth contamination in accordance with NZS8510:2017, section 3.2.3
- external buildings are to be composited in a separate bundle from the main dwelling
- where the "theoretical maximum concentration" exceeds $15 \mu\text{g}/100\text{cm}^2$, the swabs shall be unbundled without further instructions from Housing New Zealand and returned as individual swabs in the report
- only properties where any individual discrete swabs exceed $15\mu\text{g}/100\text{cm}^2$ or where evidence indicates methamphetamine manufacturing shall be referred to further detailed assessment and decontamination.

Properties will still be decontaminated down to or below $1.5 \mu\text{g}/100 \text{cm}^2$ as prescribed in NZS 8510:2017.

Work is now underway to refresh all of Housing New Zealand's methamphetamine policies, processes and collateral to incorporate the recommendations in the Chief Science Advisor's report.

Scientific and Regulatory Environment

Housing New Zealand data provided to Chief Science Advisor

The Prime Minister's Chief Science Advisor approached ESR to release their internal research / report which incorporated data collected from Housing New Zealand to inform work in relation to the methamphetamine standard review. The release of this data was agreed by Housing New Zealand in March 2018.¹⁷³

Affect of the Chief Science Advisor's report

The Chief Science Advisor's report has not changed the regulatory environment or NZS 8510:2017, but does make conclusions on the interpretation of the Standard. It concludes that remediation according to the NZS 8510:2017 Standard is appropriate only for identified former methamphetamine labs and properties where excessive methamphetamine use, as indicated by high levels of methamphetamine contamination, has been determined.

Key Tenancy Tribunal Decisions

Smith v Accessible Properties New Zealand Ltd [2018] NZHC 1010¹⁷⁴

The tenant applied for relief from a 90 day termination notice issued by the landlord under s 51 of the RTA, on the basis that it would be "harsh" and "unconscionable" for her to be evicted following non-invasive methamphetamine testing which the tenant said she had not consented to.

The Tribunal and District Court found that the tenancy was validly terminated pursuant to the landlord's statutory and contractual rights. The tenant appealed.

The High Court dismissed the appeal. Woolford J found that:

- the tenant had in fact consented to the methamphetamine testing. In any event, non-invasive methamphetamine testing could be included in the general power of inspection provided for in a tenancy agreement
- the landlord has an "*obligation to provide and maintain a habitable premises in a reasonable state of repair and to comply with all legislative requirements pertaining to buildings and health and safety ... including the [Standard]*"
- the landlord did not need to give reasons when terminating on 90 days notice under s 51.

The Tribunal did not have jurisdiction under the RTA to make an order that it was harsh or unconscionable for the landlord to give 90 days' notice of termination under s 51.

Gibson Barron Realty v Naicker TT Tauranga 4109692, 21 February 2018¹⁷⁵

The landlord sought compensation for methamphetamine remediation costs from the tenant for remediating areas of the premises that were contaminated to levels below the Standard level (insurance had covered remediation for areas of the house that tested positive for methamphetamine levels above the Standard).

The Tribunal described the Standard as setting "the level for safe habitation".

The Tribunal affirmed the decision in *Global Rentals [Tab 16]*, finding that it "would be inherently unworkable" for the Tribunal to attempt to determine whether damage or uncleanliness had occurred where the levels of methamphetamine detected were below the Standard. It noted the policy concern that this failed to deter methamphetamine use but held that this was mitigated by the availability of exemplary damages under s 40(3)(A)(c).

¹⁷³ Housing New Zealand – Methamphetamine Contamination Data Project

¹⁷⁴ Smith v Accessible Properties New Zealand Ltd [2018] NZHC 1010

¹⁷⁵ Gibson Barron Realty v Naicker TT Tauranga 4109692, 21 February 2018

The Tribunal noted the potential for “stigma damages” to be awarded if the landlord could show (through proper expert or valuation evidence) that the unlawful use of the premises had resulted in a reduced value of the house or re-sale price. It noted “stigma damages” appear to have been awarded in one previous case: *Boxabears Family Trust v Bennett and New* 13/6146/MK, 29 January 2015 (in that case, the insurer paid the full costs of the clean-up but stigma was found to have attached even though the premises had been fully cleansed. Damages were awarded because the lower sale price achieved was a form of economic loss that was a reasonably foreseeable loss arising from the tenant's breach).

(For completeness, the Tribunal has declined to award stigma damages for the loss of value on resale where the proof of loss was not established: *Bentley v Baxter* 4080515, 24 July 2017; and *Barfoot and Thompson v Smedicus* 4024168, 29 September 2016.)

Media Activity

Prior to the release of the Chief Science Advisor's report on 29 May 2018, media coverage of methamphetamine contamination in Housing New Zealand properties was light. The focus was on individual properties, notably those that were vacant due to contamination.

The Timaru Herald ran a series on methamphetamine in South Canterbury. The series focused on the methamphetamine problems in general, but did mention costs that social agencies incurred, including Housing New Zealand.¹⁷⁶

Key Document List

- Final Drug communications email 23 February 2018
- CA-717 Guidelines for Managing Methamphetamine (Meth) in Home Lease Properties (24 April 2018)
- CA-718 Guidelines for Managing Methamphetamine (Meth) in Emergency Housing properties (9 April 2018)
- CA-719 Guidelines for Managing Methamphetamine (Meth) in Community Group Housing properties (20 April 2018)
- Methamphetamine contamination in residential properties: Exposure, risk levels, and interpretation of standards, Office of the Prime Minister's Chief Science Advisor, Professor Sir Peter Gluckman.

¹⁷⁶ Surge in number of people seeking help for meth addiction in South Canterbury – Timaru Herald (26 June 2016)

Appendix C – Summary of Board and Executive Team papers and minutes

Executive Team Papers

Year	Title	Topic	Description and decisions
2008			
2008 10	Terminating tenancies	90 day notices	<p>Discussion paper – possible changes to the terminating tenancies process from relying on the Tenancy Tribunal to principally utilising 90 day notices. Key themes:</p> <ul style="list-style-type: none"> • Centralise decision making process • Housing New Zealand could confidently apply a policy to terminate by 90 day notices once decision making process in centralised • Housing New Zealand would need to establish clear, fair, robust policies around when tenancies are terminated <p>ET actions: No minutes recorded on this paper.</p>
2008 12	Effective decision making around when and how tenancies are terminated	90 day notices	<p>Points raised in this paper are similar to above.</p> <p>ET actions: Minutes noted:</p> <ul style="list-style-type: none"> • Housing New Zealand's Senior Legal Counsel noted that there are inconsistencies in practice throughout the regions in regards to termination processes. • The Chief Executive noted that she is uncomfortable with a pilot approach. Criteria could be added gradually, but across the whole country rather than in one area. • The Chief Executive requested a paper for the Board signalling the proposed process, including the process for appeal, and emphasising how this work supports the firmer line taken by the Minister. Links should be made with better utilisation and the options and advisory service.
2009			
Nil			

2010			
Nil			
2011			
2011 07 25	Suspensions	Suspensions	<p>Paper noted that Housing New Zealand should seek an amendment of the Minister's Letter of Expectations to make clear that a suspensions policy is permitted under the revised social objectives.</p> <p>ET Minutes: An ET member will provide information about this to consider.</p>
2012			

2012 01 30	Encouraging Good Neighbour Behaviour Policy	EGNB/90 day notices	<p>Paper recommends making clarifications and broadening the EGNB policy. It also recommends the development of a 90 day notice policy to ensure consistent decision making when issuing these notices.</p> <p>ET actions:</p> <ul style="list-style-type: none"> • Following the completion of the Pomare Human Rights Review Tribunal hearing, a review was undertaken to identify any areas that could be improved. • It was agreed that the final example used on page 9 should be improved to be less prescriptive. • It was agreed that the Sector and Stakeholder group will be the business owner of this. • The ET: <ul style="list-style-type: none"> - approved the following recommended changes to the EGNB policy: <ul style="list-style-type: none"> - clarification of the definition of anti-social behaviour to clearly include behaviour that is not a breach of the Residential Tenancies Act (RTA) - clarification of when and how 90 day notices are issued, in particular that 90 day notices are to be used as the primary mechanism for terminating a tenancy, with the Tenancy Tribunal used only when both early termination is required and there is a clear breach of the RTA - update the policy so that it is consistent with the suspensions policy and fully recognises the tenant's right to a fair hearing - update the policy so that it is consistent with the Corporation's current direction, by removing references to activities that are no longer in the Corporation's core business, such as street makeovers and provision of information about wider community services - other minor content changes to clarify the policy so there is less confusion for staff - noted that the policy is still aligned to the existing Tenancy Services structure pending decisions regarding delegations for the issue of 90 day notices in the new T1 structure - agreed that a change impact proposal needs to be submitted to T1.
2013			
Nil			

2014			
2014 04 28	Executive Team meeting minutes – CE verbal updates	Meth contamination testing	<p>P contamination:</p> <ul style="list-style-type: none"> Noted that the divestment of properties with P contamination is a reputational risk. Advised Housing New Zealand is testing all FirstHome properties in Whanganui. An ET member advised that P is detected either through a physical 'wipe' test, costing \$150-300, or through a full test, costing \$2,000. ET was advised that the wipe test is not always accurate. <p>Noted that Housing New Zealand should do P testing on a risk assessment basis.</p>
2014 09 16	Methamphetamine Contamination (Whanganui results)/P Lab training	Baseline testing	<p>Paper provides the results of the Whanganui pilot to baseline test properties for sale or that were vacant at the time. Pilot reviewed testing practices and noted that the results of the pilot showed a low 'hit rate' of contamination, and recommended that Housing New Zealand not implement baseline testing on all its properties. Housing New Zealand should continue with its policy on testing on suspicion.</p> <p>The paper also found a number of gaps in policy and current practices that needed to be addressed.</p> <p>The paper provided an update on staff P lab awareness training.</p> <p>ET actions:</p> <ul style="list-style-type: none"> Noted paper as read. Noted that Housing New Zealand undertook a review of its approach to methamphetamine detection and management in light of concerns raised when a sale property was found to have above Ministry of Health (MOH) methamphetamine levels, Noted that the project reviewed Housing New Zealand's policy, processes, reporting and systems along with training approach, Noted Housing New Zealand undertook testing of 74 properties that were on the market or in the divestment pipeline in Whanganui as at late March 2014, Noted that from the Whanganui sample three properties (including the original property that triggered the review) were found to have methamphetamine levels above MOH guidelines, Noted that the findings from the review provide confidence that Housing New Zealand's approach i.e. 'test on suspicion' appears appropriate to the level of likely occurrence of methamphetamine contamination, Noted that the review identified that there were a number of gaps or improvements identified in both

			<p>policy and practice, and</p> <ul style="list-style-type: none"> • Agree that management will: <ul style="list-style-type: none"> - clarify accountabilities and responsibilities for escalation, management of testing and remediation, and reporting to external agencies (e.g. Police) where appropriate, - reinforce within Housing New Zealand's policy the requirement to test and report for all suspicions or based on evidence, - modify the policy to align with current practice and expand the processes to recognise the increasing risk of exposure to methamphetamine use along with manufacture, - review reporting requirements to provide a centralised "end to end" reporting of suspicion, reasons for suspicion, status, outcome and associated costs, - reinforce the requirement for all frontline staff and contractors to undergo regular training in recognising the signs of methamphetamine manufacture and use and the appropriate Housing New Zealand response, and - continue to review the incident rates of methamphetamine contamination to ensure that Housing New Zealand's policy and practice continue to be commensurate with Housing New Zealand's actual risks.
2015			
2015 02 17	Executive Team meeting minutes – Health and safety updates	Meth use v manufacture	Action point from meeting: need to clarify what is suspected contamination vs manufacture. Action assigned to a specific ET member.
2016			

2016 04 12	Deloitte Methamphetamine P review	Deloitte review	<p>Paper provided an overview of the recommendations set out in the Deloitte review of Housing New Zealand's methamphetamine management approach.</p> <p>ET Minutes note:</p> <ul style="list-style-type: none"> • An ET member presented an overview of the recommendations of the Deloitte report entitled <i>Review of P Contamination Management and Strategies</i>, and a supporting paper on the cost of Housing New Zealand's methamphetamine response. • The ET was also presented the Methamphetamine Management Programme Brief. • The ET discussed the challenge of developing and appropriately funding a strategy to deal with the issue of P in the absence of an agreed New Zealand standard for testing and decontamination. • It was noted that the development of such a standard is at least 12 to 18 months away. • Housing New Zealand has an opportunity to demonstrate leadership in this area and help shape the cross-agency response to this wider social issue. • An ET member noted that the establishment of a guideline can be fast-tracked, and is achievable within three months. A report back will be provided to ET • The ET discussed the resources needed to support the work in this area. It was agreed that this is a priority work programme and should be resourced accordingly. • The ET agreed to present to the Board the forecast spend of \$33.3m for 2016/17. • Housing New Zealand will look at the feasibility of accessing funding through the Better Public Services Seed Fund, administered by the Treasury.
2016 07 05	Executive Team meeting minutes – CE verbal updates	Interim meth threshold	<p>ET Minutes note:</p> <ul style="list-style-type: none"> • The Acting Chief Executive gave an update on the urgent work underway to assess whether Housing New Zealand can introduce a less stringent measure for methamphetamine contamination. This is a particular area of focus for both the Board and Ministers as the pressure to free up vacant houses continues, particularly in Auckland.
2016 11 03	Executive Team meeting minutes – CE verbal updates	Interim meth threshold	<p>ET Minutes note:</p> <ul style="list-style-type: none"> • The Chief Executive discussed The Ministry of Health's handling of the issue directly with the Director-General of Health • The Board have asked for clarity of the operational management approach to the use of drugs in our properties. We also need to consider how it fits in with the sustaining tenancies policy.

2016 11 08	Executive Team meeting minutes – CE verbal updates	Interim meth threshold / stakeholder relationship	<p>ET Minutes note:</p> <ul style="list-style-type: none"> • The ET discussed the ongoing coverage about methamphetamine contamination in Housing New Zealand properties, and the work required to clarify our drug policy. • Ross Bell of the Drug Foundation continues to be publically critical about Housing New Zealand’s application of contamination guidelines. The ET agreed to invite Mr Bell to participate in clarifying and further developing Housing New Zealand’s drug policy, as he is an important stakeholder in this area and is likely to have a lot to offer to discussions. The Chief Executive will write to Mr Bell to invite him to take part. • It’s also important to involve MSD in this work. The new Sustaining Tenancies policy gives MSD the option to fund drug addiction support where appropriate.
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Board Papers

Year	Title	Topic	Description and decisions
2009			
2009 03 26	Power point: Strategic session of the Board	90 Day notices	Paper notes a possible change to policy settings including managing difficult tenants (including persistent debtors) through 90 day notices, and not the Tenancy Tribunal
2009 03 26	Chief Executive’s Report	Encouraging Good Neighbour Behaviour	<p>A section of report informs the Board about the development of an EGNB policy, to encourage tenants to be good neighbours. In severe cases of Anti-social behaviour, the policy allows for the issuing of 90 day notices (as well as other remedies such as Tribunal, mediation, and intensive tenancy management). Housing New Zealand can also consider the use of fixed term tenancies for those tenants that are terminated from a previous tenancy due to Anti-social behaviour. Work is underway to seek Cabinet approval for Housing New Zealand to implement a stand-down period for tenants to be ineligible for another Housing New Zealand home.</p> <p>Board actions: Noted the report</p>
2010			
Nil			

Year	Title	Topic	Description and decisions
2011			
2011 10 25	Suspensions policy	Suspensions	<p>In April 2011 Cabinet recommended that former Housing New Zealand tenants would be suspended for 1 year for serious breaches of their tenancy agreement. The purpose of the policy was to “protect the financial interests of the Corporation and the Crown, and the safety and interests of the community, Corporation staff and contractors, and to provide an incentive for tenants to moderate their behaviour and fulfil their tenancy obligations”.</p> <p>The Suspensions policy complimented the EGNB policy.</p> <p>Board minutes note:</p> <p>The Board discussed review of decisions and what options those suspended had. The Chief Executive noted suspensions were last option after EGNB. The policy also applied to non-tenants who are the perpetrators of this type of behaviour while linked to a Housing New Zealand property.</p> <p>Board actions:</p> <p>a) noted that on 30 November 2011, the Corporation intends to introduce a policy to suspend former Corporation tenants from eligibility for state housing where their tenancy is ended as a result of:</p> <ul style="list-style-type: none"> i. serious and or repeated anti-social behaviour (including unlawful activity) and/or ii. a serious breach to their tenancy obligations and/or iii. serious fraud (including subletting) and/or iv. a serious income-related rent debt. <p>b) adopted the Corporation’s suspensions policy.</p> <p>c) approved the attached draft article on the suspensions policy, which is due to be sent to tenants in the November 2011 issue of Close to Home.</p>
2012			
Nil			
2013			
Nil			
2014			

Year	Title	Topic	Description and decisions
Nil			
2015			
2015 08 25	Tenancy Services monthly report	General discussion	<p>Board minutes note:</p> <p>Meth is becoming an increasing problem. There is approx. a 50% 'strike rate' when properties are tested. Most cases the contamination comes from use of P as opposed to manufacture.</p> <p>Staff are trained to identify the likely presence of P. Housing New Zealand would normally test where there was probable cause. When contamination is detected staff are notified, and if testing shows the house is not habitable the tenant is given a 7 day notice to vacate the property. There is difficulty determining whether the current or past tenants were responsible for the contamination.</p>
2015 10 27	Minutes of a Meeting of the Board of the Housing New Zealand Corporation – held on Tuesday, 27 October 2015 Chief Executive's Report for October	How Housing New Zealand liaises with Police in the area of P	<p>The Board was advised that Housing New Zealand had just employed a new Security Manager who was a former detective with NZ Police, and would lead Housing New Zealand's connections with Police. Discussed information sharing with Police where P was concerned. Housing New Zealand needed a formal information sharing arrangement with Police. Chair noted that P was a large issue for Housing New Zealand but that the issue of P was larger than housing. Chair indicated that it was likely that there needed to be a 'whole of government' strategy to the drug.</p> <p>There has been a dog attack on a contractor that was to carry out meth testing at a property, and sustained significant injuries. Tenant is to be evicted.</p> <p>Board actions:</p> <p>Noted the CE's report</p>
2015 11 24	Chief Operating Officer Report	Interim meth testing policy	<p>A new interim methamphetamine testing policy was introduced. The process formalises the request and provision of a safe work plan and it has also provided for a more robust set of operating procedures from Corporate Care.</p> <p>Board actions:</p> <p>Noted that an interim methamphetamine testing policy has been prepared which formalises and provides more robust operating procedures.</p>

Year	Title	Topic	Description and decisions
2016			
2016 05 03	Deloitte Methamphetamine (P) Review	Deloitte	<p>Board Minutes note:</p> <p>There was robust discussion on tenant health. Housing New Zealand was managing risks whilst no specialist or scientific evidence is in place. Management has guidelines in place and are managing at the frontline.</p> <p>Board actions:</p> <p>Noted summary of commentary in the covering paper for the attached Deloitte Report</p>
2016 05 19	Acting CEO report to Housing New Zealand Board	Response to meth contamination	<p>The acting Chief Executive noted that a range of initiatives were underway to Housing New Zealand's response to the growing meth issue. Noted Deloitte report – Housing New Zealand has an opportunity to show leadership in the cross-agency response and in the development of an agreed standard.</p> <p>ET discussed at length the challenge of determining an appropriate response in the absence of a standard. Team will urgently seek technical advice while Housing New Zealand carries on with testing on suspicion.</p> <p>Housing New Zealand will host an inter agency meeting as it has received a number of enquiries about its response to meth. Housing New Zealand will discuss our experiences, insights, and processes around meth in our properties.</p>
2016 08 30	Acting CEO report to Housing New Zealand Board	Revised meth guidelines	<p>Release of revised meth guidelines by MOH is likely to be delayed, and timeline varies considerably. Also Housing New Zealand needs to have clarity around what the new level will be in terms of planning and optimising workflow so we can make houses available more quickly. MOH may release the guideline for public consultation, which may take months.</p> <p>Acting CEO contacted Chai Chuah, Director-General of Health, to discuss CEO's concerns around MOH's proposed approach.</p> <p>Board minutes note:</p> <p>CEO had had discussions with the CEO of the Ministry of Health regarding the standard, noting that the end of the year was too long for a new standard. Housing New Zealand has made it clear that we are keen to move to the 1.5 measure which is known to be safe, and Ministers were prepared to provide support to the Board to make call</p>

Year	Title	Topic	Description and decisions
			while the process is underway.
2016 10 18	Ministry of Health methamphetamine contamination guidelines	Meth guidelines	<p>Paper discusses current state with methamphetamine, the risks to health, and the associated negative behaviours in Housing New Zealand properties. Outlines the fact that there is no current national standard for testing and remediation meth affected properties. MOH guidelines have been used as a de facto standard.</p> <p>Paper discusses the review of the MOH guidelines, the work towards a new national standard, and the release of the ESR report recommendations, which Housing New Zealand would adopt.</p> <p>Paper discusses volume and cost impacts based on the new thresholds.</p> <p>Board actions:</p> <p>Noted the revised guidelines and their operational effects on Housing New Zealand.</p>

Appendix D – Chronology of Tenancy Tribunal Decisions

Tab	Decision/Judgment	Facts and key findings
1	Wilson v Residential Premises Management Ltd, trading as Quinovic Property Management TT Waitakere 1708/3, 11 June 2004	<ul style="list-style-type: none"> The premises had been used as a methamphetamine (meth) laboratory (lab) by previous tenants. The Tenancy Tribunal (Tribunal) held that a premises that has been contaminated by toxic solvents or substances cannot be considered to be in “a reasonable state of cleanliness”, and accordingly that renting out contaminated premises is a clear breach of s 45(1)(a) of the Residential Tenancies Act 1986 (RTA). The Tribunal noted that where a premises has been used as a meth lab, testing and decontamination should be carried out before re-tenanting. Compensation of \$990.00 was ordered to reflect the landlord’s breach in providing a premises that was contaminated at the start of the tenancy and the resulting stress for the tenants. This sum also had regard to the fact that the levels of contamination dispersed throughout the tenancy, and that levels were either lower or non-existent in the final months.
2	<i>Mabbett v Hudson & Others</i> TT Palmerston North 09/01485/PM, 27 October 2009	<ul style="list-style-type: none"> The tenant claimed compensation from the landlord relating to losses suffered allegedly as a result of pre-existing meth contamination at the premises. There was no dispute that the premises were contaminated. (The decision does not discuss the level of contamination or the source of the contamination.) The Tribunal granted the tenant’s application in part. The Tribunal found that: <ul style="list-style-type: none"> There was insufficient evidence to find the landlord knew or should have known that the premises was contaminated. Nevertheless, the landlord was obliged to comply with s 45 of the RTA and he could not avoid that obligation. The tenant would have expected him to comply with that obligation. The landlord had breached his obligation to provide the premises in a reasonable state of cleanliness under s 45. The landlord’s breach substantially reduced the benefit of the tenancy agreement to the tenant, warranting a refund of all rent paid during the tenancy.

- Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites (Ministry of Health, August 2010) (**Guidelines**)

- Meth test results exceeding $0.5 \mu\text{g}/100\text{cm}^2$ at sites suspected of being clandestine methamphetamine labs required remediation.
- The Guidelines were promulgated by Ministry of Health (**MOH**) consistently with its functions under s 3A of the Health Act 1956. The Guidelines were not made pursuant to any legislative or regulatory authority and had advisory status only.

3 *McFadyen v Epsom Management Ltd*
DC Wellington CIV-2013-085-000021, 6 March 2013

- The Tribunal ordered the tenants to pay compensation to the landlord for rent arrears after they ceased paying rent due to an unknown form of contamination that affected the tenants' health and ability to remain in the premises.
- The tenants appealed to the District Court. Judge Thomas allowed the appeal, quashing the Tribunal order, and substituting it with an order that the landlord pay the tenants for the cost of removing their household belongings. Her Honour found that:
 - "the starting point in my decision is whether the premises were fit for the purpose of a residential tenancy"; and
 - the tenants were not provided with a habitable premises.

4 Housing New Zealand Corporation Ltd v Teepa
TT Manukau 15/04385,
7 August 2015

- Housing New Zealand terminated a tenancy under s 59A of the RTA. It alleged that the tenants had breached s 40(2)(a) of the RTA by contaminating the premises with meth.
- A meth testing company had issued a report finding that the premises were "uninhabitable because of methamphetamine contamination" with "8 of the 12 swabs taken exceeding the MOH Guidelines".
- The Tribunal found:
 - the report provided reasonable grounds to conclude the premises was "so seriously damaged as to be uninhabitable", justifying termination under s 59A; and
 - meth contamination was "damage" under s 40 of the RTA. The Tribunal observed that "premises could be damaged by methamphetamine use or manufacture in a similar way to premises damaged by smoke from a fire". There was damage to a number of items that needed to be disposed of, including painted plaster board walls, wall paper, and heaters.
- Consequently the Tribunal found that Housing New Zealand was entitled to cancel the tenancy with seven days' notice under s 59A. No compensation was sought.

5 Ahu v Housing New
 Zealand Corporation Ltd
TT Auckland 15/02298,
 27 November 2015

- Housing New Zealand terminated the tenant’s tenancy on seven days’ notice under s 59 of the RTA on the basis that the premises were uninhabitable under s 59 due to meth contamination. The tenant refused to vacate the premises. Housing New Zealand applied for a possession order. (Housing New Zealand did not seek any compensation.)
- The tenant challenged the validity of the termination notice on several grounds, including:
 - that Housing New Zealand could not prove that she had caused the alleged contamination; and
 - that MOH Guidelines applied only to remediation of clan labs.
- The Tribunal granted Housing New Zealand’s application for a possession order and dismissed the tenant’s application. The Tribunal found that:
 - Housing New Zealand did not need to show that the tenant had caused the contamination.
 - Housing New Zealand had proved on the balance of probabilities that the contamination at levels above the MOH Guidelines threshold meant that the premises were so seriously damaged as to be uninhabitable. In particular, the Tribunal:
 - acknowledged that while the MOH Guidelines were directed towards remediation of clandestine labs, they addressed “the risk to human health from the occupation of a dwelling contaminated ... at levels above the cited threshold”;
 - noted that equivalent Australian guidelines (“Clandestine Drug Laboratory Remediation Guidelines” (2011)) made “clear that contamination *regardless of whether caused by cooking in a clandestine laboratory or from smoking by a user of the drug*, will contaminate the inside surfaces of buildings” (emphasis added), and that there was no reason why the position in New Zealand should be any different; and
 - concluded that this approach was supported by:
 - ... sound public policy and community health reasons to support a robust approach being taken by the Tribunal where laboratory testing, using internationally recognised methodology, discloses methamphetamine contamination of premises at levels exceeding the threshold referred to in the [MOH Guidelines].

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- 6 Housing New Zealand Corporation Ltd v Mita TT Manukau 15/05142, 21 January 2016
- Housing New Zealand terminated the tenancy on seven days' notice under s 59A due to meth contamination rendering the premises uninhabitable. The tenant moved to a motel but refused to acknowledge the tenancy had ended. Housing New Zealand sought to recover rent arrears but did not seek remediation costs.
 - The tenant sought compensation from Housing New Zealand for letting a premises with meth contamination.
 - The Tribunal held that in order for the tenant's compensation application to succeed, the tenant had to prove on the balance of probabilities that Housing New Zealand knowingly let to her a premises contaminated by meth. The tenant was unable to do so, and accordingly the Tribunal dismissed her application.
 - The Tribunal found that rent for the period in which the tenant refused to accept the termination of the tenancy should be reduced to 50 percent of her usual rent, with the result that Housing New Zealand was required to pay the tenant a \$250 rent refund.
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- 7 Harris v Thomas Baseden Real Estate Ltd TT North Shore 4001631, 15 March 2016
- The tenant obtained a meth test confirming contamination of 0.53 $\mu\text{g}/100\text{cm}^2$. (It is unclear whether this was a composite test or where the swabs were obtained.) Subsequent swab testing confirmed the presence of meth residue at levels below the MOH Guidelines in some rooms. In other rooms no meth was able to be detected.
 - The tenant sought compensation from his landlord relating to meth contamination costs.
 - The Tribunal granted the tenant's application in part. It found that:
 - There was an underlying presumption in the RTA, as well as implied term in a residential tenancy agreement, that a property provided for a residential tenancy would be habitable.
 - If a premises was contaminated with meth "at any level" it was "unclean" and a breach of s 45(1)(a) of the RTA.
 - It was reasonable to consider that the premises were contaminated above the MOH Guidelines and accordingly the landlord had breached s 45(1)(c).
 - It was no defence that the landlord said he did not know that the premises were contaminated.
 - The Tribunal decision also suggested that it was best practice for a landlord to carry out meth testing of a premises prior to a tenancy beginning, irrespective of whether the landlord suspected that the premises was contaminated. The Tribunal expressly recognised the potentially "onerous" effect of the decision on landlords.
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8	Harper Property Management Ltd v Visagie TT Pukekohe 15/06955, 16 March 2016	<ul style="list-style-type: none"> • The Tenant complained that the premises had been contaminated by previous occupants. Testing showed meth levels above the MOH Guidelines. • The Tribunal found there was an implied contractual term that the landlord would provide a habitable premises under s 45 of the RTA as well as <i>McFadyen</i> [Tab 3]. • The Tribunal found that: <ul style="list-style-type: none"> <i>... although the MoH guidelines make clear that they do not have statutory effect and are advisory only, I consider that they are of primary importance in determining whether or not the premises were fit for tenants to live in.</i> • The Tribunal noted that while the MOH Guidelines (and equivalent Australian guidelines) were aimed at clandestine drug labs, the Australian guidelines were clear that “smoking methamphetamine will likewise contaminate the inside surfaces of buildings”. The Tribunal concluded that : <ul style="list-style-type: none"> <i>...if the contamination is above the 0.5 micrograms level then the premises are not fit to be occupied whether the cause of the methamphetamine contamination was ‘cooking’ or smoking.</i> • The Tribunal ordered that the tenants were entitled to compensation of \$3,500 to reflect damage to their belongings and a partial rent refund of \$3,500 (representing approximately 50 per cent of the total rent paid during the tenancy). It declined, however, to order compensation for storage of belongings or general damages for distress.
9	Housing New Zealand Corporation Ltd v Harrison TT Christchurch TT4033506, 5 August 2016	<ul style="list-style-type: none"> • Housing New Zealand sought compensation from an outgoing tenant for damage to premises caused by meth use. • The Tribunal decision provides (in its entirety): <ol style="list-style-type: none"> 1. <i>The premises were damaged by contamination by methamphetamine. Six of the eleven methamphetamine test results were above the Ministry of Health Guidelines.</i> 2. <i>I am satisfied that the evidence provided establishes that it was more likely than not that the damage occurred during the tenancy.</i> 3. <i>The amounts ordered have been established.</i> 4. <i>There was no appearance from the tenant.</i> • The Tribunal ordered the tenant to pay \$17,658.75 compensation for testing and remediation costs.

10 Hughes v BCRE Ltd trading as Harcourts & Another TT Pukekohe 4001997, 40066950, 18 August 2016

- The tenant sought compensation of \$49,999 from her landlord for various costs related to the discovery of meth contamination at the premises. The landlord made a cross-application for rent arrears.
- A prospective purchaser of the premises conducted a meth test. Two of three composite samples (or potentially two composite samples and one standalone sample) disclosed meth residue at levels exceeding MOH Guidelines.
- Auckland Council subsequent wrote to the landlord advising that it had received the meth test results. The letter provided that:

As the property now represents a potential health risk the council has a statutory duty to ensure that these risks are assessed and if present eliminated ... The property needs to be vacant and left secure until such time as results show that the level of contamination is below the [MOH Guidelines]. If occupation were to occur it would inevitably place the occupants at risk.

- The Tribunal found that:
 - the contamination could not be described as a latent defect because it could readily be detected with surface (rather than invasive) testing at any time.
 - Meth contamination had received extensive media coverage in the past two years.
 - In respect of applications made under ss 59 or 59A of the RTA, meth contamination at levels exceeding the MOH Guidelines amounted to damage to the premises (following *Teepa* and *Ahu* (at **[Tab 4]** and **[Tab 10]** respectively).
 - It was implicit in the MOH Guidelines that “the health of people is not protected when occupying a dwelling” with meth residue exceeding the MOH Guidelines level.
 - There was no evidence that the premises had been used as a meth lab.
 - There had been considerable recent media coverage about the applicability of the MOH Guidelines in cases where meth residue was the result of use (smoking) rather than manufacture.
 - Other than the meth test results, neither party had adduced any evidence from suitably qualified experts about the significance of meth contamination on human health. The forthcoming NZS standard would likely clarify the situation. In the interim, and in the absence of any evidence from the parties on this point, and in light of equivalent Australian guidelines, the presence of meth residue at levels exceeding the MOH Guidelines was “unacceptable” regardless of whether it was laid down by manufacture or use.
- Because only one room in the house was contaminated at levels exceeding MOH Guidelines, and there was no evidence that it could not have been remediated while the tenant remained in the premises, the Tribunal awarded the tenant \$500 compensation for failure to provide that room in a habitable state at the beginning of the tenancy.
- The Tribunal dismissed the landlord’s rent arrears application on the basis that no rent was payable for the premises from the date of Auckland Council’s letter advising that it required the premises to be vacated.

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- "Review of Remediation Standards for Clandestine Methamphetamine Laboratory Sites" (ESR, October 2016) (**ESR Review**)
 - The ESR Review created a three tiered approach where remediation was recommended if testing levels were above:
 - 0.5 µg/100cm² for houses where meth had been manufactured;
 - 1.5 µg/100cm² for carpeted houses where the drug had only been used; and
 - 2.0 µg/100cm² for uncarpeted houses where the drug had only been used.
 - The media release accompanying the ESR Review noted that in the absence of a guideline for remediating property contaminated by meth use but not manufacture, the ESR Review "can be used in the interim". (See <https://www.health.govt.nz/news-media/media-releases/recommendations-methamphetamine-contamination-clean>.)
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- 11 *Lodge City Rentals Ltd v Forkert* TT Hamilton 404777, 30 November 2016
- The tenant terminated the tenancy following positive meth test results at levels below the MOH Guidelines levels, and sought in excess of \$10,000 for compensation and a rent refund.
 - The Tribunal noted that:
 - although the MOH Guidelines were advisory only and did not have any statutory effect, they were presently the only effective Government-authorised guides in New Zealand which assessed the risk to human health from the occupation of premises contaminated with meth;
 - it was implicit in the MOH Guidelines and ESR Review that human health was not protected in a dwelling where the level of meth contamination exceeded the recommended levels; and
 - accordingly the MOH Guidelines and ESR Review were "of primary importance in considering whether the premises were fit to live in and if there ha[d] been any breach of the landlord's obligations under s 45".
 - The Tribunal found that given that the detected levels were below the ESR Review threshold for a carpeted house, and in the absence of further scientific evidence, the tenant's claim was not made out.
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- 12 Wharehinga v Housing New Zealand Corporation
TT Gisborne 4028986,
7 December 2016
- The tenant sought compensation and exemplary damages from Housing New Zealand on the basis that she alleged Housing New Zealand had placed her in a premises that was contaminated with meth at levels exceeding the ESR Review levels.
 - The Tribunal found that:
 - On the balance of probabilities the contamination had occurred prior to the start of the tenancy at levels amounting to a breach of Housing New Zealand’s obligation to provide the premises in a reasonable state of cleanliness under s 45 of the RTA.
 - While Housing New Zealand did not intentionally present the premises in an unclean state, it could have avoided that problem if it had tested the premises before the tenancy began.
 - The Tribunal awarded:
 - \$5,000 compensation to the tenant; and
 - \$3,000 exemplary damages because:
 - of the stress caused to the tenant;
 - “it is in the public interest for landlords to obey the law”; and
 - it was just for exemplary damages to be awarded.
 - The Tribunal noted that Housing New Zealand’s actions were in the “middle to high range” of the possible level of breach of its obligations, which it sought to reflect in the quantum of the exemplary damages award.
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13 *Lepua v Barfoot & Thompson Ltd*
T.T. Waitakere 4051074, 11
April 2017

- The tenant sought compensation and exemplary damages from the landlord on the basis that the landlord had failed to provide a safe and healthy premises due to meth contamination.
- Meth testing showed levels well above MOH Guidelines (including 82 µg/100cm² in the kitchen, 58 µg/100cm² in the dining room, and 45 µg/100cm² in the bedroom). A Police report confirmed that Police had found meth at the premises, and that a previous occupant was charged and later convicted for possessing meth.
- The Tribunal found that:
 - While the evidence before the Tribunal did not establish whether the meth contamination resulted from smoking or manufacturing, the premises was “clearly unsafe and not fit to be lived in” because the level of contamination greatly exceeded the MOH Guidelines level. Consequently the landlord had breached an implied term of habitability.
 - There was “strict liability on landlords to provide premises in a habitable state” (following *Visagie [Tab 7]*).
 - A premises contaminated by unsafe levels of methamphetamine was uninhabitable, at least to the extent of the rooms contaminated.
 - It was no defence that the landlord was not aware the premises were contaminated.
 - It would have been prudent for the landlord to have the premises meth tested before the tenancy began, especially in light of media coverage of meth-related issues in 2015 and 2016. The Tribunal observed that:

Any landlord who rents out property in this day and age without having it tested for methamphetamine contamination before the tenancy starts is taking on a huge risk in a number of respects.
- The Tribunal awarded the tenants compensation of \$14,000 for loss of contaminated possessions and goods, as well as a partial rent refund of \$8,000 (roughly 66 percent of the total rent paid during the tenancy).
- The Tribunal dismissed the tenant’s application for exemplary damages on the basis that the landlord did not intend to provide the premises in an unclean or uninhabitable state.

14 Diamond Real Estate Ltd v Allan [2017] NZDC 883

- A landlord sought compensation for meth decontamination costs from a tenant, as well as rent arrears. The Tribunal ordered the tenant to pay rent arrears but declined the landlord’s compensation application on the basis that, while testing had demonstrated levels exceeding the MOH Guidelines in place at the time the meth testing and decontamination was carried out, the levels had been below the ESR Review levels in effect at the time of the Tribunal hearing.

- The landlord appealed to the District Court.
- The District Court allowed the appeal. Judge Kellar held that the matter should be reheard on the basis that the guidelines or standard in effect at the time of testing was to be applied. His Honour observed that:

... if the landlord had no choice but to test for methamphetamine and decontaminate the premises and if the premises were not “safe” in terms of the prevailing MOH guidelines at the time of testing then the premises may be said to have been damaged during the tenancy.

- New Zealand Standard NZS 8510:2017 “Testing and decontamination of methamphetamine contaminated properties” (came into effect on 29 June 2017) (**Standard**)

- The Standard provided for a single threshold level of 1.5 µg/100cm².
- The Standard applied irrespective of whether the contamination was caused by meth use or manufacture.

15 Professionals Whakatane Ltd v Cameron TT Whakatane 4083711, 30 June 2017

- The landlord sought:
 - compensation from the tenant for meth testing and decontamination costs (among other things); and
 - exemplary damages because the tenant had allegedly used the premises for an unlawful purpose (namely using meth contrary to the Misuse of Drugs Act).
- The Tribunal declined landlord’s compensation application as the level of meth contamination had been below the ESR Review threshold then in force, with the result that tenant was not in breach for causing damage or for failing leaving premises reasonably clean.
- The Tribunal granted the landlord’s application for exemplary damages because baseline testing conducted before the tenancy began, and more recent meth testing, confirmed an increase in the level of meth contamination during the tenancy.
- The Tribunal ordered the tenant to pay compensation of \$800 (only \$200 less than the maximum exemplary damages available under s 40(3)(A)(c) of the RTA) having regard in particular to the strong public interest in deterring tenants from using rented premises for unlawful activities.

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- 16 Global Rentals and Property Management Ltd v Peters TT North Shore 4109677, 21 December 2017
- Testing at the end of a tenancy discovered detectable meth contamination but below the Standard. Baseline testing conducted shortly after the tenancy began revealed no detectable level of meth contamination.
 - The landlord sought compensation for meth testing and decontamination costs from the former tenant on the basis that a house with any detectable contamination was “not clean”.
 - The Tribunal noted there was some force in this submission given the need to deter the use of meth. It concluded, however, that contamination below the threshold level under the Standard did not amount to damage. Such an approach would be unworkable and not pragmatic because it involved a purely subjective assessment of an unseen substance and lacked any objectivity (backed by scientific research) that underpins the remediation level provided for in the Standard.
 - The Tribunal also observed that:

The [Standard] determines that surfaces within a house with meth residue exceeding 1.5 µg/100cm² require remediation due to a possible risk to human health. No evidence was adduced ... that the lower levels of meth residue that were recorded ... pose a risk to human health. [Emphasis in original.]
 - The Tribunal noted that the Standard provides for the remediation of sufficiently contaminated surfaces because of what the existing scientific studies have shown as the “potential for risk to human health, especially for infants and children”.

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- 17 *BCRE Ltd v Farrow* TT Pukekohe 4074613, 21 December 2017
- The landlord sought compensation for meth remediation costs on the basis that the tenant had contaminated or permitted contamination of the premises during her tenancy.
 - The Tribunal found that the landlord’s claim was not made out as the meth contamination could not be shown to have occurred during the tenancy.
 - The Tribunal commented that it would not have found damage or uncleanliness in any event as testing showed meth levels to be below the Standard threshold. Consistently with decision in *Global Rental [Tab 13]*, the Tribunal found that:

... an introduction of the concept of cleanliness to cases involving methamphetamine residue at levels that do not exceed the levels provided for in the MOH [Guidelines] (now the [Standard]) is not sufficiently cogent to be able to be consistently or soundly applied under the RTA.

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- 18 Smith v Accessible Properties New Zealand Ltd [2018] NZHC 1010
- The tenant applied for relief from a 90 day termination notice issued by the landlord under s 51 of the RTA, on the basis that it would be “harsh” and “unconscionable” for her to be evicted following non-invasive meth testing which the tenant said she had not consented to.
 - The Tribunal and District Court found that the tenancy was validly terminated pursuant to the landlord’s statutory and contractual rights. The tenant appealed.
 - The High Court dismissed the appeal. Woolford J found that:
 - The tenant had in fact consented to the meth testing. In any event, non-invasive meth testing could be included in the general power of inspection provided for in a tenancy agreement.
 - The landlord has an:

obligation to provide and maintain a habitable premises in a reasonable state of repair and to comply with all legislative requirements pertaining to buildings and health and safety ... including the [Standard].
 - The landlord did not need to give reasons when terminating on 90 days notice under s 51.
 - The Tribunal did not have jurisdiction under the RTA to make an order that it was harsh or unconscionable for the landlord to give 90 days’ notice of termination under s 51.
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19 *Gibson Barron Realty v Naicker* TT Tauranga
4109692, 21 February 2018

- The landlord sought compensation for meth remediation costs from the tenant for remediating areas of the premises that were contaminated to levels below the Standard level. (Insurance had covered remediation for areas of house that tested positive for meth levels above the Standard.)
- The Tribunal described the Standard as setting “the level for safe habitation”.
- The Tribunal affirmed the decision in *Global Rentals* [Tab 16], finding that it “would be inherently unworkable” for the Tribunal to attempt to determine whether damage or uncleanliness had occurred where the levels of meth detected were below the Standard. It noted the policy concern that this failed to deter meth use but held that this was mitigated by the availability of exemplary damages under s 40(3)(A)(c).
- The Tribunal noted the potential for “stigma damages” to be awarded if the landlord could show (through proper expert or valuation evidence) that the unlawful use of the premises had resulted in a reduced value of the house or re-sale price. It noted “stigma damages” appear to have been awarded in one previous case: *Boxabeers Family Trust v Bennett and New* 13/6146/MK, 29 January 2015. (In that case, the insurer paid the full costs of the clean-up but stigma was found to have attached even though the premises had been fully cleansed. Damages were awarded because the lower sale price achieved was a form of economic loss that was a reasonably foreseeable loss arising from the tenant's breach.)

(For completeness, the Tribunal has declined to award stigma damages for the loss of value on resale where the proof of loss was not established: *Bentley v Baxter* 4080515, 24 July 2017; and *Barfoot and Thompson v Smedicus* 4024168, 29 September 2016.)

Appendix E – Notes on compilation of property and tenant outcome data

Scope^{****}

The master data set includes all properties Housing New Zealand owned and managed between 1 July 2004 and 31 May 2018. This includes Home Lease Programme (HLP) properties and Community Group Housing (CGH) properties. Some of the properties represented may no longer be owned or managed by Housing New Zealand.

Data sources

The table below describes the different data sources used to find information from various systems, over the time period. An indication is also provided of the level of confidence in the data quality. This generally increases with more recent data.

Due to the low level of confidence around some of the data sets, and quality of the data, analysts were required to validate anomalies during data collection. As a result of this, the master data set should not be regarded as an exhaustive list. The numbers used in this report are therefore subject to change.

It should be noted that confidence is high that the majority of properties tested above the threshold for methamphetamine between 1 July 2013 and 31 May 2018 have been captured.

There will be individual cases that are either not in the master data, or where data held is incomplete. This may only come to light through individuals contacting Housing New Zealand directly or through other channels.

Timeframes	Content	Data Source	Notes	Data quality confidence
2004 – 2012	Properties Contaminated	Housing New Zealand legacy Tenancy Management system (Rentel), OIA Responses	Correlation of properties tested to those identified as a methamphetamine lab	Low
Aug 2014 – Aug 2016	Properties tested	Chemical and Fire Damage Properties records, Purchase Orders in Oracle associated with Chemical Testing project, Properties marked as Meth Contaminated in Oracle EAM	Combination of sources, duplicates removed, results/result levels checked and updated	Medium
Sep 2016 – current	Properties tested	Oracle EAM/Projects Work Orders	Result, missing results/result levels checked and updated	High

2004 – current	Properties tested - updates to test results/levels/dates found	Testing Reports for properties, sourced from document management system (Objective) / Chemical Team past records	Manually collated	High
2004 – current	Evictions	Evictions tracking records	All evictions considered including meth	Low/Medium
2004 – current	Terminations (90 day / 7 day notices)	Terminations tracking records (90 day / 7 day notices)	All terminations considered including meth	Low/Medium
2016 – current	Tribunal information	Tenancy Tribunal tracking records		Medium/High
2013 – current	Suspensions	Tenancy Management System (Kotahi)	All suspensions considered including meth	High
2013 – current	Tenancy Attributable Costs	Tenancy Management System (Kotahi)	Description of charge checked for relevance to Meth	Medium
2013 – current	Tenancies ended related to Meth contamination and reason	Tenancy Management System (Kotahi)	Validation of end reason against other variables.	Medium

Identification of test results

Tests performed at Housing New Zealand premises can include testing for other contaminants, for example asbestos and lead, as well as fire damaged properties. Housing New Zealand systems do not record this level of information. Some of these results have had to be manually removed from the master data set once the property test report was viewed.

Either the initial or suspicion test was used to gather the 'highest reading'. This information was used to record the result (e.g. above threshold or below threshold) and highest test reading (e.g. 3.5 µg/100cm²). In some situations the result (above or below) has been recorded and not the results level and vice versa. Where possible, analysts have recovered this information by going back through the actual test reports.

If a property is tested above threshold, further detailed testing is undertaken when the property becomes vacant to correctly scope the remediation required. Often the detailed testing has higher readings than the suspicion test.

The results of the initial test drive the first conversation with the customer with regards to the results. For the purposes of this report the initial test was used as a basis for the contamination levels.

Identification of tenant interactions and outcomes

The data collection focussed on tenants who occupied Housing New Zealand properties at the time a methamphetamine test was ordered, and the main interactions that occurred between Housing New Zealand and the tenant.

The main interactions captured do not paint a complete and clear picture of why the property was tested, who was considered responsible for the contamination, and all interactions between the tenant and Housing New Zealand. Other tenancy issues are generally intertwined with the methamphetamine testing and actions and it can be challenging to determine what actions were taken for what reason.

There are other outcomes that are outside of Housing New Zealand's control, for example interventions by *Oranga Tamariki*—Ministry for Children or MSD special needs grants incurred as a result of the tenant needing emergency housing. These outcomes were not included in Housing New Zealand's analysis.

Limitations of the current data set

Several key pieces of information are either not readily available, or only available with low levels of confidence. To obtain this information would require a review of each individual tenant file.

- reason for the test
- who caused or permitted the contamination and whether there is substantial proof
- personal belongings contaminated and destroyed – either by the tenant and/or Housing New Zealand.
- financial impact to the tenant accounts –
- why was the tenant charged and how were the charges established
- were repayments made specifically for methamphetamine related damages
- use of debt collection agencies and how this impacts tenant credit rating
- whether methamphetamine was the sole reason for ending the tenancy or if there were other factors
- the detailed interactions between Housing New Zealand and the tenant through the period of suspicion and subsequent testing
- if Housing New Zealand has paid any discretionary grants or compensation to tenants
- CGH groups that have tested and/or decontaminated the property without informing Housing New Zealand.

Further work required

Further work is required to refine and validate the current master data set to an improved level of confidence.

The table below provides a summary of the future work required to compile a full inventory of all individual tenant outcomes.

Information Required	Current Status	Further work required
Detailed test results per property (addresses and names redacted)	High level stats in the report	<ul style="list-style-type: none">• If required it would involve manual work locating each test result and redacting information.
the cost of testing		

Number of tenancies ended related to Meth contamination and reason	Included in master data and high level stats in the report	<ul style="list-style-type: none"> • Further refinement and anomalies checked. • Inclusion of tenancies that ended before the property was tested and how this impacted the tenant.
Tenants evicted	Included in master data and high level stats in the report	<ul style="list-style-type: none"> • Further refinement and anomalies checked.
Tenants suspended	Included in master data and high level stats in the report	<ul style="list-style-type: none"> • Further refinement and anomalies checked.
Tenant taken to Tenancy Tribunal and outcome	<p>Included in master data and high level stats in the report</p> <p>Portions of data set incomplete</p>	<ul style="list-style-type: none"> • Further refinement and anomalies checked. • Investigation around the reason for the tribunal and whether it was methamphetamine related.
<p>Tenancy tribunal detailed information including:</p> <ul style="list-style-type: none"> - summary of evidence - copies of decision - case reference number 	Not included	<ul style="list-style-type: none"> - If required this will involve manually locating all documentation and final outcomes.
<ul style="list-style-type: none"> • Tenants charged for methamphetamine damage (testing, remediation, decontamination) • status of any costs • amount awarded, amount repaid to date • terms of any payment plan 	Included in master data and high level stats in the report	<ul style="list-style-type: none"> • Further refinement and anomalies checked.

Each case will need to be manually investigated in order to understand the details of each situation. This would include capturing the detailed interactions between Housing New Zealand and the tenant through the period of suspicion and subsequent testing, the final outcomes including any methamphetamine damage charged and repaid.

Appendix F: Case Study Findings

Memorandum

To: Housing New Zealand Corporation (Housing New Zealand)

From: Meredith Connell

Date: 9 August 2018

Subject: Housing New Zealand methamphetamine report: Review of case studies

1. Overview of case study collation and review process

- 1.1. To assist Housing New Zealand to identify and examine the issues arising from Housing New Zealand's implementation of its methamphetamine-related policies, Housing New Zealand collated documents relating to 34 tenancies. Those tenancies were selected by Housing New Zealand's Project Team because they illustrate the range of tenant outcomes that may arise from methamphetamine contamination, or a suspicion of methamphetamine contamination, in Housing New Zealand premises.
- 1.2. Housing New Zealand instructed us to review the documents collated for each of the 34 tenancies, referred to in this memorandum as case studies, focussing on four decisions taken by Housing New Zealand leading to particular tenant outcomes. These were decisions to:
 - (a) test Housing New Zealand premises for methamphetamine contamination;
 - (b) terminate a tenancy;
 - (c) suspend a tenant from Housing New Zealand housing; and/or
 - (d) recover methamphetamine-related costs (principally methamphetamine testing, decontamination, and reinstatement costs) from a tenant.
- 1.3. This memorandum sets out:
 - (a) the Housing New Zealand policies applying to each of these decisions;
 - (b) the issues arising from the application or misapplication of those policies, as illustrated by the case studies; and
 - (c) other issues arising from the case studies.
- 1.4. In order to ensure that this memorandum was prepared in a timely way, Housing New Zealand has collated as much information as possible in the time available relating to each of the 34 case studies. Some information, however, was not able to be retrieved within the time available. The case studies discussed below should be considered on this basis.
- 1.5. The review assumes that the policy applying to a decision taken by Housing New Zealand (for example, to test a premises for methamphetamine contamination) is the one that was in effect as at the date Housing New Zealand took that decision.
- 1.6. Signed copies of documents were not available in each case. For the purpose of the review, documents were assumed to be signed unless there were clear indications to the contrary.
- 1.7. Identifying particulars have been removed from case studies discussed in this memorandum to protect tenant privacy.

2. Decision to test for methamphetamine contamination

- 2.1. Between March 2011 and March 2016, the applicable Housing New Zealand policy required Housing New Zealand to notify Police of a suspicion of methamphetamine manufacture at a premises. If Police confirmed that there was cause for suspicion, or if they searched the premises in relation to suspected methamphetamine manufacture but were unable to provide information from the Institute

of Environmental Science and Research (ESR) about contamination, Housing New Zealand was required to order a methamphetamine test (T-126v3).

- 2.2.** In 2014, the Housing New Zealand Executive Team decided to expand that policy to provide for the risks arising from exposure to methamphetamine contamination use as well as manufacture.
- 2.3.** The case studies suggest that Housing New Zealand then began carrying out testing where use was suspected, even though it was not until March 2016 that this approach was formally reflected in Housing New Zealand's policies (namely CA-716). For example:
- (a) In early 2015, Housing New Zealand took a decision to test for methamphetamine after Police advised Housing New Zealand that they had executed a search warrant at a premises, during which:
 - (i) Police found six small snap lock bags containing methamphetamine (as well as firearms, ammunition, cannabis, and a roll of snap lock bags); and
 - (ii) the tenant's son admitted that the methamphetamine belonged to him and that he sold it.
 - (iii) In early 2016, Housing New Zealand took a decision to test for methamphetamine after a tenancy had been terminated and the tenant was believed to be in prison for drug-related offending.
- 2.4.** The case studies also suggest that Housing New Zealand has in general appropriately applied its more recent policies, which focus on whether there are reasonable grounds to suspect contamination. On occasion, however, Housing New Zealand may have taken a decision to test in the absence of reasonable grounds to suspect methamphetamine contamination. For example, anti-social behaviour (which included threatening, intimidating, and abusing neighbours) was given as the reason for carrying out methamphetamine testing on at least one occasion. While Housing New Zealand may well hold additional information supporting its decision to test which was not able to be retrieved in the time available, on the basis of the information that is currently available, it is arguable that Housing New Zealand did not have reasonable grounds to suspect methamphetamine use at the premises. In those circumstances, it may have been prudent for Housing New Zealand to seek information from Police about any drug-related incidences at the premises or drug-related issues experienced by the tenant before taking a decision to proceed with testing.

3. Decision to terminate a tenancy

Decision to terminate may have multiple causes

- 3.1.** A key theme emerging from the case studies is the multiplicity of factors that may contribute to Housing New Zealand taking a decision to end a tenancy, including but not limited to methamphetamine contamination. Other key considerations include antisocial behaviour as well as rent arrears.
- 3.2.** The case studies set out below show that the existence of methamphetamine contamination may have been a secondary reason for Housing New Zealand taking a decision to terminate a tenancy, or not an operative reason at all.
- (a) Case study 1
 - (i) Housing New Zealand received complaints that gang members would often gather at the premises in large numbers. Neighbours complained over a number of months that the male tenant and his associates threatened and intimidated them, blocked their driveways and the footpath, verbally abused them, played loud music, drove recklessly and raced cars in the cul-de-sac, carried out loud panel-beating work at the premises late at night, and threw objects into neighbours' properties. Police charged the male tenant with intimidation and threatening to injure a neighbour.
 - (ii) Police later advised Housing New Zealand that the tenant had 12 active charges, including three for male assaults female, and one for methamphetamine-related offending.

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- (iii) While suspicion of methamphetamine use at the premises was a relevant factor in Housing New Zealand seeking to terminate the tenancy, Housing New Zealand ultimately took a decision to terminate the tenancy because the tenant continued to engage in high severity antisocial behaviour.
 - (iv) Housing New Zealand applied to the Tenancy Tribunal (**Tribunal**) for early termination of the tenancy and an order granting Housing New Zealand possession of the premises. A Police officer gave evidence for Housing New Zealand about searching the premises on the morning of the Tribunal hearing and finding that it was being used for receiving stolen goods. The Police officer also gave evidence that the Armed Offenders Squad had searched the premises that morning and arrested seven occupants.
- (b) Case study 2
- (i) Housing New Zealand applied to the Tribunal to terminate a tenancy for rent arrears and sought immediate possession of the premises.
 - (ii) Housing New Zealand only discovered that the premises was possibly contaminated with methamphetamine after the Tribunal made orders terminating the tenancy and granting Housing New Zealand immediate possession, at which point Housing New Zealand conducted methamphetamine testing.
- (c) Case study 3
- (i) Neighbours made a number of complaints to Housing New Zealand about tenants at a Housing New Zealand premises intimidating and threatening them, creating excessive noise, and behaving cruelly towards their dog.
 - (ii) Police subsequently executed a search warrant at the premises. Inside they found a portable grow room containing cannabis plants. Police charged the tenants with cultivating cannabis.
 - (iii) Housing New Zealand carried out methamphetamine testing at the premises. Some test results were in excess of the applicable remediation threshold. The highest test result was 8.67µg/100cm².
 - (iv) Housing New Zealand organised meetings to discuss the issues arising with the tenants. The tenants did not attend. They did not respond to Housing New Zealand's requests for contact.
 - (v) Housing New Zealand sought internal approval to terminate the tenancy on 90 days' notice on the basis that (among other things) both antisocial behaviour and methamphetamine use should be deterred. (Housing New Zealand later approved a business initiated transfer for the tenants and their family.)

Decision to terminate tenancy on seven days' notice

- 3.3.** The default minimum period of notice required to be given by a landlord to terminate a tenancy is 90 days.¹⁷⁷ However, section 59 of the Residential Tenancies Act 1986 (**RTA**) provides that a landlord may give not less than seven days' notice to a tenant terminating a tenancy where the premises is "destroyed" or "so seriously damaged as to be uninhabitable" otherwise than as a result of a breach of the tenancy agreement. An equivalent provision (section 59A) exists where the damage is caused by a breach of the tenancy agreement.

¹⁷⁷ Residential Tenancies Act 1986, section 51(1)(d).

Housing New Zealand's policies

- 3.4.** From March 2016 onwards, Housing New Zealand's "policy for managing methamphetamine in Housing New Zealand managed premises" (P-250) provided that Housing New Zealand "will" or "may" terminate the tenancy appropriately under the Residential Tenancies Act where:
- (a) tenants were known to have caused, or allowed other persons to cause, methamphetamine contamination in a Housing New Zealand-managed premises (March 2016 to March 2017);
 - (b) tenants have caused, or allowed (knowingly or not) other persons to cause methamphetamine contamination in a Housing New Zealand-managed premises (March 2017 to October 2017); or
 - (c) where there is credible evidence that a tenant or associate has made, sold or used methamphetamine at a Housing New Zealand-managed premises (October 2017 onwards).
- 3.5.** The P-250 policy series did not provide any specific guidance about whether or when it would be appropriate to terminate a tenancy by Housing New Zealand giving:
- (a) the default minimum 90 days' notice (under section 51(1)(d) of the RTA); or
 - (b) seven days' notice.
- 3.6.** Housing New Zealand's policy series on "managing methamphetamine (P) in Housing New Zealand managed properties" (CA-716) did offer specific guidance about whether or when Housing New Zealand should take a decision to terminate a tenancy in light of methamphetamine contamination. These policies consistently provided that where test results confirmed that a premises was uninhabitable, Housing New Zealand's primary concern must be health and safety of the tenant(s) and their household.
- 3.7.** Each of the three iterations of this policy distinguished between situations where the tenant was believed to be responsible for the contamination and Housing New Zealand had evidence to support that assertion, and those where the tenant was not believed to be responsible or where Housing New Zealand did not have sufficient evidence to prove that on the balance of probabilities in the Tribunal. We summarise key aspects of Housing New Zealand's approach to termination of tenancies in the following table:¹⁷⁸

Policy identifiers		Alleged responsibility for contamination		
Policy name	Date issued	Tenant not responsible	Housing New Zealand has reasonable grounds to suspect the tenant is responsible	Housing New Zealand has reasonable grounds or credible evidence to suspect the tenant is responsible but insufficient evidence to prove that in the Tribunal

¹⁷⁸ CA-716, CA-716v2 at 5.4, and CA-716v3, all at 5.4. All statutory references in the table are to the RTA.

CA-716	30 March 2016	Tenant may be served with a seven day notice under section 59 (with temporary or permanent rehousing to be offered). (Policy does not appear to offer guidance about when a seven day notice may be appropriate.)	Tenant may be served with a seven day notice under section 59A, in addition to a 90 day notice, only if certain preconditions are satisfied, including (for example) baseline testing before the tenancy began and/or other evidence suggesting that the tenant caused the contamination (eg the tenant admits causing the contamination).	Tenant may be served with a seven day notice under section 59. (Policy does not appear to offer guidance about when a seven day notice may be appropriate.)
CA-716v2	6 December 2016	Tenant must be served with a seven day notice under section 59 (with temporary or permanent rehousing to be offered).	Tenant must be served with a seven day notice under section 59A but only if certain preconditions are satisfied, including (for example) baseline testing before the tenancy began and/or other evidence suggesting that the tenant caused the contamination (eg the tenant admits causing the contamination).	If Area Manager and Regional Manager believe that “the evidence would not support a [seven day notice]” they may choose to end the tenancy by serving a 90 day notice on the tenant.
CA-716v3	16 October 2017	Tenant must be served with a seven day notice under section 59 (with temporary or permanent rehousing to be offered).	Tenant must be served with a seven day notice under section 59A but only if certain preconditions are satisfied, including (for example) baseline testing before the tenancy began and/or other evidence suggesting that the tenant caused the contamination (eg the tenant admits causing the contamination).	If the Area Manager and Regional Manager believe there is evidence that the tenant contaminated the property but not enough evidence to prove Housing New Zealand’s version of events on the balance of probabilities, they may choose to end the tenancy by serving the tenant with a 90 day notice.

3.8. These policies recognise the importance of taking termination decisions that appropriately reflect Housing New Zealand’s ability to prove an application for termination under either sections 59 or 59A of the RTA. A key issue, however, is that decision-making is structured by reference to responsibility for contamination rather than simply health and safety issues. For example, where:

- (a) a premises is contaminated at levels in excess of the applicable remediation threshold, and test results recommend that a premises should not be inhabited (thereby rendering the premises uninhabitable for the purpose of section 59 or 59A);¹⁷⁹
- (b) Housing New Zealand still staff had a discretion about whether to terminate the tenancy:
 - (i) on seven days' notice, as opposed to that being a mandatory step; or
 - (ii) on 90 days' notice (as opposed to seven days' notice), or at all.

3.9. While the distinction in the policies based on responsibility for contamination could have led to tenants being treated differently even where there was the exact same level of contamination (ie posing the same health and safety risks), the case studies show that seven day notices tended to be issued after Housing New Zealand received methamphetamine testing results expressly stating that the premises was not suitable to be occupied because levels of methamphetamine contamination exceeded the applicable remediation threshold.

3.10. The following three case studies are examples of tenancies that Housing New Zealand terminated on seven days' notice:

- (a) Case study 1
 - (i) Testing confirmed that methamphetamine was detected above the applicable remediation threshold at each of the 15 sites tested inside the dwelling. The highest reading was 46µg/100cm².
 - (ii) The test report stated that: "The property ... is not suitable to be occupied".
 - (iii) On the face of the documents provided, the only indicators of potential tenant responsibility for the contamination were:
 - (A) the fact that the tenant had lived at the premises for ten years at the time testing was carried out, thereby reducing the possibility that the premises was contaminated before the tenant moved in; and
 - (B) the tenant's unwillingness to permit the testing to be carried out.
- (b) Case study 2
 - (i) Police advised Housing New Zealand that:
 - (A) drug manufacturing equipment had been found in the boot of a vehicle at the premises;
 - (B) persons located at the premises had been charged with possession of equipment for manufacturing methamphetamine approximately five weeks prior;
 - (C) drug utensils had been found at the premises and a tenant had admitted to Police that the utensils belonged to the tenant; and
 - (D) the tenant(s) were known methamphetamine users.
 - (ii) A methamphetamine pipe and point bags were found in a car parked at the premises.
 - (iii) Oranga Tamariki advised Housing New Zealand that it was taking a tenant's child into its care due to the tenant's addictions, and that its staff had become unwell after visiting the premises.
 - (iv) The tenant confirmed that they had recently graduated from Community Alcohol and Drugs Services, and denied causing the contamination.
 - (v) All sites tested inside the main dwelling at another premises displayed contamination at levels exceeding the applicable remediation threshold. The highest reading was

¹⁷⁹The Tribunal has held that methamphetamine contamination at levels exceeding the applicable remediation threshold may render a premises uninhabitable: see, for example, *Housing New Zealand Corporation Ltd v Teepa* TT Manukau 15/04385, 7 August 2015; *Ahu v Housing New Zealand Corporation Ltd* TT Auckland 15/02298, 27 November 2016; *Thompson Ltd* TT Waitakere 4051074, 11 April 2017.

35.6µg/100cm². The report also noted that testers had observed significant chemical staining/spillage on the carpet.

- (vi) The test report stated that: “For health and safety reasons we recommend that the dwelling is vacated until decontamination and testing has been completed.”

(c) Case study 3

- (i) Police advised Housing New Zealand that:

- (A) Police searched the premises while the tenant was present. They found documents detailing how to manufacture methamphetamine, as well as a zip lock bag containing a yellow crystalline substance. While there Police spoke with an occupant who admitted being an IV drug user and was in possession of needles. Another sometime occupant of the premises was arrested and remanded in custody for possession of methamphetamine (among other alleged offences).
- (B) The tenant’s partner was a methamphetamine cook and recently arrested for possessing morphine and breaching the Medicines Act.
- (C) The tenant was a known drug user and was suspected of transporting clandestine laboratory equipment.

- (ii) Housing New Zealand explained the issues arising from the Police information to the tenant. The tenant denied any illegal activity at the premises and said that there was no one else residing at the premises. The tenant later failed to attend a follow-up meeting.

- (iii) The test report stated that: “This property should not be tenanted until the remediation process has been complete and a re-assessment has been performed. [sic]” The highest test result was 3.0µg/100cm².

- (iv) Auckland Council wrote to Housing New Zealand on the same day that Housing New Zealand received the test results. It advised that it had received a notification relating to the “illegal manufacture of prohibited drugs” at a Housing New Zealand premises. The letter enclosed a cleansing order, which had been issued under section 41 of the Health Act 1956. The cleansing order provided that:

- (A) the premises was “unsanitary and not fit for habitation in their present condition”;
- (B) contaminants must be removed to a level considered safe for human habitation;
- (C) the recommendations in the test results must be carried out within one month of the date of the order or prior to premises being re-occupied; and
- (D) failure to comply with the works specified in the time provided is an offence, in respect of which Housing New Zealand may be prosecuted by Auckland Council, or Auckland Council may do the works and charge Housing New Zealand for them; and
- (E) the cleansing order would be placed on the land information memorandum (LIM) for the premises until Auckland Council was satisfied that Housing New Zealand had discharged the cleansing order.

- (v) On the same date that Housing New Zealand received the cleansing order, it served a notice on the tenant terminating the tenancy on seven days’ notice.

3.11. On two occasions, Housing New Zealand issued a 90 day notice where test results stated that the premises should not be occupied.

(a) Case study 4

- (i) A neighbour told Housing New Zealand that the tenant was manufacturing methamphetamine, and that the neighbour had used methamphetamine with the

tenant in the tenant's home. Police also advised Housing New Zealand that the tenant's former partner was a methamphetamine cook.

- (ii) Before Housing New Zealand carried out testing at the premises, the tenant completely repainted the interior, without Housing New Zealand's consent.
- (iii) Housing New Zealand conducted testing at the premises, which confirmed the presence of methamphetamine at levels significantly exceeding the applicable remediation threshold: the highest test reading was 230µg/100cm².
- (iv) The test results stated that: "The property is therefore not suitable to be occupied until remediation has been completed." The results also noted that methamphetamine levels "may be an indication of methamphetamine production".
- (v) Housing New Zealand terminated the tenancy by giving 90 days' notice.

(b) Case study 5

- (i) Housing New Zealand receives information that drug-related activity had been occurring at the premises.
- (ii) On the day that methamphetamine testing is carried out at the premises, the tenant is observed using a weed sprayer attempting to clean the walls.
- (iii) Test results state that: "The property is therefore **not suitable to be tenanted**" (emphasis per original). The highest test result was 4.9µg/100cm².
- (iv) Housing New Zealand issued a 90 day notice to the tenant. The tenant later signed a "notice to end tenancy agreement" before the 90 day notice period expired.

3.12. The case studies also suggest that some testing company recommendations, which ultimately led to Housing New Zealand taking a decision to terminate a tenancy, were not adequately supported by the test results themselves. Two examples are set out below.

(a) Case study 1

- (i) Housing New Zealand tested a premises occupied by a tenant and five children under the age of ten. Test results confirmed that only one site – the garage door (7.9µg/100cm²) – was contaminated with methamphetamine at levels exceeding the applicable remediation threshold. No methamphetamine was able to be detected or was below the applicable remediation threshold at the other 19 sites tested.
- (ii) Nevertheless, the test results provided that "[t]his property is not suitable to be occupied". They also recommended precautionary cleaning of the main dwelling – even though it was not attached to the garage and any contamination able to be detected fell below the applicable remediation threshold.
- (iii) Housing New Zealand subsequently wrote to the tenant advising that testing had confirmed chemical contamination, and that she and her family should leave the premises immediately or remain at their own risk. Housing New Zealand later served a seven day notice on the tenant. The notice advised that the premises had been deemed uninhabitable due to methamphetamine contamination.
- (iv) Housing New Zealand later withdrew the termination notice in light of the report released by the then Chief Science Advisor in May this year.¹⁸⁰ The tenant has continued in her tenancy at the premises.
- (v) While Housing New Zealand should be able to rely on unambiguous findings made by an independent agency that the premises should not be occupied when taking a decision to issue a seven day notice, the fact that the main dwelling was not, in fact, contaminated at levels exceeding the applicable remediation threshold suggests that Housing New Zealand's reliance on the report was misplaced. The presence of young children at the premises reinforces that Housing New Zealand should have given

¹⁸⁰ Professor Sir Peter Gluckman Methamphetamine contamination in residential properties: Exposures, risk levels, and interpretation of standards (Office of the Prime Minister's Chief Science Advisor, 29 May 2018).

further consideration to whether termination on seven days' notice or at all was appropriate in these circumstances.

- (b) Case study 2
 - (i) Test results provided that:
 - (A) only one site, the lounge (0.59µg/100cm²), was slightly above applicable remediation threshold;
 - (B) a thorough decontamination of the lounge was recommended; and
 - (C) “[t]he dwelling is not [to be] occupied unless and until the total dwelling tests below the [applicable remediation threshold].”
 - (ii) Housing New Zealand then served a seven day notice on the tenant. The tenant denied the contamination and advised that he should have been served with a 90 day termination notice. Housing New Zealand staff were aware that an occupant at the premises appeared to be wearing an ankle bracelet (for electronic monitoring).
 - (iii) Housing New Zealand subsequently rehoused the tenant.

3.13. These two case studies suggest that independent testing companies have on occasion made recommendations that a premises is not habitable which are not supported by the results of their own testing. In these circumstances, Housing New Zealand should have taken greater care to examine the test results, including by querying any recommendations that did not appear to follow from the results, as well as considering the tenant and their personal circumstances, before taking a decision to terminate a tenancy on seven days' notice.

Decision to provide test results to tenants

3.14. From March 2016 onwards, Housing New Zealand's policies appear to provide for copies of methamphetamine testing results to be given to tenants at a tenant's request, subject to any sensitive material being redacted, but not as a matter of course.¹⁸¹ This is reflected in the case studies. This appropriately reflects the technical nature of the reports.

Decision to notify tenant of an application for possession of the premises where Housing New Zealand is on notice that the tenant may be incarcerated

3.15. The RTA provides that where a landlord files a Tribunal application within two months after the termination of a tenancy, any notice or other document required to be served on the tenant will be deemed to have been properly served on the tenant if it is sent to the tenant's address for service.¹⁸²

3.16. In one case study, a tenant's partner told Housing New Zealand that the tenant had been incarcerated and was not expected to be released for several months. Housing New Zealand later filed an application in the Tribunal seeking immediate possession of a premises and to recover rent arrears. While not strictly required by the RTA, Housing New Zealand contacted the tenant (through the Department of Corrections) to notify them that there was a Tribunal hearing scheduled for the same day to deal with Housing New Zealand's application. (It is unclear from the documents provided whether Housing New Zealand also sought to notify the tenant's partner about Housing New Zealand's application and the Tribunal hearing.)

3.17. We consider that contacting tenants through the Department of Corrections in such cases is an appropriate step to ensure that tenants are properly on notice about any application Housing New Zealand may make in respect of them, and are able to exercise their rights to appear (or have a representative appear) at the hearing of any such application. To ensure consistency in this regard, we recommend that Housing New Zealand review its processes and policies for effecting service

¹⁸¹ CA-716, CA-716v2 at 5.4, and CA-716v3, all at 5.4.

¹⁸² RTA, section 91A(1).

and notifying current or former tenants about applications filed by Housing New Zealand where Housing New Zealand is on notice that the tenant may be incarcerated.

4. Decision to suspend from Housing New Zealand housing

Housing New Zealand's policies

- 4.1.** Housing New Zealand's suspension guidelines provide that where possible, when a serious breach of tenancy obligations may result in a tenancy being terminated, Housing New Zealand must discuss with the tenant that Housing New Zealand may consider suspending them from eligibility for Housing New Zealand housing. Any decision about suspension is to be made independently of a decision to terminate a tenancy.
- 4.2.** From 2015 onwards, the minimum requirements that must be fulfilled before a tenant can be considered for suspension are credible evidence of:
- (a) serious debt (consideration must be given to the circumstances in which the debt was incurred);
 - (b) serious antisocial behaviour by the tenant; and/or
 - (c) serious unlawful activity by the tenant.
- 4.3.** Any other mitigating or aggravating factors must be taken into account. These can include, for example:
- (a) whether there are any children living at the premises, including their ages and any disabilities, and whether suspension will negatively impact upon those children;
 - (b) whether there is any information of domestic violence, and whether suspension would negatively impact on the victim(s);
 - (c) the age and health of the tenant;
 - (d) any steps taken by the tenant to fix the problem or other evidence of the tenant accepting responsibility; and
 - (e) any support agencies are working with the tenant.
- 4.4.** We are instructed that the current suspension guidelines have been in place since 2015 without any significant changes. Only one of the 34 case studies involves a tenant being suspended from state housing eligibility under the old 2011 suspension guidelines.
- 4.5.** The case studies illustrate that while the suspension guidelines were generally applied appropriately, there is scope for Housing New Zealand to improve its processes and procedures going forward.

Issues arising

- 4.6.** The case studies suggest that, while Housing New Zealand's suspension guidelines were generally applied appropriately, there have been instances where those guidelines:
- (a) were not applied at all; or
 - (b) were not applied in an appropriate way (for example, where joint tenants were not considered for suspension separately and/or where a tenant was considered for suspension after Housing New Zealand had approved a business initiated transfer and despite the tenant's particular medical needs).
- 4.7.** These issues are illustrated in case studies one and two below.
- 4.8.** In addition, we have identified that Housing New Zealand's processes for notifying tenants that they were being considered for suspension may not have provided a sufficient level of detail to enable a tenant to respond meaningfully to Housing New Zealand's notification.
- (a) Case study 1
 - (i) A grandmother, her adult son, and her son's child lived at a Housing New Zealand premises. The two adults were named as tenants. The grandmother required dialysis three times a week.

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- (ii) In response to an information request by Housing New Zealand, Police advised that one of the tenants at the premises was an active gang member with a history of methamphetamine charges. (In the time available, Housing New Zealand has not been able to locate a contemporaneous written record of the Police response to Housing New Zealand's information request.)
 - (iii) Housing New Zealand subsequently arranged for the premises to be tested for methamphetamine. Three of the 15 sites tested were contaminated at levels exceeding the applicable remediation threshold. The highest test result was $4.47\mu\text{g}/100\text{cm}^2$.
 - (iv) The tenants denied using methamphetamine at the premises.
 - (v) After meeting with the tenants, Housing New Zealand wrote to them advising that they may be considered for suspension and that the tenancy may be terminated.
 - (vi) Housing New Zealand reviewed and upheld a decision to suspend both tenants (and to terminate the tenancy on 90 days' notice). Housing New Zealand observed that it had acted "in the public interest" and on the basis of credible evidence (namely, the test results and information from Police).
 - (vii) Housing New Zealand later approved at business initiated transfer and rehoused the female tenant and suspended the male tenant.
 - (viii) On the basis of the information available, there was no credible evidence of the female tenant satisfying any of the minimum requirements for suspension set out in Housing New Zealand's suspension policy. Further, her age and need for dialysis are mitigating factors that should have told against suspension from the outset.
 - (ix) This issue may have arisen because Housing New Zealand may have failed to treat the grandmother and her son separately when considering whether either tenant ought to be suspended. In addition, it appears that Housing New Zealand may have believed (incorrectly) that the female tenant's acknowledgement that she was technically responsible for any property damage caused by someone else at the premises with her permission amounted to her being party to "serious unlawful conduct".
 - (x) While Housing New Zealand did ultimately transfer the female tenant into new Housing New Zealand housing, it is arguable that Housing New Zealand should not have notified her that it was considering her for suspension in the first place given this would have undoubtedly caused her stress not justified by the information available to Housing New Zealand.
- (b) Case study 2
- (i) The tenant was the sole approved occupant of a Housing New Zealand premises.
 - (ii) Housing New Zealand received information from Police that the tenant's son was a known methamphetamine user. (In the time available, Housing New Zealand has been unable to locate a contemporaneous written record of this Police advice.)
 - (iii) Housing New Zealand carried out methamphetamine testing. Only one site, the lounge, was above applicable remediation threshold, and only by a fractional amount (by $0.09\mu\text{g}/100\text{cm}^2$ more than the threshold).
 - (iv) Housing New Zealand suspended the tenant. (Housing New Zealand has been unable to locate any written correspondence with the tenant notifying him that he was being considered for suspension, and confirming his suspension.)
 - (v) An internal Housing New Zealand document suggests that Housing New Zealand may have taken a decision to suspend the tenant in light of:
 - (A) methamphetamine contamination at the premises; and
 - (B) Police information that the tenant's son was a known methamphetamine user.
 - (vi) This is problematic because:

- (A) In the absence of void testing, methamphetamine testing results do not establish when the contamination arose: they cannot identify whether the contamination arose before and/or during a particular tenancy.
 - (B) Any suspicion that the tenant's son was a methamphetamine user is not credible evidence that the tenant himself was engaging in serious unlawful activity, or had breached his tenancy obligations (which could amount to a qualifying event under the suspension guidelines).
- (vii) Accordingly, on the basis of the information available, there is no credible evidence that any of the minimum requirements for suspension were satisfied.
 - (viii) Housing New Zealand later reversed its decision to suspend the tenant and offered him another Housing New Zealand premises, which he accepted.

Natural justice issues arising from Housing New Zealand notification to tenants that they are being considered for suspension

- 4.9. As a public body, Housing New Zealand must abide by the rules of natural justice. This includes writing to a tenant to explain that they are being considered for suspension, and inviting them to respond before Housing New Zealand takes a final decision.
- 4.10. In some of the case studies, Housing New Zealand wrote to the tenant advising that it was considering them for suspension due to "illegal activity" at the premises, which Housing New Zealand considered to be "a serious breach of [the tenant's] tenancy obligations".
- 4.11. These letters do not spell out the nature of the alleged illegal activity, who Housing New Zealand believes may be responsible for it, when it may have occurred, and why it breaches the tenant's obligations.
- 4.12. In order for a tenant to respond meaningfully to Housing New Zealand, including with any reasons why the tenant says they should not be suspended, it is necessary for Housing New Zealand to set out in appropriate detail the reasons why it is considering the tenant for suspension.
- 4.13. Further, in one case study, Housing New Zealand wrote to the tenant to advise that they were being considered for suspension "due to methamphetamine contamination above Ministry of Health Guidelines" which Housing New Zealand considered was "serious breach" of the tenant's tenancy obligations. (The highest test result was 3.7µg/100cm².) As noted above, the existence of methamphetamine contamination by itself does not necessarily indicate that a tenant has breached any of their tenancy obligations and, therefore, was not an adequate explanation to the tenant.

Business initiated transfers

- 4.14. The case studies suggest that, particularly from 2017, Housing New Zealand has utilised the business initiated transfer procedure more extensively to rehouse tenants, even where those tenants may have been eligible for suspension under Housing New Zealand's suspension guidelines.

5. Decision to seek to recover methamphetamine-related costs from tenants

Housing New Zealand's policies

- 5.1. Between 2004 and March 2011, and from March 2016 to the present, Housing New Zealand's policies have consistently required that in order for Housing New Zealand to seek to recover methamphetamine-related costs (including testing, decontamination, and reinstatement costs) from tenants, Housing New Zealand must:
 - (a) have confirmation of or credible evidence to support a finding that a tenant has in caused or contributed to methamphetamine contamination of a premises (earlier versions of the policies required confirmation that the tenant had manufactured methamphetamine); and
 - (b) seek to recover costs associated with testing for, cleaning, and reinstating a contaminated premises (at minimum) through the Tribunal or the District Court.

Issues arising

- 5.2.** The case studies indicate two key issues arising from Housing New Zealand's policies:
- (a) In some instances Housing New Zealand has applied methamphetamine-related expenses to tenant accounts, without seeking to prove in the Tribunal or the District Court that the tenant was liable to pay for those costs. On occasion, Housing New Zealand did so after having taken a decision not to seek to recover those costs in the Tribunal on the basis that Housing New Zealand had insufficient evidence to prove its claim, or would be unable to satisfy the service requirements imposed by the RTA on former tenants who had vacated the premises.¹⁸³
 - (b) Secondly, Housing New Zealand appears not to have applied its own policies when taking a decision about whether to seek to recover methamphetamine-related costs, particularly where Housing New Zealand's (older) policies provided for Housing New Zealand to seek to recover such costs only where Housing New Zealand had received confirmation that methamphetamine had been manufactured at a premises.
- 5.3.** Charging tenants for methamphetamine-related expenses in this way is problematic because Housing New Zealand is not entitled to do so under either the terms of its residential tenancy agreements or under the RTA.¹⁸⁴
- 5.4.** In order to attempt to recover these costs, Housing New Zealand needs to bring a claim against the tenant in the Tribunal or the District Court. It would then be for Housing New Zealand to prove that it is more likely than not that the damage (ie methamphetamine contamination):¹⁸⁵
- (a) arose during that tenant's tenancy; and
 - (b) was not the result of fair wear and tear.
- 5.5.** In some instances where Housing New Zealand has charged tenant accounts for methamphetamine-related costs without an order from the Tribunal or the District Court, Housing New Zealand has later transferred funds from a tenant account in credit (typically a rent account) into the tenant account against which the methamphetamine-related costs have been charged, apparently to offset those methamphetamine-related costs.
- 5.6.** In situations where Housing New Zealand has charged tenant accounts in the absence of an order from either the Tribunal or the District Court for methamphetamine-related costs, we recommend that Housing New Zealand remove those charges. Where Housing New Zealand has attempted to offset those costs by moving funds from a tenant account in credit into an account containing the methamphetamine-related costs, we recommend that those funds are credited back to the tenant.
- 5.7.** Three examples of the issues described above are set out below.
- (a) Case study 1
 - (i) In relation to the case study at paragraph 3.11(a) above, Housing New Zealand took a decision not to apply to the Tribunal for early termination of the premises (ie before the 90 day terminate notice expired) on the basis that there was insufficient evidence to prove that the tenant was responsible for the contamination.
 - (ii) Notwithstanding Housing New Zealand's view that it would be unable to prove that it was more likely than not that the contamination arose during the tenant's tenancy, it charged the tenant \$81,091.71 for methamphetamine testing and reinstatement costs. (The amount of the charge imposed exceeds the Tribunal's \$50,000 jurisdictional limit and would require a claim to be brought in the District Court.)

¹⁸³ See RTA, section 91A.

¹⁸⁴ The Tribunal recommended that Housing New Zealand apply to the Tribunal before sending a letter of final account to a tenant, and that the tenant should be advised that such a debt may be challenged and that the tenant should seek independent advice: *Housing New Zealand v McKelvey* TT Palmerston North TT 268/96, 11 April 1996.

¹⁸⁵ RTA, sections 40 and 41.

(b) Case study 2

- (i) Housing New Zealand terminated a tenancy on 90 days' notice after it received test results confirming that the premises was not habitable due to methamphetamine contamination. (The highest test result was 4.47 µg/100cm².) There was no credible evidence that the elderly female tenant had caused or permitted the contamination. Housing New Zealand approved a business initiated transfer for the female tenant.
- (ii) Notwithstanding this, in August 2017 Housing New Zealand applied to the Tribunal to recover costs totalling \$21,914.68 from the female tenant arising from testing, decontamination, and clearance tests. Housing New Zealand later withdrew its application because it had insufficient evidence to proceed.
- (iii) After Housing New Zealand withdrew its application, it transferred a \$295.65 credit from the female tenant's rent account into a write-off account in order to offset damages. The documents provided suggest that Housing New Zealand has no contractual basis for offsetting the methamphetamine-related damages against the tenant's rent credit. Consequently we recommend that the funds which were moved from the female tenant's rent account to the write-off account be credited back to the female tenant.¹⁸⁶

(c) Case study 3

- (i) Testing carried out by contractors engaged by Housing New Zealand confirmed that the premises was contaminated with methamphetamine. (The highest test result was 7.30µg/100cm².)
- (ii) At the time, the applicable Housing New Zealand policy (T-126v3) provided for Housing New Zealand to seek to recover methamphetamine-related costs from a tenant if methamphetamine manufacture was confirmed.
- (iii) The documents available for review did not contain any suggestion that the contamination was due to methamphetamine manufacture by the tenant.
- (iv) Housing New Zealand nevertheless considered making an application to the Tribunal to recover methamphetamine-related costs from the tenant. Housing New Zealand took a decision not to make an application on the basis that too much time had elapsed since the tenancy had ended, and it did not have a new address for the tenant.
- (v) Having taken a decision not to make an application to the Tribunal, Housing New Zealand then applied methamphetamine-related charges of approximately \$14,000 to the tenant's accounts.

6. Other issues arising

Police information

- 6.1. The case studies show that Housing New Zealand frequently sought personal information about its tenants or official information about its tenancies from Police in order to assess whether it had reasonable grounds for carrying out methamphetamine testing. This demonstrates that Housing New Zealand took steps to ensure that it was taking decisions based on credible evidence.
- 6.2. In many cases, Police provided information in a formal memorandum under the terms of Housing New Zealand's memorandum of understanding with Police dated 5 May 2010.

Contemporaneous written records of any verbal communications with Police

- 6.3. In some case studies, however, the documents collated by Housing New Zealand did not contain a contemporaneous written record of the information provided by Police. This may have arisen as a

¹⁸⁶ We understand that charges owing by a tenant at the end of their HNZ tenancy may be moved into a write-off account. If the tenant begins a new HNZ tenancy, HNZ may move charges out of the write-off account into a current tenant account, thereby reactivating the debt.

result of a Housing New Zealand staff person having a conversation with Police and failing to record that in writing (for example, in Kotahi), or simply as a result of Housing New Zealand being unable to locate those records in the time available.

- 6.4.** Going forward, Housing New Zealand needs to continue to take steps to ensure that all staff are familiar with their obligations under Housing New Zealand's memorandum of understanding with Police, and generally under the Privacy Act and Official Information Act.

Relevance of Police information to Housing New Zealand's decision-making processes

- 6.5.** The case studies suggest that there is scope for Housing New Zealand to improve the way that it understands and relies on Police information when it takes decisions that have outcomes for its tenants.
- 6.6.** In particular, Housing New Zealand's policies could better assist staff to distinguish between:
- (a) incidents where Police have not laid charges;
 - (b) incidents where Police have laid charges (and the relevance and age of any such charges);
and
 - (c) charges that have resulted in a conviction (where the matter has proceeded to trial or the tenant has entered a guilty plea).

Appendix G – Information on Housing New Zealand’s legal and regulatory context

Housing New Zealand is both a statutory entity and Crown agent. Its objectives, powers and functions are set out in legislation. Primarily, Housing New Zealand’s objective is to achieve the Crown’s social objectives for housing and housing related services. In terms of how the government’s policy settings are met, Housing New Zealand uses its powers and functions as set out primarily in the Housing Corporation Act 1974 and the Housing Restructuring and Tenancy Matters Act 1992 to achieve its objectives.

What are Housing New Zealand’s legal responsibilities to its tenants?

As a public body, Housing New Zealand must act lawfully, fairly and reasonably, as well as consistently with the Crown’s social objectives.

Where tenants consider that Housing New Zealand has acted in breach of its responsibilities, a range of avenues is open to them including:

- Tenancy Tribunal proceedings in respect of all landlord-tenant matters;
- Human Rights Commission/ Human Rights Review Tribunal proceedings where discrimination is alleged;
- Judicial review proceedings or a complaint to the Ombudsman where Housing New Zealand is considered to have acted unlawfully, unfairly or unreasonably in its decision-making (for example in the adoption or implementation of its policies).

Does Housing New Zealand have a duty to house or re-house tenants?

Housing New Zealand, as a public housing provider, is required to house those in need¹⁸⁷ (practically interpreted as persons on Ministry of Social Development’s housing register). However, it does not have a statutory duty to house a particular person or to provide specific housing to a person. This is set out explicitly in the Housing Restructuring and Tenancy Matters Act 1992 at s76 and has been confirmed in the District Court¹⁸⁸.

In short, while Housing New Zealand must act consistently with its functions and objectives, and within its powers, the Housing Corporation Act 1974 does not give rise to a private action of ‘breach of statutory duty’, enabling individuals to bring claims against Housing New Zealand for not fulfilling its statutory objectives. Rather, the individual may pursue administrative avenues, such as judicial review, if he or she considers that Housing New Zealand has not acted lawfully, fairly or reasonably in its decision-making. In addition, within the schemes of the RTA and HRTMA, tenants have a number of avenues available to bring legal claims against Housing New Zealand.

Housing New Zealand’s responsibilities to tenants under the RTA

Housing New Zealand, as a landlord, is bound to comply with the RTA. While it was acknowledged that the Ministry of Health Guidelines and subsequent remediation guidelines were advisory only, various Tenancy Tribunal and higher court cases from 2004 onwards found that renting out a premise that was contaminated with methamphetamine at levels exceeding the applicable remediation guidelines was a breach of a landlord’s obligations:

- to provide a habitable premises;¹⁸⁹
- under section 45(1)(a) of the RTA to provide the premises in a reasonable state of cleanliness,¹⁹⁰ and/or

¹⁸⁸ *Cook v Housing New Zealand Corporation* [2016] NZDC 676.

¹⁸⁹ *Harper Property Management Ltd v Visage* TT Pukekohe 15/06955, 16 March 2016 (*Visage*).

- under section 45(1)(c) of the RTA, at least after the NZ Standard was introduced, to comply with all requirements in respect of buildings, health and safety.¹⁹¹

Where landlords, including Housing New Zealand, breached these obligations, compensation was generally payable to tenants, and the landlord could also be ordered to clean the property. For example, in the *Harris*¹⁹² case the Tribunal found that:

- there was an underlying presumption in the RTA, as well as implied term in a residential tenancy agreement, that a property provided for a residential tenancy would be habitable
- if a premises was contaminated with methamphetamine “at any level” it was “unclean” and a breach of s 45(1)(a) of the RTA
- it was reasonable to consider that the premises was contaminated above the Ministry of Health Guidelines and accordingly the landlord had breached s 45(1)(c)
- it was no defence that the landlord said he did not know that the premises was contaminated.

Also, in the *Harper* decision¹⁹³, the Tribunal found that:

- ... although the Ministry of Health guidelines make clear that they do not have statutory effect and are advisory only, I consider that they are of primary importance in determining whether or not the premises were fit for tenants to live in.
- ...if the contamination is above the 0.5 micrograms level then the premises are not fit to be occupied whether the cause of the methamphetamine contamination was ‘cooking’ or smoking.

The threshold for contamination was considered expressly in *Ahu*¹⁹⁴ in which the Tribunal:

- acknowledged that while the Ministry of Health Guidelines were directed towards remediation of methamphetamine labs, they addressed “the risk to human health from the occupation of a dwelling contaminated ... at levels above the cited threshold”;
- noted that equivalent Australian guidelines (Clandestine Drug Laboratory Remediation Guidelines 2011) made “clear that contamination regardless of whether caused by cooking in a clandestine laboratory or from smoking by a user of the drug, will contaminate the inside surfaces of buildings”, and that there was no reason why the position in New Zealand should be any different; and
- concluded that this approach was supported by:

“... sound public policy and community health reasons to support a robust approach being taken by the Tribunal where laboratory testing, using internationally recognised methodology, discloses methamphetamine contamination of premises at levels exceeding the threshold referred to in the Ministry of Health Guidelines.”

And, in the *Hughes* case¹⁹⁵, the Tribunal found that:

- In respect of applications made under ss 59 or 59A of the RTA, methamphetamine contamination at levels exceeding the Ministry of Health Guidelines amounted to damage to the premises.
- It was implicit in the Ministry of Health Guidelines that “*the health of people is not protected when occupying a dwelling*” with methamphetamine residue exceeding the Ministry of Health Guidelines level.

The Tribunal’s usual approach has been to impose strict liability on landlords to provide habitable premises, regardless of whether the landlord was aware of the contamination.¹⁹⁶ In several cases, the Tribunal warned that landlords were taking “a huge risk” by failing to carry out methamphetamine testing before a tenancy began.¹⁹⁷

¹⁹⁰ *Lepua v Barfoot & Thompson Ltd* TT Waitakere 4051074, 11 April 2017 (**Lepua**).

¹⁹¹ *Smith v Accessible Properties New Zealand Ltd* [2018] NZHC 1010 (*Smith*).

¹⁹² *Harris v Thomas Baseden Real Estate Ltd* TT North Shore 4001631, 15 March 2016

¹⁹³ *Harper Property Management Ltd v Visagie* TT Pukekohe 15/06955, 16 March 2016

¹⁹⁴ *Ahu v Housing New Zealand Corporation Ltd* TT Auckland 15/02298, 27 November 2015

¹⁹⁵ *Hughes v BCRE Ltd trading as Harcourts & Another* TT Pukekohe 4001997, 40066950, 18 August 2016

¹⁹⁶ *Lepua; Visage; Lodge City Rentals v Forkert* TT Hamilton 404777, 30 November 2016.

¹⁹⁷ *Lepua; Harris v Thomas Baseden Real Estate Ltd* TT North Shore 4001631, 15 March 2016 (*Harris*).

On one occasion, the Tribunal awarded exemplary damages against Housing New Zealand for providing premises to a tenant that were alleged to have been contaminated prior to the tenancy beginning, despite Housing New Zealand not having any prior knowledge of the contamination.¹⁹⁸

In some instances, the Tribunal found that contamination at levels above the Ministry of Health Guidelines threshold meant that premises were so seriously damaged as to be uninhabitable, with the consequence that the tenancy could be terminated by either party on seven days' notice under section 59 of the RTA.¹⁹⁹

The District Court has confirmed that the remediation guidelines in effect at the time methamphetamine testing was carried out are to be applied.²⁰⁰ This approach was applied by the Tribunal in a recent decision, post release of the Chief Science Advisor report. The Tribunal found that because the landlord in that case had undertaken testing and remediation when the New Zealand Standard was the accepted remediation threshold, that (and not the Chief Science Advisor report) was the applicable standard. The Tribunal noted that "the fact that scientific opinion may have changed since then, does not alter the fact that the landlord acted at the time on the basis of the accepted standard".²⁰¹

In addition, some local authorities also adopted remediation guidelines as setting the threshold for issuing a cleansing order in respect of "contaminated" properties. A local authority may issue a cleansing order under section 41 of the Health Act 1956 if it is of the opinion that any premises needs to be cleansed to prevent danger to health or to make a premises fit for occupation. Cleansing orders require property owners to undertake remediation to clean properties to a level specified in the order. It is an offence not to comply with such orders. In one case study discussed in Part two, Auckland Council issued a cleansing order to Housing New Zealand. The notice provided that:

- a) the premises was "unsanitary and not fit for habitation in their present condition";
- b) the premises must be remediated in accordance with the recommendations in methamphetamine testing results obtained by Housing New Zealand within in one month of the date of the order or prior to premises being re-occupied; and
- c) failure to comply with the works specified in the time provided was an offence, in respect of which Housing New Zealand may be prosecuted by Auckland Council.

Housing New Zealand's responsibilities to its staff and contractors

Housing New Zealand has responsibilities under the Health and Safety at Work Act 2015 (preceded by the Health and Safety in Employment Act) to staff, contractors and others who are present on its work sites. These work sites include tenanted houses while work is being carried out (but not when used for solely domestic purposes by tenants). Housing New Zealand's responsibilities are extensive and include a requirement to eliminate or minimise risks to health and safety, as far as is reasonably practicable²⁰².

¹⁹⁸ *Wharehinga v Housing New Zealand Corporation Ltd* TT Gisborne 4028986, 7 December 2016.

¹⁹⁹ *Housing New Zealand Corporation Ltd v Teepa TT Manukau* 15/04385, 7 August 2015; *Ahu v Housing New Zealand Corporation Ltd* TT Auckland 15/02298, 27 November 2016; *Hughes v BCRE Ltd trading as Harcourts & Another TT Pukekohe* 4001997, 40066950, 18 August 2016.

²⁰⁰ *Diamond Real Estate Ltd v Allan* [2017] NZDC 883.

²⁰¹ *Hill v Rudd TT Palmerston North* 4133502, 13 June 2018 at [31].

²⁰² S30 Health and Safety at Work Act 2015

Appendix H – Glossary of terms and abbreviations

7 day notice – a written notice under the Residential Tenancies Act 1986 (RTA) given by a landlord to a tenant to end a tenancy. For methamphetamine cases, Housing New Zealand gave notice under sections 59 and 59A of the RTA.

90 day notice – a written notice under the Residential Tenancies Act 1986 (RTA) given by a landlord to a tenant to end a tenancy. Notice is given under section 51 (1) (d) of the RTA.

ASB – Anti-Social Behaviour – any behaviour by a tenant or tenant’s family member or visitor that unreasonably interferes with another person’s right to the use and enjoyment of their home or neighbourhood. Anti-Social Behaviour includes but is not limited to harassment and intimidation, assault, noise and vehicle nuisance, deliberate property damage and illegal activity.

Anti-social Behaviour Guideline – a Housing New Zealand policy released in 2014 that revamped and replaced the Encouraging Good Neighbour Behaviour Guideline

Baseline test – where a vacant property (with no suspicion of known contamination) is sampled, tested and assessed for methamphetamine contamination, after all repairs are completed, to establish a ‘baseline’ position before letting to a new tenant.

BIT – Business Initiated Transfer – where Housing New Zealand (the business) initiates the transfer of a Housing New Zealand tenant to an alternative vacant Housing New Zealand tenancy.

CGH – Community Group Housing – a programme run by Housing New Zealand, providing housing (subject to eligibility and funding) to groups who hold a contract with the Government to provide residential or non-residential services. CGH properties are owned by Housing New Zealand or leased from private owners for CGH purposes.

CSA report – the report released by the Government’s Chief Science Advisor on 29 May 2018, entitled ‘Methamphetamine contamination in residential properties: Exposure, risk levels, and interpretation of standards’

Decontamination – the process of reducing the level of methamphetamine in a property by cleaning the property or removing contaminated material from the property, or both.

EGNB – Encouraging Good Neighbour Behaviour – a Housing New Zealand policy initiated in 2009 to encourage tenants to act as good neighbours who contribute positively to community life. It defined good neighbour behaviour and anti-social behaviour (and under that, unlawful activity).

ESR – the Institute of Environmental and Science Research, formerly Environmental and Science Research (Ltd)

Eviction – where a termination or possession order has been made and a tenant has not vacated the property, eviction of the tenant can be sought by a landlord. Civil enforcement is undertaken by a District Court bailiff pursuant to powers under the District Court Act 2016.

Household – All people (tenants, other adults and children) living at a rented property

HLP - Home Lease Programme - Housing New Zealand leases properties from private owners and uses them to provide state housing to households in need (these properties are referred to as HLPs). The leasing arrangement is set out in a commercial lease between Housing New Zealand and the owner covering a period of several years.

IRR – Income Related Rent – a subsidised rent scheme for social housing tenants with low incomes. The rate of IRR is calculated based by the Ministry of Social Development on a household’s assessable income and their household type.

IRRS – Income Related Rent Subsidy – where a tenant qualifies for income-related rent, the Government pays the social housing provider the difference (IRRS) between the tenant’s IRR rent and the market rent

Kotahi – Housing New Zealand’s tenancy management computer system

LIM – Land Information Memorandum – a LIM is a summary of property information held by a Local Council

MBIE – Ministry of Business, Innovation and Employment

MSD – Ministry of Social Development

Meth – an abbreviation of ‘methamphetamine’, a controlled substance, classified as a Class A drug under the Misuse of Drugs Act 1975

Methamphetamine contamination – where a property or part of a property has been tested for methamphetamine and the levels found exceed the external decontamination threshold being followed by Housing New Zealand at the time of testing.

OIA – a request for information to be supplied by Housing New Zealand pursuant to the Official Information Act 1982.

Oracle EAM – Housing New Zealand’s Enterprise Asset Management system – part of Oracle EBS.

Oracle eBusiness Suite (EBS) – a suite of computer applications comprising Housing New Zealand’s financial, asset and project management systems.

PBMC – Performance Based Maintenance Contractor – one of several large contractors who complete repairs and maintenance of state housing across New Zealand.

Public housing – all public housing providers, including community housing providers and Housing New Zealand

State housing – Property owned by Housing New Zealand

Strip out – where a property with methamphetamine contamination readings above threshold requires the physical removal of materials from the property.

Suspension – a previous policy used by Housing New Zealand between 2011 and early 2018. Where tenancies were ended involving methamphetamine, tenants, household members and/or associates of the tenants could be suspended from further state housing from Housing New Zealand for a period of up to 12 months.

TENAC – Tenant Attributed Charge – a computer account used to record and manage charges made to a tenant for damage to a Housing New Zealand property

Tenancy Tribunal – a Tribunal established by the Residential Tenancies Act 1986 to deal with unresolved problems between landlords and tenants. An adjudicator listens to both parties, makes a decision according to the terms of the Residential Tenancies Act 1986 and issues an order that is legally binding on all parties.

Tenant – a person granted the tenancy of a property from a landlord under a tenancy agreement, either verbal or written.

Termination – where a tenancy is ended in accordance with the provisions of the Residential Tenancies Act 1986. This may be by notice or by order of the Tenancy Tribunal. The outcome is that possession of the property (legal control of the property) is returned to the landlord, either as a result of the tenant leaving voluntarily or following a bailiff-run eviction.

Triple wash – a method used to clean a property with methamphetamine contamination.

Write-off – where it is agreed by Housing New Zealand that a debt is not currently able to be repaid or will no longer be pursued.

New Zealand Legislation or Guidelines noted in this report

Bill of Rights Act 1990

Crown Entities Act 2004

District Court Act 2016

ESR 'Review of Remediation Standards for Clandestine Methamphetamine Laboratories: Risk Assessment recommendations for a New Zealand Standard' (6 October 2016)

Hazardous Substances and New Organisms Act 1996

Health Act 1956

Health and Safety in Employment Act 1992

Health and Safety at Work Act 2015

Housing Corporation Act 1974

Housing Restructuring and Tenancy Matters Act 1992

Ministry of Health 'Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites' (August 2010)

Misuse of Drugs Act 1975

Residential Tenancies Act 1986

Residential Tenancies Amendment Bill (No 2) – a proposal to amend the Residential Tenancies Act 1986 - currently progressing through Parliament as at July 2018

Social Housing Reform (Transaction Mandate Bill) 2015

Standards New Zealand NZS 8510:2017 – 'Testing and Decontamination of methamphetamine-contaminated properties'

Appendix I – Key document list

1. CA-716 Managing Methamphetamine (P) in Housing New Zealand properties (latest version)
2. T-250 Guidelines for managing tenant belongings affected by methamphetamine contamination (latest version)
3. CA-717 Guidelines for Managing Methamphetamine (Meth) in Home Lease Properties (24 April 2018)
4. CA-718 Guidelines for Managing Methamphetamine (Meth) in Emergency Housing properties (latest version)
5. CA-719 Guidelines for Managing Methamphetamine (Meth) in Community Group Housing properties (20 April 2018)
6. Methamphetamine Contamination (Wanganui results)/P Lab training – 16 September 2014
7. Technical commentary and opinion relating to the nature, health significance and persistence of trace of methamphetamine on indoor surfaces (13 June 2016) – Dr Nick Kim
8. Methamphetamine contamination in residential properties: Exposures, risk levels, and interpretation of standards (29 May 2018) – Professor Sir Peter Gluckman
9. Housing New Zealand Corporation Review of P (P) Contamination Management and Strategies (8 April 2016) - Deloitte
10. Review of Remediation Standards for Clandestine Methamphetamine Laboratories: Risk Assessment recommendations for a New Zealand Standard (7 October 2016) - ESR
11. NZS 8510:2017 Testing and decontamination of methamphetamine –contaminated properties
12. Memo: Interim Testing & Remediation Approach – P Contamination (6 May 2015)
13. Correspondence between the PSA and Housing New Zealand (28 January–9 March 2016)
14. Encouraging Good Neighbour Behaviour Policy (8 October 2010)
15. T-229 Anti-social Behaviour Guideline (latest version)
16. Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites (August 2010) – Ministry of Health
17. T-126 Tenancy Management Procedure: Methamphetamine (P) and Housing New Zealand Corporation tenancies (latest version)
18. Project Initiation Document: Methamphetamine Contamination Policy Review (28 July 2015)
19. Methamphetamine Management Programme Brief (7 April 2016)
20. Methamphetamine Management Programme Plan (27 July 2016)
21. Standards and Methods Stream Project Initiation Document, Methamphetamine Management Programme (5 September 2016)
22. Methamphetamine health update for staff (12 February 2016)
23. Memo – Advice on Methamphetamine Threshold, Acting Chief Executive to Chair Housing New Zealand (13 July 2016)
24. Memo – Advice on Methamphetamine Threshold, Acting Chief Executive to Chair Housing New Zealand (1 August 2016)
25. Email correspondence between Methamphetamine Programme Manager and Dr Nick Kim, 25 July 2016
26. Methamphetamine Management Board memorandum: using methamphetamine – management of unlawful activity (5 September 2016)
27. P-250 – Policy for Managing Methamphetamine (P) in Housing New Zealand Managed Properties (latest version)
28. ESR - Housing New Zealand - Methamphetamine Contamination Data Project (Update) 10 August 2017
29. Correspondence between Housing New Zealand Chief Executive and Chai Chuah, Director-General, Ministry of Health – 27 October 2016
30. Project Completion Report Customer Risk Indicator Project (June 2010)
31. Interim Process for Requesting and Undertaking Methamphetamine Testing on Tenanted Properties (19 November 2015)
32. Business Alert – Interim Change to Methamphetamine Process for Termination – use of 90 day notice and 7 day notice (12 May 2016)
33. Final Drug communications email 23 February 2018
34. Operational Policy Guidelines (29 July 2011)

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35. SOC Min (11) 6/2 “Improvements to the Housing New Zealand Corporation’s Social Allocation System”
 36. SOC (11) 19 “Improvements to the Housing New Zealand Corporation Social Allocation System”

Board Papers

1. Deloitte Methamphetamine (P) Review (3 May 2016)
2. Ministry of Health methamphetamine contamination threshold (18 October 2016)
3. Suspensions Policy (25 October 2011)
4. 5-1 CE report - Encouraging Good Neighbour Behaviour Policy introduced (26 March 2009)
5. Minutes of a meeting of the Board of Housing New ZealandC - Suspensions Policy (25 October 2011)
6. Extracts from Board minutes from 30 June 2015 to 18 October 2016
7. 3-1 CE report (includes dog attack) (27 October 2015)
8. Minutes of a meeting of the Board of Housing New Zealand (27 October 2015)
9. Board paper 6-2 - Chief Operating Officer Report (24 November 2015)
10. Minutes of a meeting of the Board of Housing New ZealandC (24 November 2015)

Executive Team papers

1. Deloitte Methamphetamine (P) Review (12 April 2016)
2. Meeting of the Executive, Effective decision making around when and how tenancies are terminated (December 2008)

Appendix J – Bibliography

Date	
Ad hoc briefings to the Minister	
19/1/2009	AH 09 001 Methamphetamine lab explosion at [Housing New Zealand property]
9/7/2009	AH 09 131 Methamphetamine Sensor Ad Hoc
27/8/2012	Draft of AH 12 122 about responses to Methamphetamine manufacture, including staff training with comments
29/8/2012	AH 12 122 Housing New Zealand Corporation response to the manufacture of methamphetamine in state rental properties
6/9/2012	Attachment for AH 12 127 - 2010/11 to 2012/13 methamphetamine contamination
6/9/2012	Attachment for AH 12 127 - 2010/11 to 2012/13 methamphetamine contamination
6/9/2012	Email with detailed methamphetamine info for AH 12 127
6/9/2012	Email with detailed methamphetamine info for AH 12 127
22/2/2013	AH 13 013 - illegal activity and eviction policy
17/9/2015	AH 15 085 Methamphetamine contaminated vacant properties
17/2/2016	AH 16 006 Methamphetamine alarms
5/8/2016	AH 16 019 Increase of methamphetamine (threshold) guidelines
18/10/2016	AH 16 074 Potential effects on Housing New Zealand with changes in Ministry of Health methamphetamine contamination guidelines
25/10/2016	AH 16 078 Housing New Zealand operational implementation of the Ministry of Health's new methamphetamine guidelines
28/10/2016	AH 16 080 Methamphetamine related evictions
18/11/2016	AH 16 084 Update on methamphetamine standards

12/12/2016	AH 16 089 Upcoming public consultation on development of standard for testing and remediation of methamphetamine contamination in residential properties - Housing New Zealand comment
31/1/2017	AH 16 093 Overview of Housing New Zealand's approach to methamphetamine contamination
24/3/2017	AH 17 026 Housing New Zealand's remediation of methamphetamine contaminated properties
5/5/2017	AH 17 047 Update on Housing New Zealand contaminated properties
Board papers and minutes	
29/1/2009	Presentation for Strategic Session of the Board on 29 Jan 2009 - use of 90 day notices
26/3/2009	5-1 CE report
25/10/2011	Minutes of a meeting of the Board of Housing New ZealandC
25/10/2011	Suspensions policy
30/6/2015	Extracts from Board minutes from 30 June 2015 to 18 October 2016
27/10/2015	3-1 CEO's Report
27/10/2015	Minutes of a meeting of the Board of Housing New ZealandC
24/11/2015	Board paper 6-2 - Chief Operating Officer Report
24/11/2015	Minutes of a meeting of the Board of Housing New ZealandC
13/2/2016	Acting CE's notes from Board meeting
19/4/2016	Board paper 8-2 Appendix 1 - Deloitte - Housing New Zealand - Review of P (P) Contamination Management and Strategies
3/5/2016	Board paper Deloitte Methamphetamine P Review
19/5/2016	Methamphetamine discussions at the Board in May and September 2016
18/10/2016	Board paper - Health methamphetamine contamination threshold

Briefing notes and papers to the Minister	
11/8/2003	BN 03 75 Housing Support to Mental Health Consumers in Auckland
22/8/2003	BN 03 90 Housing New ZealandC's Implementation 03-04 NZDS
16/6/2004	BN 04-58 Housing New ZealandC Work on Risks of Methamphetamine
2004-2016	Weekly updates to Minister
6/6/2007	BN 07-94 Housing New ZealandC Good Neighbour Practices
16/12/2008	Methamphetamine laboratories - Briefing for Oral question
3/2/2009	BN 09 15 - Budget 2009: Housing New Zealand review - Further Savings - use of 90 day notices
27/2/2009	BN 09 028 - Farmer Crescent, Pomare
5/3/2009	BN 09 020 - Report on gangs
25/3/2009	Damage to properties from P Labs - Briefing for Oral question
4/3/2010	BN 09 150 - HRTMA and Suspensions Cabinet papers
28/10/2016	Q&A Methamphetamine information for Minister
28/6/2017	BN 17 038 - Announcement of new meth standards
10/2017	Briefing to the incoming Minister of Housing and Urban Development
1/12/2017	BN 17 080 Housing New Zealand policy on the management of methamphetamine contamination
30/1/2018	Report to Min Housing - Housing New Zealand and MSD - Winter 2018 - what can be delivered across housing first emergency transitional and public housing
Housing New Zealand internal business alerts	
2011	Meth Training from 2011
2011	Meth Training Overview - from 2011

14/5/2014	(not finalised - draft) - A3 Methamphetamine final
8/9/2014	PLab Property - RTA - 20140908
19/12/2014	Meth Business Alerts from December 2014
19/12/2014	Methamphetamine (P) contaminated properties
28/5/2015	Methamphetamine Contamination
19/6/2015	Methamphetamine Contamination indicator in Kotahi and in Work Orders
19/11/2015	Interim business process – testing for methamphetamine
23/11/2015	New interim methamphetamine testing policy for tenanted properties
1/4/2016	New policy and procedures for managing methamphetamine in our properties
11/4/2016	Changes to the procedures for Managing Methamphetamine
12/5/2016	Consultation on Business Alerts - 7 day and 90 day notices
12/5/2016	Interim Change to Methamphetamine Process for Termination - use of 90 day Notice and 7 day Notice
13/5/2016	Online training for methamphetamine management
9/6/2016	Steering committee and status reports - notes
8/7/2016	Meth Forums Feedback
8/7/2016	Methamphetamine Update
15/8/2016	Installing Construction Locks on properties which have tested positive for meth
1/9/2016	Updates to methamphetamine email templates in Outlook
24/11/2016	We are updating our methamphetamine decontamination policy and processes
7/12/2016	Updated versions of our Methamphetamine documents are now available

9/12/2016	Updated P Flag Statuses for methamphetamine contamination
5/4/2017	Creating Work Orders for changing locks on a vacant property
29/6/2017	MBIE announces new New Zealand Standard for meth
19/7/2017	Changes in the Variable Warning in Kotahi for meth properties
4/8/2017	Disposal of belongings left at a meth-contaminated property
10/2017	Key Changes to meth documents - October 2017
16/10/2017	Meth management updated documents
27/11/2017	Changes in meth 'Hazards Conditions and Risks' attributes in eAM
18/2/2018	Meth – Kotahi Coding for 'Clear' test result on void property
2/5/2018	Meth guidelines and supporting collateral for HLP, CGH and Emergency Housing
31/5/2018	Background on Housing New Zealand meth testing guidelines and advice for an OIA request
6/2018	Methamphetamine testing – standard operation procedure (interim – June 2018)
Crown's social objectives	
20/2/2003	Letter of Expectations Minister of Housing to Housing New ZealandC Chair
17/3/2004	Letter of Expectations Minister of Housing to Housing New ZealandC Chair
11/4/2005	Letter of Expectations Minister of Housing to Housing New ZealandC Chair
2008	Letter of expectations Minister of Housing to Housing New ZealandC Chair - Minister Street
1/2/2009	Government's social objectives under Housing Corporation Act 1974 - Minister of Housing to Housing New ZealandC Chair
10/3/2010	Letter of Expectations Minister of Housing to Housing New ZealandC Chair
16/2/2011	Letter of Expectations Minister of Housing to Housing New ZealandC Chair

23/10/2011	Output Agreement between the Crown and Corporation for 2011-2012
5/4/2012	Letter of expectations Minister of Housing to Housing New ZealandC Chair
5/6/2012	Operational Changes Minister of Housing to Housing New ZealandC Chair
2/7/2013	Letter of expectations Minister of Housing to Housing New ZealandC Chair
31/3/2014	Crown's social objectives Minister of Housing to Housing New ZealandC Chair
19/2/2015	Social housing reform programme Minister responsible for Housing New ZealandC to Housing New ZealandC Chair
9/6/2016	Crown's social housing objectives Minister responsible for Housing New ZealandC to Housing New ZealandC Chair
11/4/2018	Crown's Social Objectives for housing Minister responsible for Housing New ZealandC to Housing New ZealandC Chair
Emails and correspondence	
5/2/2004	ESR to Housing New ZealandC about meth testing
26/7/2004	Email from ESR to Housing New Zealand - testing and cleaning
20/8/2004	Email from Forensic and Industrial Science to Housing New Zealand meth labs entry health and safety
11/9/2004	Email from Forensic and Industrial Science to Housing New Zealand about Napier P lab
16/9/2004	Email from ESR to Housing New Zealand about Napier P lab
11/12/2008	Email - MoH and Housing New Zealand about new MoH guideline
11/2/2009	Letter to [Housing New Zealand tenant] about 90 day notices
10/6/2011	Notification from Auckland City Council of clandestine laboratory – [Housing New Zealand property]
5/8/2011	Report from Forensic and Industrial Science Ltd – [Housing New Zealand property]
27/8/2012	Email: Information on p labs - Includes spreadsheet with methamphetamine labs found from 2008 to 2012

21/5/2014	Email - document approvals for Anti-social behaviour guideline T-229 and T-488
14/5/2015	Email - legal opinion suspension term and contamination
20/7/2015	Vacant - Tribunal Outcome – [Housing New Zealand property]
28/1/2016	PSA to Housing New Zealand about secondary contamination
10/2/2016	Reply to PSA about secondary contamination
9/3/2016	PSA to Housing New Zealand about secondary contamination
12/5/2016	Email - 7 and 90 day notice changed approach
27/6/2016	Email - email between Housing New Zealand and Dr Kim
6/7/2016	Email - considerations around announcing change in meth testing level
15/7/2016	MOH and others comments on Dr Kim's paper
27/7/2016	emails between Housing New Zealand and Dr Nick Kim
4/8/2016	Email - comms messaging
25/10/2016	Email - media release from Min for Housing New ZealandC office - meth standard lines
27/10/2016	Letter from CE to Chai Chuah Ministry of Health
27/10/2016	Email - Housing New Zealand Media release
27/10/2016	Email CE to Lucy Bennett about RNZ interview request
28/10/2016	MOH to CE - correction to media coverage
30/10/2016	Email - notes for media release
1/11/2016	Emails between Housing New Zealand and Health comms teams
20/12/2016	Email - Meeting with MSD SH officials
21/3/2017	Email - Response to Ministers query about meth testing

6/4/2017	Email - Social Housing officials meeting
22/6/2017	OIA response – [correspondent] evictions reviewable
29/6/2017	Email - Meth standards document to Min Ngaro
23/2/2018	Email - Final drug communications copy
31/5/2018	Email - Housing New Zealand and Health comms teams - comment on meth
21/6/2018	Email - average meth costs in 2017-2018
21/6/2018	Housing New Zealand to MBIE - remediation costs
28/6/2018	Email - Sale and purchase agreement between Housing New Zealand and Accessible Properties - meth contamination
Information sent to Minister's office	
11/4/2014	MO 14 158 Sale of methamphetamine contaminated house
22/8/2014	MO 14 336 tenant relocated because of methamphetamine use
Executive Team meeting minutes and papers	
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17/2/2015	ET meeting summary
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28/7/2015	Methamphetamine Contamination Policy Review
20/10/2015	Suspensions
11/2015	Baseline Testing of Void Properties for Methamphetamine Contamination
12/4/2016	Extract of ET Minute
7/2016	Acting Chief Executive - Interim methamphetamine contamination threshold
20/3/2018	ET meeting summary - sustaining tenancies
24/4/2018	ET meeting summary - sustaining tenancies approach
24/4/2018	ET paper - Implementing the Sustaining Tenancies Approach
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22/5/2003	Ministerial Action Group on Drugs - methamphetamine action plan
7/2003	Colorado Department of Health - Cleanup of clandestine methamphetamine labs guidance document
1/7/2003	Parliamentary Library - Background information - Methamphetamine in New Zealand
1/7/2003	Victoria - NTV Illegal Activity
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25/8/2003	Victoria Aust - Briefing note for Illegal Activity
11/2003	Victoria Aust - Dispute front matter
11/2003	Victoria Aust - Dispute Policy V2Nov2003
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6/2004	MoH fact sheet on P
12/7/2004	P lab contamination issues - briefing document WCC
19/7/2004	P lab Memorandum WCC & Police July 04
15/9/2004	Cleanup of Clandestine Drug Lab Sites (MoH discussion paper V1)
16/9/2004	ESR - Clandestine Laboratory Site Remediation
22/9/2004	ESR - Clandestine Laboratory Site Remediation
18/11/2004	Police - Clan lab awareness and safety training
19/1/2005	Colorado Department of Public Health - Regulations pertaining to the cleanup of methamphetamine laboratories
2/2005	Colorado Department of Public Health - Questions and Answers Regarding the Meth Lab Cleanup Regulations
2/2005	Colorado Department of Public Health - Support for selection of a cleanup level for methamphetamine at clandestine drug laboratories
2006	WallaceC - Thesis - Menace or moral panic? - Methamphetamine and the New Zealand press
2007	National drug policy 2007-2012
3/2008	Meredith Connell - 90 day notice process

2010	MOH Guidelines for remediation of clandestine meth lab sites
2011	Australian Clandestine Drug Lab Remediation Guidelines
19/8/2011	Human Rights Tribunal decision - 2011 NZHRRT 18 (2)
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10/8/2017	ESR report background - FW: Request on behalf of the Prime Minister's Chief Science Advisor
14/2/2018	Residential Tenancies Amendment Bill (No 2) - Departmental report to the Governance and Administration Committee
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10/1/2013	T-460v2 - Unlawful activity checklist
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8/9/2014	P-lab property page from Our Space
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12/2/2016	Methamphetamine health update for Staff

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30/3/2016	CA-716v1 Managing Methamphetamine P in Housing New Zealand properties
30/3/2016	P-250v1 Policy for managing Methamphetamine P in Housing New Zealand managed properties
30/3/2016	T-250v1 Guidelines for managing tenant belongings affected by methamphetamine
1/4/2016	New policy and procedures for managing methamphetamine in our properties
17/5/2016	05-103 Advice to move out contaminated now confirmed - Approvals
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2/3/2017	P-250v2 Policy for managing Methamphetamine (meth) in Housing New Zealand managed properties
28/6/2017	Power-point presentation - Managing Meth Contaminated Properties
29/6/2017	Information to Contractors - New Standards New Zealand – NZS8510
29/6/2017	Information to Contractors - NZS8510 - 20170629
28/7/2017	05-210v7 90-day notice letter template
28/7/2017	90 day notices Our Space document record
4/8/2017	disposal of belongings left at a meth-contaminated property
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16/10/2017	T-250v2 Guidelines for managing tenant belongings affected by methamphetamine contamination
2018	T-488 Anti-Social Behaviour Checklist
18/1/2018	T-229v4 Anti-Social Behaviour Guideline
5/3/2018	Ourspace - Suspension guideline
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29/5/2018	Testing and decontamination methodology
31/5/2018	Home lease properties
6/2018	Meth Process documentation Review 201806
5/7/2018	Notes - use of meth standard letter 05-103
	Evidence guidelines - extracts from CA-716 and CA-719
Internal Housing New Zealand memos	
14/1/2004	Where to from here 140104

16/1/2004	Questions we need answers to regarding the manufacture of P
25/5/2004	P workgroup
22/7/2004	Contact list
27/8/2004	Letting of P Lab properties
15/9/2004	Cleanup of Clandestine Drug Lab Sites (Policy response)
15/10/2004	Report on issues when dealing with methamphetamine manufacturing in Housing New ZealandC houses
15/10/2004	Report on issues when dealing with methamphetamine manufacturing in Housing New ZealandC houses
19/10/2004	Legal team comments on Report on methamphetamine
1/12/2004	Methamphetamine guidelines
8/1/2009	Report on [tenant] Ministerial - allegation that Housing New Zealand did not enforce a Tenancy Tribunal order
20/3/2009	90 Day Notices - key messages
25/3/2009	90 Day Notices - key messages
6/2010	Project completion report - Customer risk indicator project (CRIP)
21/10/2011	Final decision service delivery model - Tenancy Services
18/3/2014	Project brief - Encouraging Good Neighbour Behaviour
6/5/2015	Interim Testing & Remediation Approach – P Contamination
14/5/2015	Legal - preventing re-housing and privacy issues
28/7/2015	Project initiation document - Methamphetamine Contamination Policy Review
27/8/2015	Methamphetamine contamination issues and actions to resolve
31/1/2016	Memo - methamphetamine contamination

10/2/2016	Risk register with hand written comments
31/3/2016	Comments on Deloitte report
7/4/2016	Programme brief - Methamphetamine Management Programme
12/4/2016	Programme plan - Methamphetamine Management Programme
27/6/2016	Minutes - methamphetamine programme board meeting
8/7/2016	Forums feedback - Methamphetamine Teams Q&A sessions at Regional Manager forums
13/7/2016	Acting CE to Board Chair - Advice on methamphetamine threshold
27/7/2016	Memo to CE - meth threshold update
27/7/2016	Operational Practice Stream Project Initiation Document - Methamphetamine Management Programme
1/8/2016	Acting CE to Board Chair - Advice on methamphetamine threshold
11/8/2016	Memo - contaminated tenant belongings
11/8/2016	Minutes - methamphetamine programme board meeting
5/9/2016	Standards and methods stream - project initiation document - methamphetamine management programme
5/9/2016	Methamphetamine Management Programme Board - Using methamphetamine - management of unlawful activity
8/9/2016	Minutes - methamphetamine programme board meeting
30/9/2016	Memo - Tenant belongings affected by methamphetamine
30/9/2016	Using methamphetamine - managing unlawful activity
16/10/2016	Housing New Zealand communications paper - New MoH methamphetamine threshold
19/10/2016	Minutes - Methamphetamine programme board meeting

30/11/2016	Memo - Future of methamphetamine programme and operational delivery
30/11/2016	Memo - Future of methamphetamine programme and operational delivery - appendix B
2/12/2016	Minutes - methamphetamine programme board meeting
12/12/2016	Meth Programme steering committee decisions
7/2/2017	Closure report - methamphetamine management programme
5/4/2017	Methamphetamine programme decision log
12/5/2017	Methamphetamine number of tests and expenditure by financial year
8/2017	Terminations - Aug 17 to May 18
8/2017	Terminations - Aug 17 to May 18
9/11/2017	Memo - Operational policy approach to sustainable tenancies
9/11/2017	Memo - Operational policy approach to sustainable tenancies - Appendix A
9/11/2017	Memo - Operational policy approach to sustainable tenancies - Appendix B
9/11/2017	Memo to CE - Operational Policy Approach to Sustainable Tenancies
24/11/2017	Report - Methamphetamine decontamination - chemicals
2018	Proposal: sustaining tenancies bridging programme
26/1/2018	Minutes of Policy Leadership Group meeting
2/2018	Power point slide on methamphetamine from Senior Leaders forum
2/5/2018	Note - Meth business alert documents from 2014
5/6/2018	CE update - protecting public health, tenancy management practice and a new approach
Media releases and articles	
23/12/2003	Housing New Zealand - reactive media response re P

16/8/2004	NZ Herald - Bureaucrats struggling with meth laboratory clean ups
16/8/2004	NZ Herald story on clean-up struggles - p
30/6/2008	P labs key points
5/3/2009	Various Press items about evictions and 90 day notices
28/4/2010	Scienceline website - Are you living in a former meth lab?
31/8/2010	Health - New guidelines for meth lab clean ups
2/11/2010	Health press release - New guidelines for meth lab clean ups
28/9/2011	Notes for interview on TV3 about methamphetamine
13/10/2011	Housing New Zealand response to NZ Herald about methamphetamine
10/11/2011	Housing New Zealand response to Waikato Times about methamphetamine and suspensions
17/11/2011	NZ Herald - \$500k bill for meth labs in state houses
24/8/2012	Housing New Zealand comms information for Minister of Housing press release
19/3/2013	NZ Herald - Methamphetamine crackdown: Crushing the P lab scourge
17/4/2014	Wanganui Chronicle - Meth traces found in house for sale
19/4/2014	Wanganui Chronicle - P-test all state houses for sale, says Labour
24/4/2014	Gisborne Herald - Meth traces detected in 40pc of 1000 residential homes tested
27/5/2014	Ruapehu Bulletin - House buyer dodges a costly meth bullet
28/4/2015	The Dominion Post - Meth house tenant 'victimised'
15/2/2016	Housing New Zealand response to Bay of Plenty Times about methamphetamine
12/4/2016	NZ Herald - Tenants win \$7,500 from meth-house landlord
19/4/2016	NZ First - Housing NZ breaches Tenancy and Health laws

8/2016	Contractor Connect - Winter-Spring 2016
8/8/2016	Radio NZ - Housing NZ loses meth-contamination cases
26/10/2016	MOH website under media - 2 other docs as well search under Media 2016 methamphetamine
28/10/2016	Radio NZ - Housing NZ ignored warnings over meth evictions
26/5/2017	Notes - methamphetamine guidelines media activity
29/5/2018	Stuff - The meth house is a myth. There's 'no risk' from drug smoking residue, Govt report finds
11/6/2018	RadioNZ - Evidence used for meth evictions, costs questioned
Housing New Zealand Quarterly Reports	
12/2004	Quarterly report
9/2015	Quarterly report (emerging issue - methamphetamine contamination)
12/2015	Quarterly report
3/2016	Quarterly report
9/2016	Quarterly report
12/2016	Quarterly report
9/2017	Quarterly report
Residential Tenancies Act and Tenancy Tribunal papers	
	Draft Cabinet paper RTA Bill (No 2) agreement to SOP
	MBIE advice - Full-advice-text (5)
	Memorandum of advice - TT approach to meth issues
	Residential Tenancies Amendment Bill No 2

Tenancy Tribunal approach to meth issues - schedule 1 (2)
Tenancy Tribunal approach to meth issues - schedule 2
Miscellaneous Housing New Zealand documents
Undated - change request - Antisocial behaviour Kotahi process
Undated - documents changed by change from EGNB to ASB policy
Undated - Housing New Zealand - Chemical and fire damage properties how to guide
Undated - meth training
Undated - notes about 90 day notice sign-out process
Undated - rehousing
Undated - Suspicion that a tenanted property may have chemical or methamphetamine contamination
Undated - tenant belongings