PO Box 11543
Wellington
New Zealand
Ph 04 385 8722
www.commmunityhousing.org.nz

Community Housing Aotearoa Submission on NZS 8510 Testing and decontamination of methamphetamine contaminated properties

Community Housing Aotearoa (CHA) is the peak body for the community housing sector that provides emergency, social and affordable housing throughout New Zealand. We represent the interests of our 90+ members on issues that impact their ability to fulfil their organisational missions. Our members include community groups, housing trusts, and Māori and Pacifica housing providers. We work closely with Te Matapihi as the peak body representing Māori housing.

Our Vision is – all New Zealanders well-housed. We support the growth and development of community housing, supporting providers to grow supply across the housing continuum, which is explained further at: http://www.communityhousing.org.nz/.

As a member organisation we seek the best outcomes for our members, community housing providers, in their role as landlords and property managers, but we also consider the wellbeing and positive housing and social outcomes of tenants in our work.

Under the current settings there is a great deal of ambiguity in how landlords should manage the issue of methamphetamine being used and manufactured in properties. In addition, there is currently a lack of clear evidence and guidance around how landlords should deal with use in properties as opposed to manufacture. There have been a number of contradictory Tenancy Tribunal decisions because of the lack of clear standards which have added to this confusion.

The outcome that CHA is seeking are clear standards for landlords on the health risks created by both use and manufacture of methamphetamine and the appropriate remediation actions for each.

The proposed standards, whilst bringing in testing and decontamination for use as well as manufacture, do not provide this clarity. We believe that there needs to be far clearer guidance and a regulatory framework for property owners covering this issue to protect the interests of both landlords and tenants. This framework should be supported by robust scientific evidence around the levels of meth residue necessary to cause harm to the most vulnerable household members. This framework is needed to guide the decisions of the Tenancy Tribunal.

Community Housing Aotearoa does not support the draft standards as proposed. We do not believe the non-clandestine lab maximum residue levels and clean up levels have a demonstrated evidence based approach considering a human health risk assessment. Provided below is our feedback on the specific questions in the Public Comment Draft and a more detailed description of our overall concerns and recommendations.

C2.1 Options for maximum residue levels

We agree with setting different levels based on whether the home was used as a clandestine lab or not. For non-clandestine labs, we believe the levels are overly conservative, as further described below.

C2.2 Options for clean-up levels

We agree with setting different clean up levels based on whether the home was used as a clandestine lab or not. For non-clandestine labs, we believe the levels are overly conservative, as further described below.

No clear evidence of harm from living in a house where there has been previous methamphetamine use

CHA believes that properties where methamphetamine has been used needs to be brought into the standards (and/or any regulatory framework) in addition to properties where methamphetamine has been manufactured, but we do not feel that in their current version the standards meet the outcome of providing sufficient clarity to landlords.

Anecdotal evidence suggests that in the absence of specific standards regarding use only landlords are defaulting to applying the Guidance relevant to clandestine labs (clan labs) to properties where there is no evidence that manufacture has occurred. The application of the existing guidelines and the proposed standards will continue to result in negative social and economic outcomes for tenants and landlords. Both landlords and tenants have faced significant additional costs, adversely affecting tenants' well-being and landlords' ability to provide housing.

Based on a lack of robust scientific evidence relating to the actual health risk to vulnerable occupants from exposure to surface contamination caused by use, we feel the proposed levels are overly conservative and will result in landlords carrying out more extensive and costly remediation actions than are necessary.

Whilst we recognise that methamphetamine can be harmful to those who use it and potentially to others (especially children) who live with them, based on our understanding of the research it is our view that the health implications of living in a house in which methamphetamine has previously been smoked have not been properly assessed. The standards as they are drafted will have wide-ranging negative impacts on social housing tenants and their families, as well as on third parties, that we believe are not justified by the weight of available evidence.

The debate about the potential health dangers of living in a house in which methamphetamine has previously been smoked ('non-labs') has not arisen from concerns raised by the medical or scientific establishment. Rather it appears that headline generating media coverage and the methamphetamine testing and remediation industry that has a financial interest in raising the profile of methamphetamine use as an issue.

We understand that there is no evidence of actual harm to any individual attributed to living in a house in which methamphetamine had previously been smoked. Almost all the research referred to in the draft standards, and in the ESR review, relates to houses that have been used as methamphetamine laboratories.

The science as we understand it is not yet sufficiently developed to convincingly describe the level of risk arising from living in a house in which methamphetamine has previously been smoked. It seems likely that this risk is quite low. We refer to the attached paper[i] by scientist Nick Kim, in which he writes:

> "In a hierarchy of relative health hazards and risks, contaminated banknotes and houses where methamphetamine has been smoked *would be at the low end of any scale*. Former methamphetamine laboratories would be at the high end, as would households within which methamphetamine is still being smoked" [emphasis our own].

In fact both Nick Kim and Leo Schep, toxicologist at the National Poison's Centre, apparently judge the likely health risks of living in a house in which methamphetamine has been smoked as being comparable to living in a house in which tobacco or cannabis had previously been smoked[ii]. If the risk is indeed this low, then the levels proposed in the standard to cover this situation make no sense.

In addition, the weight that is attributed to any potential health harms must be carefully balanced against a range of other factors, including social justice and financial considerations. At the very least, research should first be undertaken on New Zealand houses to find out how widespread the supposed problem is, what level of methamphetamine is found in the average home, and what health effects are more commonly experienced by people in houses in which methamphetamine levels are high (obviously comparing for other factors such as general standard of housing). Most importantly, this research would need to tell us at what level of methamphetamine residue we can measure harm as occurring or being likely to occur. None of this research appears to have been done.

Our preference would be for the standards and any accompanying guidance to very clearly signal the key differences between properties used in the manufacture versus 'non-lab' properties and provide advice on appropriate responses in proportion to the risk. We also feel that the guidance on decontamination techniques need to more clearly outline the appropriate responses to the different level of risk posed by use rather than manufacture, for example by pointing out that for low levels of residue left by smoking surface washing and washing of soft furnishings may be adequate rather than more costly and intrusive techniques such as the removal and destruction of building components such as gib board and insulation.

This would help landlords have greater confidence that they do not need to follow expensive and disruptive remediation actions or take punitive actions against tenants where use alone is indicated.

Evidence of actual and provable harm is all the more essential because of the wide-ranging negative impacts likely from this standard

The ESR review make plain that setting a reference dose level for methamphetamine is not straight forward and is open to a range of variables which could skew the final figure settled on by orders of magnitude. They have chosen a conservative threshold level for the standards, below which no plausible health risk exists for the most vulnerable person living in the premises long-term.

Nick Kim's quite different conclusions show that scientific consensus about a safe level of exposure to methamphetamine does not yet exist[iii]:

> "Surface methamphetamine loadings in the range 0.5-1.5 µg/100 cm^2 represent levels at which risk is neither appreciable nor quantifiable. In my opinion, the lowest surface loading with the potential for a remotely plausible health effect in infants (the most sensitive receptor group) from daily exposure is about 12.5 µg/100 cm^2. This is 25 times higher than the currently recommended New Zealand guideline for

remediation of methamphetamine laboratory sites; and just over 8 times higher than the health-protective 1.5 µg/100 cm^2 guideline that is used in California (and some other US States). My view is therefore that exceedance of a methamphetamine surface loading of 0.5 µg/100 cm^2 by up to 25 times does not denote the onset of any plausible health risk. All that can be said is that an intentionally conservative and protective guideline value has been exceeded."

Dr Kim further points out that the level of 12.5 µg/100 cm^2 he has quoted represents only about $1/46^{th}$ of the lowest dose used in cases where methamphetamine is *intentionally* prescribed for the treatment of ADHD in six year olds. Given this widely different conclusion, we find it extraordinary that the draft standards recommend decontamination of non-lab houses that show levels of 1.5 or 2.0 µg/100 cm^2.

In houses where methamphetamine has been manufactured, a cautious approach is no doubt warranted due to the other poisonous chemicals involved in the manufacturing process, many of which have known and serious negative health effects. However, an overly conservative and cautious approach is not appropriate in the case of non-labs, because of the serious impacts that adopting such a policy is certain to have on people's lives and livelihoods.

Non-labs need to be included in the standards to provide clear information which landlords and tenants can rely upon. These non-lab standards need a more balanced approach to be taken in setting the threshold levels. The risks and benefits need to be considered across a range of factors encompassing social justice, human rights and financial impacts, such as:

- The trauma of being removed from a home and of having personal possessions destroyed is likely to be significant, and could well be catastrophic for already vulnerable people - especially children. The effects could be compared to having one's house burn down with all the possessions in it. The trauma and powerlessness experienced by tenants on the receiving end will be made worse by the fact that someone is in charge of making the decision about whether it should happen or not, and they may be afforded no influence, or chance to appeal their decision.
- The effect of having to vacate a house (probably permanently, when the tenant is not the landlord) on individuals and families can include issues such as loss of employment, disruption of schooling with long-term implications, disruption of the family unit and of important social networks, homelessness, and long-term negative impacts on physical and mental health.
- In addition, the cost of moving out of a property and having possessions destroyed is likely to run into the tens of thousands of dollars in many cases, especially for families who are not well-off, or who are under-insured. This figure will be even higher if the landlord passes any remediation costs on to the tenant. The resulting debt could well leave a family experiencing financial difficulties for many years.
- Consideration of when the property was 'contaminated'. The onus of responsibility and, therefore, who bears the cost will depend on whether it is the current tenant's use that has led to contamination or if the contamination was present before the tenant moved in and the landlord did not test the property before the new tenancy was created. In this case it would be highly inequitable for the tenant to bear the cost and suffer the consequences and the landlord would be responsible for the cost of remediation, compensation for the tenant and finding the tenant alternative accommodation.
- The cost for landlords of testing and remediating non-lab properties would be considerable, especially if testing all properties becomes standard practise in the

wake of these standards being adopted. In the case of social and community housing providers, the financial implications of the draft standards have the potential to put them out of business. The standards will certainly result in fewer houses being available for social tenants, and in being available for fewer weeks per year.

If non-labs are retained in the draft standards, a higher threshold level should be set at which decontamination or remediation becomes indicated. In setting this level the standards should:

- acknowledge that the existing science on harm and risk levels is not conclusive; and
- in a common sense way, balance considerations of social justice, human rights, and potential financial implications alongside any provable health risks.

We recommend that the remediation guidelines be redrafted to properly emphasise the balancing act that must be undertaken each time an assessor makes the decision to remediate a property and recommend the destruction of possessions. Every separate recommendation made in a decontamination plan should weigh up and balance a range of factors alongside an assessment of actual health risks.

In addition, tenants whose homes and possessions are at risk should be given the option to challenge the science, and to challenge the administrative decisions made by 'professionals' (mostly non-scientists) that are made on their behalf.

The remediation guidelines should provide clear guidance and leave less to discretion

We are particularly concerned that the draft standards provide so little guidance about the level of remediation that is needed in specific circumstances, and that no clear distinction is made between remediation standards for labs and non-labs.

As currently drafted, the standards imply that if any measurement is above the conservative threshold limits, a full remediation of every property and destruction of all property is called for (though reading between the lines, this can be left somewhat to the discretion of the individual assessor). The presumption towards full decontamination is particularly concerning given the conservative risk-based thresholds that have been set. To quote Nick Kim:

> "Risk-based guidelines are set at levels that are so low that long-term exposure could carry no appreciable, nor quantifiable, health risk. For this reason exceeding a surface methamphetamine loading of either 0.5 µg/100 cm^2, or 1.5 µg/100 cm^2, would not denote the sudden onset of any discernible health risk. Guidelines like these are not set at values just below where a health-risk begins. They are set at values which are many times lower than the point where a health risk could become quantifiable"[iv].

Given that, in the case of non-labs, health risks are not likely until levels of methamphetamine residue climb substantially above the threshold limits, we would imagine that staggered remediation guidelines would be called for. These could guide those writing decontamination plans as to what type of action is needed with varying levels of residue. We would imagine that these guidelines would set out the ranges within which, say, a sofa should be vacuumed, or destroyed, and the limit above which clothes, refrigerators or family photo albums should probably not be remediated. Further, the reason for setting these specific limits should be clearly backed up by evidence of harm, balanced against a range of other factors as discussed above.

It is essential that individual decontamination plans are science-based and tailored to specific readings in different parts of the house and on different surfaces. Guidance should

be given about these differences. The remediation standards should also differ in scope for labs and non –labs, and guidance should be given on this. For example, flushing the plumbing would presumably not be indicated in a non-lab situation, and this should be clearly stated. Similarly, it is surely not necessary to destroy a child's teddy and special blanket because a level of 1.5 µg/100 cm^2 has been recorded in the lounge. And what level must residue in a bedroom reach before all clothes need to be destroyed? (And why can these not simply be washed twice in hot water, as suggested in the Minnesota Clandestine Drug Lab General Cleanup Guidance[v]?).

Further guidance may also be needed to explain whether, for example, furniture that has been brought into the house subsequent to the methamphetamine use need the same level of remediation as items that were there when the use took place. Similarly it may be appropriate to suggest a less rigorous remediation process in a house in which no children are currently living. The ESR report indicated a reference level of 3.8 µg/100 cm^2 for adult females of child bearing age. Does it make sense to evacuate adults and destroy their possessions if a measurement of 1.5 µg is made, and no children are living in the house?

None of these decisions are straight forward and the standards remain silent on how they should be made. Presumably this is because the science is not developed enough to give clear answers. We do not believe it is appropriate to be expecting this kind of discretionary decision-making by assessors who in many cases will not be scientists, and may not understand what a risk-based guideline means in terms of developing a sensible decontamination plan.

The lack of tailored remediation guidance in the standards has potentially serious implications. One assessor may condemn an entire family's possessions because one room is found to contain threshold levels of methamphetamine, and another may recommend surface wiping and vacuuming.

We recommend that clear and evidence-based guidance is developed covering the type of scenarios raised above. If this is not possible, then non-labs should be defined as not contaminated and not required to be remediated at all.

We thank you for the opportunity to submit.

Kind regards,

Scott Figenshow, Director
director@communityhousing.org.nz
phone: 021 061 9664

[i] Kim, Dr Nick D: 'Background notes relating to the nature and health significance and persistence of trace of methamphetamine on indoor surfaces', Massey University, June 2016 (unpublished)
[ii] Brown, Russell: 'Poor Foundations', *Matters of Substance,* August 2016, Volume 27, Issue 3, NZ Drug Foundation
[iii] Kim, Dr Nick D: 'Background notes', p24.
[iv] Kim, Dr Nick D: 'Background notes', p15.
[v] *Clandestine Drug Lab General Cleanup Guidance*, Minnesota Department of Health (MDH) Division of Environmental Health, September 2010, p28