Community Housing Aotearoa
NGĀ WHARERAU O AOTEAROA

PO Box 11543
Ph 04 385 8722

Wellington New Zealand
www.commmunityhousing.org.nz

Ministry of Housing and Urban Development
Te Tūāpapa Kura Kāinga
Via email: methconsultation@hud.govt.nz

March 10, 2023

RE: Regulation of Methamphetamine Contamination in Rental Housing

Community Housing Aotearoa – Ngā Wharerau o Aotearoa (CHA) thanks the Ministry of Housing and Urban Development – Te Tūāpapa Kura Kāinga for the opportunity to share our perspectives on the Regulation of Methamphetamine Contamination in Rental Housing. We have prepared this submission in response to the Discussion Paper of Methamphetamine Contamination in Rental Housing - Regulatory Options (the discussion paper) released in November 2022.

CHA is an Incorporated Society and a peak body for the community housing sector. To achieve our vision of 'all New Zealanders well-housed', we have a strategic focus on supporting a well-functioning housing system and working toward the realisation of the right to housing. We are also mindful of the larger institutional and regulatory settings within which our members and other community organisations operate.

Our 82 provider members provide homes for nearly 30,000 kiwis nationally across 18,520 homes, and our 37 partner members include developers, consultants, and local councils. Community Housing Providers (CHPs) are primarily not for dividend entities that develop, own, and manage social and affordable housing stock, with rental and progressive homeownership tenure offerings. We work closely with national Māori housing advocate Te Matapihi, which represents Iwi-based and Māori community housing providers. More about us can be found here.

General Comments

Through the consultation and notification period for these regulations, we recommend that Tenancy Services and Te Tūāpapa Kura Kainga – Ministry of Housing and Urban Development (HUD) take a harm-reduction perspective of methamphetamine contamination and use the opportunity to increase the public awareness of the health consequences of methamphetamine contamination. We have seen many inaccurate narratives about the prevalence of methamphetamine and misunderstandings about the magnitude of harm related to low level exposure to methamphetamine residue. It is important to remember that current standards were derived from risk assessments pertaining to former clandestine meth labs, not residential properties. Misapplying these standards for over a decade continues to hang over harm reduction approaches. We urge that the new regulations apply universal, evidence-based, and harm-reducing standards. Doing so will address one of the primary issues: confusion caused by discrepancies between the Tenancy Tribunal, insurers, and the current New Zealand Standard. CHA advocates for a harm-reduction approach and the decriminalisation of methamphetamine use, as discussed in more detail in our *Methamphetamine Contamination Harm-Reduction Handbook* which can be found here: https://communityhousing.org.nz/chas-methamphetamine-harm-reduction-handbook/.

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

We also encourage HUD to take this opportunity to consider additional housing support options provided to methamphetamine users which could benefit the health and wellbeing of our communities. Providers have expressed concern about the lack of facilities where methamphetamine harm reduction services can be provided and use can be monitored for those on their drug independency journey. There are simply not sufficient places available for residential treatment facilities and an interim approach, not subject to these proposed regulations, may support users awaiting entry to a formal treatment programme.

Punitive attitudes exacerbate harm associated with drug use. While the regulations formalise the thresholds and powers conferred onto parties regarding methamphetamine use in a RTA setting, they are silent on the wider system issues associated with drug use and housing insecurity which compounds the harm felt by users and their whānau. Members particularly noted the lack of options for families with children where methamphetamine addiction and use is present. Support services have demonstrated an appetite and ability to support methamphetamine users but an absence of funding and presence of regressive regulatory settings are limiting the effectiveness of community responses.

CHA seeks clarity about how the new regulations will interact with the s56(a) of the Residential Tenancies Act (RTA); namely, the ability to terminate a tenancy in the event the property is used for an unlawful purpose. It is not currently clear if landlords will be able to terminate a tenancy if there is any evidence of methamphetamine use as an unlawful act. For instance, does the evidence of methamphetamine use need to exceed 15ug/100cm2 to justify a termination of tenancy under s56(a)(3) by the Tribunal? Or do the previous standards remain? We request the final regulations provide clarity on this.

1. Do you agree with how the problem is described, and that regulations are needed to address the concerns which are outlined in this section relating to methamphetamine residue in rental housing? Why/ why not? In your view, what are the problems which currently exist with not having regulations covering these issues?

CHA agrees with how the problem is described and we have long been vocal with our concern regarding the absence of legal certainty surrounding methamphetamine contamination. Community housing providers have been operating without a clear legal framework and the rights of tenants have been opaque. We welcome the introduction of these regulations as a necessary addition to the RTA.

2. Do you agree with the proposed objectives for the regulations? See page 7. Why / why not? Are there any objectives you would add or change?

CHA agrees with the proposed objectives for the regulations. The proposed objectives address many of the concerns voiced by providers regarding both standards and procedures for testing.

3. Do you agree with what the regulations are proposed to cover? Why/ why not? Are there any topics within the scope of section 138C of the Act that you would add or remove from the scope of the regulations?

CHA agrees with the scope of what the regulations are proposed to cover.

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

4. In what way are Māori likely to be impacted by these proposals?

We defer to the response of Te Matapihi he tirohanga mo te iwi trust.

5. Do you have anything to add relating to the context in which the regulations will be made or the impact on key stakeholders?

CHA reserves concerns that these regulations may be used punitively against tenants. Until the nuances of the regulations are clarified through Tenancy Tribunal rulings, the impacts on key stakeholders may be unclear. For example, the evidence required to prove that tenant actions caused methamphetamine contamination and may be responsible for the costs of decontamination needs to be clarified before fully understanding how regulations may affect stakeholders. We hope that the Tenancy Tribunal continues to require a significant threshold of proof before they hold tenants liable for methamphetamine remediation which was potentially caused by a third party.

6. Are there any aspects of the proposals which you have comments about in relation to specific situations or types of tenancies, for example boarding house tenancies?

We are eager to understand how these regulations may apply (if at all) to Transitional Housing or Emergency Housing occupancies as they are currently excluded from the Residential Tenancies Act (***RTA***). As HUD is aware, there are some proposals, including the Draft Code of Practice for Transitional Housing (***the Code***) that will have impacts for TH providers and that have the potential to intersect with the proposed regulations.

The Draft Code which HUD circulated includes proposals to incorporate some aspects of the RTA so they contractually apply to TH providers. If these regulations will later apply to TH providers, both the Code and regulations should be to reviewed to understand the implications for households and providers that arise from application of the regulations. We draw your attention in particular to Outcome 5 of the Code: A Transparent and Fair Exit Process. While in principle CHA supports the extension of the final regulations to TH, we strongly recommend that further consultation is undertaken with TH providers when the Code is finalised to ensure that the regulations are adapted as necessary to ensure they are equitable and can be practically and reasonably applied to EH and TH contexts and do not have unintended consequences for providers and tenants. We recommend that MSD be specifically consulted along with a broad cross section of TH providers (including those that provide communal vs individual styles of TH housing, providers that cater for housing with families, and those that accept current and/or recovering users).

7. Do you agree with the proposed implementation and monitoring arrangements? If not, how should the proposed regulations be implemented and monitored?

The proposed implementation and monitoring arrangements should include consultation with and resources provided to stakeholders about what will be entailed with the regulations. We believe there should be a consultation process led by Tenancy Services that involves community housing providers; tenancy advocates and support groups; property management companies; drug support and advocacy groups; and

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

Citizens Advice Bureaus. Additionally, bulletins and resources should be published on the Tenancy Services website as a publicly accessible record of how the regulations will affect stakeholders.

8. Do you agree that the maximum acceptable level of methamphetamine residue should be 15µg/100cm2? Why/ why not?

In our engagement with providers, we received a range of feedback on the MAL setting of 15ug/100cm^2. Several iwi and Māori providers suggested that 5ug/100cm^2 should be set for the MAL. They noted that a more conservative approach should be taken as the science isn't settled and the impacts will disproportionately affect young people and Māori who are more likely renters. It would still be feasible to remediate below this level without incurring a significantly higher cost, while being healthier for whānau. Some providers felt that the proposed 15ug/100cm^2 was too low and should be increased to 30 or 50ug/100cm^2. Others agreed with the proposed level as reasonable.

As such, there is not a clear consensus amongst the providers we engaged with and received feedback from. We have additional concerns about the difference between the MAL and MIL which we discuss later.

9. Do you agree that premises tested following decontamination must have a methamphetamine residue level at or below 15µg/100cm2 (remediation level) to no longer be considered contaminated? Can you give us an indication of costs incurred and other impacts if the remediation level was 1.5µg/100cm2?

CHA believes that in the event of contamination, the post-remediation level should be significantly lower than 15ug/100cm^2, or whatever level the MAL is set. Remediating to a level just below 15ug/100cm^2 has potentially punitive consequences for tenants which may exceed their responsibility for contamination. In the event of a sampling difference between a post-remediation test and a future test to ascertain levels of contamination, a tenant may be held responsible for the cost of remediation even if they are not responsible for contamination. For example, where the previous remediation was to 14.9ug/100cm^2 and a new test is 15.01ug/100cm^2 from samples taken in different areas than the previous test. Furthermore, this may be overly punitive for a tenant who may have - in an isolated incident - engaged in (or allowed others to engage in) the use of methamphetamine at a remediated property if those actions incurred a minor increase in contamination which caused the property to exceed 15ug/100cm^2 from a post-remediation level of slightly below 15ug/100cm^2. The concern is that by setting the post-remediation level at hundredths of micrograms below the MAL there is the possibility of a 'yo-yoing' effect which may result in tenants paying remediation costs which are disproportionate to their contribution to the overall level of contamination in the property.

In this example assuming a MAL of 15ug/100cm^2, we propose that the regulations include a post-remediation level of 10ug/100cm^2 to offer a buffer between the post-remediation level and the MAL to mitigate the likelihood of yo-yoing or consequences of testing differences. This level should be achievable for remediation without incurring excessive costs for landlords or tenants.

Providers demonstrated a range of perspectives on the MAL and the post-remediation level. Some providers expressed a preference for the MAL to be set at 5ug/100cm2, while others were happy with a MAL of 15ug/100cm2 but advocated for a post-remediation level of 5ug/100cm2. Providers who suggested the

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

MAL be set at 5ug/100cm2 wanted the post-remediation level set below that amount. No providers suggested a higher post-remediation level, although a concern was raised about homes intentionally provided to support people with known addictions.

Furthermore, there should be restrictions placed on the level of remediation of a property when the landlord believes, or the Tenancy Tribunal rules that the cost of remediation should be paid for by the tenant. Our concern is that properties slightly over the 15ug/100cm^2 for which tenants are required to pay for remediation, tenants may be required to pay for remediation disproportionate to their contribution to the total contamination; to 1.5ug/100cm^2 for instance. Where tenants are required to pay for remediation this should be remediated to our proposed 10ug/100cm^2; but not substantively beyond the level so as to incur additional costs onto the tenant.

Some providers also voiced a preference for requiring baseline testing before and after tenancies. They cited that this would provide a greater evidence base for ascertaining levels of methamphetamine contamination, related health impacts, and responsibility for damages.

10. Do you think we considered the right options in coming to the proposed option? See Issues 1 and 2 in Part C. If not, what other options do you think should have been considered?

As raised in the concerns above, the options presented did not consider establishing a post-remediation level which differs from the "maximum acceptable level". We acknowledge that remediation to 1.5ug/100cm^2 may incur more costs relative to the level of risk; however, we believe that another figure – such as 10ug/100cm^2 - should be considered to avoid the yo-yoing effect discussed previously. We believe this new option – or a similar level with suitable scientific evidence – should be considered which acknowledges and mitigates the ability of these standards to be applied punitively against tenants.

11. Do you have any other comments about the proposal to set a maximum acceptable level of methamphetamine residue at 15µg/100cm2?

No comment.

12. Do you agree that the maximum inhabitable level of methamphetamine residue should be 30µg/100cm2? Why/ why not?

We defer to the scientific evidence provided by ESR.

Through our engagements with providers, many expressed concerns that 30ug/100cm2 was too high a threshold to terminate a tenancy. Providers cited their experiences in managing properties with this level of contamination and the health and wellbeing consequences associated with prolonged exposure, especially for whānau with children. Providers suggested that the tenants should be empowered to terminate a tenancy at levels below 30ug/100cm2, coming from a harm-reduction and family health perspective.

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

13. Do you think we considered the right options in coming to the proposed option for the maximum inhabitable level? See issue 3 in Part C. If not, what other options do you think should have been considered?

No comment.

14. Do you think a different level would be more suitable as a maximum inhabitable level? If yes, what level would you propose, and why?

No comment.

15. Do you think there will be any unintended consequences of setting the maximum inhabitable level of methamphetamine residue at 30µg/100cm2, for example on different stakeholders? Please explain.

It does seem potentially confusing prima facie to have two different standards for the "maximum acceptable level" and the "maximum inhabitable level" while only conferring the right to end a tenancy to tenants if the latter is exceeded. For instance, it seems that if a property is considered "contaminated" (or "unacceptable") when it exceeds the maximum acceptable level – through no consequence of tenants' actions – then it could be considered that the landlord has failed to provide the premises in a reasonable state of cleanliness. We acknowledge that this has been addressed in s45 (1AAB) and s45A, however, the inability of tenants to terminate a tenancy where the property exceeds the MAL – but not the MIL – seems problematic. This may be even more stark if there is no access to recourse for tenants – either as rent abatements or the ability to terminate the tenancy – in the event remediation which interferes with the tenants' quiet enjoyment of the property is required.

The above concerns may be even more significant for tenants with pre-existing health conditions. Despite the regulations suggesting that 30ug/100cm^2 would likely incur minimal health impacts, there is potential for discomfort for tenants who continue to reside in a tenancy which is deemed contaminated if they have existing health conditions. If tenants are unable to terminate the tenancy and the level of remediation exceeds the MAL, this leaves tenants in a difficult and potentially uncomfortable position.

Furthermore, CHA supports extending the period of notice for landlords who give notice of terminating the tenancy following the detection of contamination beyond the MIL to 14 days (from 7 days) to give tenants a more appropriate window to look for alternative accommodation, unless the landlord is providing an alternative home.

The regulations should acknowledge that they have the potential to be used for evicting tenants into homelessness when the MIL is exceeded. The regulations should include some mechanism in the Tenancy Tribunal process which provides materials or assistance – such as an automatic referral to MSD – whereby tenants are not evicted into homelessness.

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

16. Do you have any comments about how rent abatement may impact on the parties, following permitted detailed testing showing that the level is over 30µg/100cm2, and on the basis that the tenant did not cause the contamination?

CHA supports the provision that rent should be abated from the notice of termination of tenancy being issued where the tenant has not been shown to have caused the contamination.

Some providers voiced a preference for rent to be abated from the termination of the tenancy, rather than when the notice is issued. They stated that since the tenant still had full use of the property, the rent should continue until the premises are vacated.

17. Can you provide any data or other evidence about the likely prevalence of residential tenancies testing above 30µg/100cm2?

No comment.

18. Do you have any other comments about the proposal to set a maximum inhabitable level of methamphetamine residue at 30µg/100cm2?

The process for detecting contamination over 30ug/100cm^2 and subsequently gaining a tenancy termination order from Tenancy Tribunal needs to be clarified in the regulations. This would include what evidence is required from landlords to demonstrate contamination and therefore justification to issue the order by the Tenancy Tribunal.

19. Do you think the right options were considered when reaching the proposals on requirements for landlords? See issues 4 and 5 in Part C. If not, what other options do you think should have been considered, and why?

CHA agrees with the options considered. We also believe that there should be some restrictions on the frequency at which landlords can conduct discretionary methamphetamine tests. Unless they are required to test by the circumstances outlined in the regulations, landlords should not be empowered to conduct unsolicited screening tests at their own discretion without tenant approval at intervals of less than 4 weeks. Some providers suggested that where they are aware their tenants are using methamphetamine there may be instances where it is appropriate to conduct more frequent testing. A provision should enable testing more frequently upon evidenced suspicion of use. Without this additional limit on testing, the right to privacy and quiet enjoyment for tenants may potentially be undermined by frequent and unjustified methamphetamine testing.

Furthermore, Government needs to provide several ESR certified self-test options to reduce the cost of screening assessments for tenants and landlords.

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

20. Do you agree that landlords should be required to professionally test for methamphetamine contamination in this situation? Why/why not?

Yes, however, the regulations require greater clarity about the time horizon between notification by relevant council or the police and the testing for methamphetamine. Notification should not be considered an indefinite requirement to test properties for methamphetamine.

Police and councils should also be mandated by law to report to landlords where they have acted on information related to the discovery of methamphetamine use or manufacture. Formalising a process for notification will increase landlord confidence in the system and assist providers in having productive and robust conversations about methamphetamine use.

21. Do you think there should be other situations where a landlord is required to test under the regulations? Please specify.

No comment

22. Do you agree that landlords should be required to professionally test for methamphetamine contamination in this situation? Why/why not?

CHA believes that landlords should be required to professionally test for methamphetamine contamination to satisfy the standards established in the regulation. Tenants and landlords may still be able to use non-professional tests to ascertain the presence of methamphetamine and bilaterally agree a course of action; however, in order to satisfy the thresholds in the regulations it seems necessary to prove - to as great a certainty as practicable – that methamphetamine is present to the prescribed levels.

Additionally, the use of independent third-party professional testing may potentially mitigate the number of disputes pertaining to testing between landlords and tenants; therefore placing less burden on the Tenancy Tribunal. With established standards and clearly prescribed testing processes, the results of independent professional testing should be sufficient to satisfy the standards in the regulation and allow the relevant access to recourse.

23. Do you agree that landlords should be required to arrange professional re-testing in this situation? Why/why not?

CHA agrees with these provisions as it is necessary to ensure that the decontamination of a property has been achieved by the remediation. It also establishes the necessary baseline for any future testing results.

24. Can you identify any concerns with the requirement to ensure that the tester and decontaminator are independent entities?

CHA believes that the tester and decontaminator should be independent entities from each other. CHA also believes that the tester should be independent from the landlord's or property manager's operations. There

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

may be instances where decontamination to below 15ug/100cm^2 does not require extensive and professional remediation, however, it may be prudent to use professional and independent testing services to ensure that the remediation has successfully decontaminated the property.

It is important that the process for retesting a premises after remediation is conducted is prescribed to ensure consistency between the two tests (pre- and post-remediation). The screening assessment should detail the locations tested, how the test was undertaken, and when it was undertaken to ensure that the post-remediation test is consistent with the pre-remediation test.

Some CHPs expressed concerns that it may not be workable to have two separate entities to conduct remediation and retesting as there are a lack of professional companies outside of major cities. The existing shortage of options was so extreme that one provider flew in a professional tester from Auckland to Dunedin to address the lack of local expertise. To address this, the provision could require providers to "make reasonable attempts to" contract independent testing and decontaminator entities, recognising that this may not always be possible or practicable without incurring significant and unreasonable cost.

25. Do you agree with the proposed timeframes? Why/Why not? What alternative timeframes would you suggest? Do you have evidence about how long it currently takes to arrange a methamphetamine test or decontamination?

CHA agrees with the timeframes provided in the proposed regulations.

26. Do you agree that anyone should be able to undertake screening assessment as long as they use approved tests, follow all the instructions, and take appropriate health and safety precautions? Why/why not?

CHA agrees that non-professionals should be enabled under these regulations to conduct screening assessments for methamphetamine. Tenants should be empowered to ascertain the presence of methamphetamine in their property without it becoming prohibitively expensive by requiring qualified professionals to undertake such tests. The evidence provided in the discussion paper suggests that the prevalence of methamphetamine is not so widespread as to incur a significant magnitude of professional testing resulting from screening assessments indicating methamphetamine presence.

We also seek clarification on who is responsible for comprehensive testing when tenants undertake a screening test and find the presence of methamphetamine. Furthermore, we seek clarity on the process when tenants conduct a screening test and find methamphetamine presence for a property which the landlord knew there was prior contamination to a level which did not exceed the MAL. Can the landlord evidence a previous detailed assessment or is a new test required to demonstrate that potential subsequent contamination has not exceeded the MAL?

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

27. Do you agree that detailed assessment should only be able to be undertaken by qualified professionals? Why/why not?

Yes, the requirements and abilities conferred onto parties associated with finding methamphetamine contamination upon detailed assessment are significant enough to justify those assessments being undertaken by qualified professionals. Requiring professionals to achieve a qualification will provide some surety about the conduct and competency of the testers for all parties associated with the tenancy.

28. Do you have any other feedback about the proposals relating to screening assessments and detailed assessments?

No comment.

29. Do you agree that these tests should be acceptable for the purposes of the regulations? Why/why not? Do you consider that any other types of tests should be acceptable under the regulations? Please explain.

No comment.

30. Do you agree that unless an accredited screening test kit is being used, all samples need to be analysed and reported on by accredited laboratories? Why/ why not?

Yes to ensure robust results.

31. Do you agree that these tests should not be acceptable for the purposes of the regulations? Why/why not?

No comment.

32. Do you have any other comments on the proposed acceptable or not acceptable types of tests for the purposes of the regulations?

No comment.

33. Do you have any other feedback about the proposals relating to screening assessments and detailed assessments?

No comment.

34. Do you agree with the proposed decontamination process? Why/why not? Do you think there were any other options which should have been considered when developing the proposed decontamination process? (See issue 7 in Part C).

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

It is problematic to disentangle tenant and landlord goods from the objectives of these regulations. Contaminated goods remaining inside a remediated home may undermine the long-term effectiveness of the decontamination of the property. We recommend that HUD and ESR undertake more testing to better understand and regulate for scenarios where contaminated goods can contribute to the overall contamination of a property. For instance, it may be prudent to require testing or remediation for particular goods which are susceptible to being contaminated especially when in rooms with notably high levels of contamination. We offer an example for how to manage the responsibility of these costs in Question 35.

35. Would you suggest any changes or additions to the proposed decontamination process?

CHA has some comments on the proposed decontamination process regarding the treatment and remediation of furnishings. CHA believes these provisions need to be clearly prescribed as the feedback from providers is that the cost of remediation for furnishings would often exceed their value and that the remediation process itself could destroy the furnishings.

A structure for this could have the landlord and tenant sharing the cost responsibility for remediation of furnishings depending on who could be held responsible for the contamination. The cost of remediation (or the value of the goods) should be;

- Shared by the landlord and tenant if the source of the contamination can not be proved;
- Borne by the tenant if it can be proven they are the responsible for the contamination;
- Borne by the landlord if it can be proven that the contamination occurred before the tenant moved in.

Some allowances may need to be made depending on the insurance status of the tenant and the landlord.

36. Do you think the proposed decontamination process allows for new decontamination methods as long as they're effective?

The regulations are not overly prescriptive about the method for decontamination, hence they allow for a range of decontamination methods to be utilised.

37. Do you agree with the proposals relating to property which is part of the premises? Why/ why not?

No comment.

38. Do you agree that any person can carry out decontamination work? Why/why not?

CHA believes that any person should be enabled to undertake decontamination work on the proviso that the post-remediation test is undertaken by an independent and qualified tester who demonstrates that the property is no longer contaminated. As the proposed regulations require remediation for any properties contaminated to a level over 15ug/100cm^2 there may be instances where this is only narrowly exceeded and the work associated with decontamination may be limited. Consequently, requiring a qualified decontaminator to undertake a thorough clean - which may be achieved by the landlord (or their agents) with commonly found cleaning products - is overly prohibitive and potentially costly. This would need to

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

be carefully constructed to not incur additional costs on tenants or landlords related to retesting if attempts to remediate properties by the other party are unsuccessful.

39. Do you think the right options were considered when reaching this proposal? (See Issue 8 in Part C). If not, what other options do you think should have been considered?

An alternative may be to consider that remediation may be undertaken by any person if the level of contamination is between the MAL and MIL, but undertaken by a professional if the contamination exceeds the MIL. If the level of contamination does not allow a tenant or landlord to unilaterally terminate a tenancy, then it stands to reason that the level of contamination between 15-30ug/100cm^2 may be safe for a lay person to undertake remediation with publicly accessible recommendations for how to do so safely.

40. Do you think it is workable for a tenant to remain living in the premises during decontamination work? Why/why not? Do you think that the proposed maximum acceptable level and remediation level of 15µg/100cm2 (compared with 1.5µg/100cm2 which was often required in the past) will make a difference as to whether tenants can remain?

There will likely be instances where it is feasible for the tenants to remain in the property and other instances where the interruption caused by the remediation will be so great that the "quiet enjoyment" of the property by the tenant will be made impossible by the remediation activities. Consequently, it is appropriate for the regulations to enable tenants to stay or leave their properties during a decontamination process. Establishing the processes for managing how and when tenants may leave a property due to remediation will be highly contextual and may be an issue best dealt with through the Tenancy Tribunal with guidance from Tenancy Services. Processes for handling rent abatements, additional costs incurred to cover alternative housing, and tenancy termination will need to be clarified.

There should be allowances made in the regulations whereby tenants are able to remain in a property throughout the remediation if they are proven to be the source of contamination and they agree. Landlords should also be required to provide support for tenants to be out of the home throughout the remediation if the tenant is not proven to be the cause and does not wish to remain in the home during the remediation.

41. How have you managed this situation in the past when decontamination work was required? Did the tenants remain in the premises while decontamination work was carried out, or was a formal or informal agreement reached for them to move out?

As a peak body, we do not directly manage any tenancies. We understand our provider members have approached this in various ways and defer to their submissions on this point.

42. Do you agree with the proposed requirements on landlords for managing abandoned goods on contaminated premises? Why/why not?

Providers expressed many concerns with the processes in the regulations in regards to the management of abandoned goods. Providers largely felt that because of the significant costs, logistics, and risks (to people

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

and property) associated with the remediation of goods and furnishings that there are few instances where it would be appropriate or effective to store the goods for 35 days. Providers noted that moving contaminated goods may contaminate storage facilities, transport vehicles, and put staff at risk of exposure to methamphetamine.

Providers also noted logistical and safety concerns regarding the management of contaminated goods which may jeopardise the health of other tenants. Many of these considerations make it difficult to determine the true cost of storing contaminated goods and there are many instances where it is preferable to dispose of abandoned goods immediately in the interests of the health and wellbeing of all those impacted.

43. Do you think that landlords should be able to dispose of goods abandoned on contaminated premises without testing them for contamination and without storing them? Why/why not?

CHA supports this provision so long as the comments above are considered and the processes outlined in the regulations are followed.

44. Do you have any other comments or alternative suggestions or options to consider in relation to the abandoned goods proposals?

No comment.

Ngā mihi,

Paul Gilberd, CEO
Community Housing Aotearoa – Ngā Wharerau o Aotearoa