

Housing New Zealand Corporation Executive Team
July 2016
Acting Chief Executive

Executive summary

- 1 This paper outlines the scope of impact if an interim methamphetamine contamination threshold is increased from 0.5 micrograms per 100cm² (µg) to 1.5 µg.
- 2 The proposed interim threshold of 1.5 µg is higher than the New Zealand Ministry of Health's "Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites" published in 2010, which are used throughout New Zealand as a de facto standard for methamphetamine contamination.
- 3 There are no national or international standards regarding the remediation of methamphetamine; only guidelines exist. Furthermore, the guidelines are dedicated to the remediation of Clandestine Meth Labs, rather than use.
- 4 This paper outlines the impacts and risks associated with the application of an increased interim standard prior to the release of a formal New Zealand Methamphetamine Standard in early 2017.

Recommendations

It is recommended that the Housing New Zealand Executive:

- a) **Notes** the wide scope of impact regarding the adoption of an interim methamphetamine contamination threshold for the decontamination of HNZ properties.
- b) **Notes** that there is considerable risk associated with implementing an increased interim of 1.5 µg prior to the release of a formal New Zealand Methamphetamine Standard in early 2017.
- c) **Notes** the profound impact that a change to 1.5µg will have, since the Methamphetamine Management Programme and Policy is underpinned by 0.5 µg.
- d) **Notes** the significance of a proposed interim threshold that is *higher* than the MoH guidelines (0.5µg per 100cm²), which are used throughout New Zealand as a de-facto standard for methamphetamine contamination.

- e) **Notes** that there is no guideline or threshold regarding remediation in response to 'use'. The current guidelines are for Clandestine Labs.
- f) **Notes** that external service providers that are used for Testing and Decontamination uphold the MoH threshold of 0.5µg per 100cm² and may not adopt HNZ's increased threshold due to reputational risk.
- g) **Notes** that Adjudicators at a Tribunal Hearing will most likely rule in favour of the MoH threshold of 0.5µg compared to HNZ's 1.5µg if the Adjudicators had to choose between the two.
- h) **Agrees** that the interim threshold apply to all properties currently within the HNZ testing and decontamination work programme, and to all future properties in that programme, until the release of a formal New Zealand Methamphetamine Standard.
- i) **Accepts** the risks, scope of impact and potential hindrances associated with adopting a higher interim threshold.

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Impact of adopting an interim threshold on HNZ vacant properties

Risks

- 5 While there are clear drivers associated HNZ adopting an interim methamphetamine contamination threshold (freeing up of potentially hundreds of properties for Social Housing Register applicants), along with the assurance expert advice, there are risks to consider.
- 6 I am satisfied that there is no appreciable risk to the health and wellbeing of our staff, tenants and contractors through the application of the proposed threshold, but there are other operational and reputational risks that will require targeted mitigation strategies. Risks and mitigations are listed in **Figure 3** below.

Figure 3: Risks and mitigations associated with HNZ adopting an interim methamphetamine contamination threshold.

Risk	Mitigation
<p>HNZ contractors are unwilling to work on properties at a higher threshold level. Even if HNZ is prepared to offer these properties for tenanting the whole of NZ works to the MoH guidelines as a de-facto standard, and contractors may be unwilling to expose employees to perceived health and safety risks on the basis of their own obligations to those employees.</p>	<p>A contractor forum for all external parties involved in the methamphetamine testing, decontamination and remediation process is held.</p> <p>The forum utilises scientific and other subject matter experts to provide assurance and education that the proposed interim threshold is safe and to accept a new guide/level outside the MoH guideline.</p>
<p>Methamphetamine testing and decontamination work will not be able to be contracted Professional players in the industry (e.g. Forensic & Industrial Science Limited) are accredited by International Accreditation New Zealand (IANZ) for analysis and collection of surface swabs for methamphetamine.</p> <p>Testing services offered by firms like Forensic & Industrial Science Limited are in line with the MoH Guidelines. These laboratories are unlikely to risk their accreditation to service HNZ at a different threshold level.</p> <p>HNZ has already received advice that testers will be unwilling to provide certificates of clearance to enable occupation at the proposed threshold in the absence of a national standard.</p>	<p>HNZ requests scientific results only and uses internal policy guidelines based on the interim threshold to interpret the results and subsequent required actions including clearance certificates.</p> <p>This would remove any onus or responsibility on behalf of testers and decontaminators.</p> <p>It is unknown how Tenancy Tribunal adjudicators would interpret this approach as sufficient grounds to end a tenancy or if there are any legal implications for HNZ.</p>

<p>Implementation of the proposed interim standard is outside the current standard setting process i.e. the Standards NZ process, and is viewed as undermining or unduly influencing the formal process. A national standard is being developed on established techniques and processes built from requirements under the Standards and Accreditation Act 2015 and the International Organization for Standardization (ISO). HNZ sought entry to, and was recently confirmed, as a member of the NZ Standards Technical Committee responsible for the development of a national meth standard, along with MoH, Local Government entities and private sector businesses involved in the meth testing/ decontamination industry etc. (including some of whom HNZ contracts with). HNZ may be suspended from the Standards NZ Committee or face backlash from its members.</p>	<p>HNZ has been working closely with the Chair of the Standards Committee to keep him apprised of HNZ's early thinking on the adoption of an interim threshold.</p> <p>The Chair (but not the Committee) has expressed a view that the MoH guidelines are guidelines only, and that while undesirable from the point of view of the integrity of the standards development process, Housing New Zealand is free to implement a threshold independent of the MoH guidelines.</p>
<p>MSD declines to purchase properties under the interim threshold. It has yet to be determined whether MSD will be prepared to purchase homes under the proposed interim threshold. In purchasing these homes MSD may deem itself to be taking on "risk" too – MSD will be purchasing homes which are outside the MoH guidelines which the whole of NZ uses as a defacto standard.</p> <p>HNZ and MSD may also face push back from tenants and their advocates, who are uncomfortable occupying a home that is above the MoH guideline.</p>	<p>HNZ would need to engage at the earliest opportunity with the MSD's contracting team to inform them of safety matters and operational consequences of the proposed interim threshold.</p>
<p>Legal action is undertaken by HNZ staff / the PSA. It is unclear what legal action (if any) could be taken against HNZ by staff and/ or the PSA if HNZ adopted an interim threshold. The PSA has already made a number of enquires as to the safety and wellbeing of staff under the current guidelines and would be likely to make further enquiries and possibly take action if a new threshold, not aligned to the current MoH guidelines, was enacted.</p>	<p>Briefings held with both PSA representatives and staff briefings concerned about the affects of the proposed interim threshold on their health and wellbeing, and that of the tenants they support.</p>

<p>Legal risk to the HNZ Board and Senior Officers. Acting outside the current MoH guidelines, which by virtue of their use by industry and other stakeholders (including HNZ) as a de facto standard may create a level of exposure for our Board and Senior Officers to in relation to the recent changes in Health and Safety legislation.</p>	<p>Legal advice is sought by the Executive and Board on potential legal exposure.</p>
<p>Negative and wide ranging media, communications and stakeholder risk. HNZ has taken a very public and clear line on its management of methamphetamine contamination. Methamphetamine related media enquiries (including requests for interviews) and Official Information Act requests are received by HNZ daily.</p> <p>HNZ's use of the MoH guidelines for testing and remediation is core to its public messaging – prudent, industry practice etc.</p> <p>The guidelines have regularly been quoted as the justification for HNZ's termination of tenancies, significant expenditure on testing and decontamination etc.</p>	<p>HNZ prepares a media pack and launch outlining its rationale for adopting an interim threshold.</p> <p>Ministers publicly state their support for the interim threshold.</p>

Operational implications of adopting an interim threshold

7 In addition to the risks noted above the business would be required to manage a number of issues in introducing a new threshold, which these would also take some time to implement. Those issues include:

- Consultation with PBMC contractors, testing and remediation suppliers, staff and the PSA to ensure support for/ compliance with a new threshold.
- Update to Methamphetamine Management Programme and ADG Chemical Programme internal policies and processes e.g. application of the new threshold to divestment properties etc.
- Triage of tenants with contaminated homes in progress which would fall between the old and new threshold, including in relation to Tribunal cases.
- Communications and Stakeholder plans and collateral to support the communication of the new threshold.
- Consideration of insurance policy requirements for private owners of Home Lease Programme properties.

Next Steps

8 Should the Executive approve the introduction of an interim threshold of 1.5µg per 100 cm², Board approval will be subsequently sought, and Ministers will be briefed.

- 9 The Methamphetamine Management Programme team will undertake an impact assessment and develop an implementation plan for the introduction of the revised threshold.

Appendices

Appendix 1

Impact Analysis

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