

Memo

To Methamphetamine Management Programme Board
From Morag Wiley, Programme Manager
Date 5 September 2016
Subject Using methamphetamine – management of unlawful activity

Purpose

This memo asks the Programme Board to agree messaging for HNZ staff about managing unlawful activity when there is evidence of methamphetamine (meth) use in our properties, and how this relates to terminating tenancies. This messaging will be reflected in proposed amendments to the meth procedures and in programme communications.

Managing methamphetamine use

At the time the meth policy and procedures were developed, discussions focused on taking action with tenants dependent on whether the property was found to be above or below the Ministry of Health (MoH) threshold of 0.5 micrograms. The meth procedures reflect this and therefore actions to terminate a tenancy are only applicable where the property has tested above the MoH threshold.

Since the release of the meth 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 meth 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 is asked to confirm that where there is evidence of methamphetamine use at a HNZ property, that HNZ staff manage this as unlawful activity and/or antisocial behaviour regardless of the level of contamination to the property and take appropriate action as per existing policy.

Communication and changes to procedures

If agreed, the programme will ensure suitable communications are distributed to staff providing this direction and that managers are provided appropriate messaging to direct and guide staff.

Proposed changes to the meth procedures are attached at Appendix A. These changes emphasise that staff should consider appropriate actions to manage unlawful activity regardless of a meth test result.

Recommendations

It is recommended the Programme Board:

- **Agrees** that HNZ staff should take appropriate action to manage unlawful activity where there is evidence of meth use in HNZ properties, regardless of the level of contamination
- **Agrees** that this approach be communicated to staff
- **Approves** the attached changes to the meth procedures

Released under the Official Information Act 1982

Appendix A

Amendments to methamphetamine procedures to emphasise management of unlawful activity

Section 5.4 - Action assessment of a tenanted property for methamphetamine contamination

Additions to introduction section

A test for methamphetamine contamination is used to determine if a property is contaminated and whether that property is safe for habitation.

If the property is tenanted the tenancy for that must be terminated so the property is void for remediation work.

If HNZ has evidence that a tenant is using methamphetamine at a HNZ property, staff must take appropriate action to manage unlawful activity/anti social behaviour regardless of the test result for the property.

Updates to the procedure - in blue highlight

Step	Action
1	<p>This procedure is triggered when the test report is sent by the testing provider to the Chemical Team via ChemicalRequest@hnzc.co.nz detailing the results of the test and recommendations for treatment of the property (where applicable).</p> <p><u>Neighbouring/Conjoined properties</u></p> <p>The test report may also state if there is a possible risk of cross contamination to neighbouring/conjoining properties. If this is the case:</p> <ul style="list-style-type: none">• Housing New Zealand managed properties – the asset manager will discuss the matter with the area manager so that testing of a potentially affected tenanted property can begin in line with procedures 5.1 and 5.2.• privately owned properties – the asset manager will need to discuss the matter with the private owner and an offer made to test the property. If contamination is found, it should not be assumed the private owner is not responsible for contamination of their own property or indeed the Housing New Zealand property. On a case by case basis, the asset manager should seek advice from Legal and the Regional Portfolio Manager before any decision is made to remediate and/or accept liability for damage.
2	<p>The Chemical Team will update their spreadsheet and email the test report (showing results and recommendations for next steps) to the asset manager (template PHO065 or PHO068). The test report also specifies if the property is uninhabitable.</p>
3	<p>The asset manager will notify the relevant stakeholders of the test result, attaching the test report via email template PHO-066 or PHO-069:</p> <ul style="list-style-type: none">• Area Office• Portfolio Manager for the area• Maintenance Delivery Team (includes PBMC Health & Safety Manager) - <a href="mailto:MtceDeliveryH&S<region>@hnzc.co.nz">MtceDeliveryH&S<region>@hnzc.co.nz• Planned Programmes Team – informs other external contractors <p>If the test result is below the Ministry of Health threshold 0.5ug and no precautionary clean is required, the Asset Manager will lift the “restricted access” to the property.</p> <p>The asset manager will save the test report into the property folder in the shared drive and upload it in eAM against the lettable unit.</p> <p>If the PBMC contractor requests to view the test report, the Manager Regional</p>

Maintenance is responsible for redacting any sensitive information before providing the contractor with the report. Sensitive information may include the testing reasons, source of the suspicion, or personal information about the current tenant and their household.

The senior/tenancy manager will notify Police of the test result if they had previously notified them of a suspected manufacturing site.

4

Actioning the test result:

The senior/tenancy manager and/or area manager must hold a conversation with the tenant to discuss the test result. All conversations with the tenant must be held in the area office or by telephone. If the result is above the Ministry of Health threshold of 0.5ug, then the area/senior/tenancy manager should discuss responsibility for the contamination with the tenant before going ahead with any actions described below.

If ...	Then ...
<p>the test result is below the Ministry of Health threshold of 0.5ug and no precautionary clean is required</p>	<ul style="list-style-type: none"> the property is considered habitable and able to be tenanted the asset manager will update the Hazards Conditions and Risks status in eAM to 'P-Lab Not Identified', and request close-off of the risk in the Asset Risk Register the senior/tenancy manager will reassess the 'A1' CRIP rating set for drug use and either promptly remove the rating against the tenant(s), adult members of the household and any associates, or discuss appropriate action for managing unlawful activity/anti social behaviour with the area manager if there is evidence of methamphetamine use at the property
<p>the test result is below the Ministry of Health threshold of 0.5ug (considered habitable) but a precautionary clean is considered appropriate due to: risk mitigation; or recommendation by the testing company; or the current tenant's circumstances trigger consideration</p>	<ul style="list-style-type: none"> the asset manager will discuss this situation with the area manager where a precautionary clean is agreed, the asset manager will recommend this work for approval (on an exceptions basis) by the regional portfolio manager and regional manager if approved, the asset manager will request the Chemical Team to obtain estimates for a precautionary clean. The asset manager will approve the cost if within their delegated financial authority or complete a business case for regional portfolio manager approval Note: a re-test is not required following a precautionary clean. On completion of the clean, the tenant will be able to return to the property the asset manager will update the Hazards Conditions and Risks status in eAM to 'P-Lab Not Identified' and request close-off of the risk in the Asset Risk Register

		<ul style="list-style-type: none"> the senior/tenancy manager will reassess the 'A1' CRIP rating set for drug use and either promptly remove the rating against the tenant(s), adult members of the household and any associates, or take appropriate action for managing unlawful activity/anti social behaviour if there is evidence of methamphetamine use at the property
	the test result is above the Ministry of Health threshold of 0.5ug	<ul style="list-style-type: none"> the property is uninhabitable and will require remedial action the senior/tenancy manager will begin action to end the tenancy as per Step 8 the senior/tenancy manager or area manager will advise Police (if applicable) and CYF (refer interagency protocol) if children are currently or were previously living in the property and we believe the current tenant or former tenant is responsible for the contamination the asset manager will update the Hazards Conditions and Risks status in eAM to 'P-Lab Identified/P-Lab Confirmed', and update the Asset Risk Register
5	<p>Tenant Belongings</p> <p>If included in the request for a retrospective test, the tester will confirm in their report if tenant belongings in the property are contaminated. Before any discussions are held with the tenant, staff will need to decide if Housing New Zealand will offer to remedy where belongings are contaminated above the Ministry of Health threshold of 0.5ug.</p> <p>For guidance on the various options to be considered, refer to T-250 'Guidelines for managing tenant belongings affected by methamphetamine contamination'.</p>	
6	<p>Informing the tenant when the test result is below the threshold (according to the Ministry of Health guidelines):</p> <ul style="list-style-type: none"> the senior/tenancy manager will send the tenant letter 05-102. This letter informs them the test result is below Ministry of Health guidelines. (If however if a precautionary clean is required and approved, and the tenant is not believed responsible, go to step 7) the tenant may ask to see the test report in which case any sensitive information is redacted and the report is provided to them (the senior/tenancy manager, area manager, and asset manager to agree if any information should be redacted) if the tenant had moved out of the property during the testing process, they may return to the property if Housing New Zealand did not temporarily re-house the tenant for the testing period, rent will be abated for the period of time they were not living in their tenancy if appropriate, the senior/tenancy manager and area manager will consider any follow up action to manage illegal activity/anti social behaviour if there is evidence of methamphetamine use at the property 	
7	<p>Informing a tenant (who is not believed responsible) when a test result is below the threshold but a precautionary clean is approved by the regional portfolio manager and regional manager:</p>	

	<ul style="list-style-type: none"> the senior/tenancy manager will verbally inform the tenant that while the result was below threshold, we have decided to carry out some cleaning at the property the tenant may ask to see the test report in which case any sensitive information is redacted and the report is provided to them (the senior/tenancy manager, area manager, and asset manager to agree if any information should be redacted) if the tenant has been temporarily accommodated by Housing New Zealand, this arrangement will continue until the precautionary clean has been completed the tenant will need to vacate the property while the precautionary clean is being carried out the tenant will then be able to return to the property. 				
8	<p>Informing a tenant when a test result is above the threshold of 0.5ug (Ministry of Health guidelines)</p> <p>If the test report states the property is uninhabitable, the primary concern must be the health and safety of the tenant(s) and their household. The tenants need to be moved out of the affected tenancy as soon as practical.</p> <p>Before any termination notice is sent, the senior/tenancy manager must immediately advise the tenant and send them letter 05-103 advising them to leave the property. The tenant may ask to see the test report in which case any sensitive information is redacted and the report is provided to them.</p> <p>After letter 05-103 has been sent, action should then be taken to end the tenancy for that property as soon as possible, as follows:</p> <ul style="list-style-type: none"> if the tenant is not believed to be responsible for the contamination – go to step 8.a if the tenant is believed to be responsible for the contamination and there is sufficient evidence to be successful at the Tenancy Tribunal – go to step 8.b if the tenant is believed to be responsible but there is insufficient evidence to be successful at the Tenancy Tribunal – go to step 8.c <p>Note: Where a test shows a reading above threshold for only one room or an outbuilding, and where there is insufficient evidence that the current tenant has caused the contamination, on a case by case basis the area manager may decide to house the tenant in temporary accommodation until the property has been cleaned. However this should not stop taking appropriate action to manage illegal activity/anti social behaviour where there is evidence of methamphetamine use at the property.</p> <table border="1" data-bbox="316 1464 1442 2024"> <thead> <tr> <th data-bbox="316 1464 775 1518">If ...</th> <th data-bbox="775 1464 1442 1518">Then ...</th> </tr> </thead> <tbody> <tr> <td data-bbox="316 1518 775 2024">8.a - the test result is above the threshold of 0.5ug (Ministry of Health guidelines) and the tenant is not believed to be responsible for the contamination</td> <td data-bbox="775 1518 1442 2024"> <ul style="list-style-type: none"> if the test report says the property is uninhabitable, the tenant must be served with a Notice under S59 (letter 05-104) to end their tenancy in not less than 7 days (7DN). The Notice is prepared by the senior/tenancy manager; approved by the area manager and regional manager and personally delivered to the tenant in line with the usual business process a BIT transfer should be offered due to uninhabitability – refer business process CT-728 Manage tenant transfer if the tenant has not already been placed in alternative accommodation by Housing New </td> </tr> </tbody> </table>	If ...	Then ...	8.a - the test result is above the threshold of 0.5ug (Ministry of Health guidelines) and the tenant is not believed to be responsible for the contamination	<ul style="list-style-type: none"> if the test report says the property is uninhabitable, the tenant must be served with a Notice under S59 (letter 05-104) to end their tenancy in not less than 7 days (7DN). The Notice is prepared by the senior/tenancy manager; approved by the area manager and regional manager and personally delivered to the tenant in line with the usual business process a BIT transfer should be offered due to uninhabitability – refer business process CT-728 Manage tenant transfer if the tenant has not already been placed in alternative accommodation by Housing New
If ...	Then ...				
8.a - the test result is above the threshold of 0.5ug (Ministry of Health guidelines) and the tenant is not believed to be responsible for the contamination	<ul style="list-style-type: none"> if the test report says the property is uninhabitable, the tenant must be served with a Notice under S59 (letter 05-104) to end their tenancy in not less than 7 days (7DN). The Notice is prepared by the senior/tenancy manager; approved by the area manager and regional manager and personally delivered to the tenant in line with the usual business process a BIT transfer should be offered due to uninhabitability – refer business process CT-728 Manage tenant transfer if the tenant has not already been placed in alternative accommodation by Housing New 				

		<p>Zealand during the testing period, the tenant is eligible for rent abatement from the date Housing New Zealand receives the test report until the date the tenant is placed in alternative accommodation funded by Housing New Zealand</p> <ul style="list-style-type: none"> • where the tenant declines an offer of temporary accommodation and chooses to stay in the property at their own risk, a decision to stop their rent abatement should be taken on a case-by-case basis following advice from Legal • a Tenancy Tribunal application is only required in cases where the tenant refuses temporary housing or a BIT
	<p>8.b - the test result is above the threshold of 0.5ug (Ministry of Health guidelines), and Housing New Zealand has reasonable grounds to suspect the tenant is responsible for the contamination</p>	<ul style="list-style-type: none"> • if the test report says the property is uninhabitable, the tenant must be served with a Notice under S59a (letter 05-105) to end their tenancy in not less than 7 days (7DN) but only if: <ul style="list-style-type: none"> • there was a baseline test completed for this tenancy before the tenant moved in, and/or • there is sufficient evidence showing the tenant is responsible for the contamination. Evidence includes: <ul style="list-style-type: none"> ○ a criminal conviction related to drugs, especially methamphetamine, and the conviction is less than 5 years old, or ○ a witness that will support Housing New Zealand at the Tribunal, or ○ the tenant admits causing the contamination, or ○ any situation that satisfies the Tribunal Team that there is evidence to prove the tenant is responsible for the contamination. The standard established by the Tenancy Tribunal is higher than on the balance of probabilities and more closer to beyond reasonable doubt. • where there is evidence that gives Housing New Zealand reasonable grounds to suspect the tenant is responsible for the contamination, an assessment of the evidence may be requested from the Tribunal Team Breach Panel to determine if a 7DN under S59a should be issued. A referral email (template PHO-056) will be prepared by the senior/tenancy manager, approved by the area manager and sent to the Breach Panel as per the usual process. If an urgent decision is required ahead of the usual weekly Breach Panel meeting, the area manager must contact the manager tribunal personally to discuss the reasons for urgency

Released under the Official Information Act 1982

		<ul style="list-style-type: none"> • if the decision is made to proceed, a 7DN under S59a (letter 05-105) must be prepared by the senior/tenancy manager; approved by the area manager; approved and signed by the regional manager; and personally delivered to the tenant in line with the usual business process • the senior/tenancy manager will also complete T-480 'Request for approval of suspension from applying for a Housing New Zealand home' for approval by the regional manager • A BIT transfer will not be offered
	<p>8.c the test result is above the threshold of 0.5ug (Ministry of Health guidelines), and Housing New Zealand has reasonable grounds to suspect the tenant is responsible for the contamination, but evidence does not prove the tenant contaminated the property, and an application may not be successful at the Tenancy Tribunal</p>	<ul style="list-style-type: none"> • the Area Manager and Regional Manager discuss the available evidence that may prove the tenant contaminated the property. If they believe the evidence would not support a 7DN, they can choose to end the tenancy by serving the tenant with a 90DN under section 51(1)(d) • the senior/tenancy manager will complete 'Request for termination of a tenancy' (T-466) to terminate the tenancy and proceed as per usual business process T-229 • on approval of the T-466, a 90DN (letter 05-210) will be prepared for signing by the Regional Manager and personally delivered to the tenant in line with the usual business process • any rent abatement should be considered on a case by case basis with advice from Legal • if the tenant decides to end their tenancy at any point during the 90 days, they are able to by giving 21 days notice or a lesser period by mutual consent. The 90DN letter (05-210) explains the 21 day notice option • appropriate action should be taken to manage illegal activity/anti social behaviour if there is evidence of methamphetamine use at the property • the area manager and/or regional manager may choose to suspend the tenant - the usual T480 process should be followed • as an alternative to ending the tenancy, and based on the tenant's circumstances, the Regional Manager has the discretion to rehouse the tenant by a BIT transfer. Where a BIT transfer is arranged, the new property must be baseline tested •
9	When the property is vacated by the tenant (either following a BIT transfer or following due notice)	

given by either the tenant or Housing New Zealand) and Housing New Zealand has possession, the tenancy will be ended in Kotahi by the senior/tenancy manager who will advise the asset manager via standard Vacancy Notification process of the void.

The senior/tenancy manager will raise a work order to PBMC for a lock change (to a construction lock if applicable).

Where decontamination will be required the asset manager will update the Asset Status in eAM to 'Unavailable/ P Lab Contamination', and confirm to the senior/tenancy manager to change the property to Long Term Void in Kotahi.

Refer procedure 'Cleaning a property with methamphetamine contamination', section 5.6 step 1.

Released under the Official Information Act 1982

Released under the Official Information Act 1982