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**AT THE HEART  
OF THE MATTER,  
NZ DRUG  
FOUNDATION.**  
Te Tūāpapa Tarukino o Aotearoa

## **New Zealand Drug Foundation submission on the Regulation of Methamphetamine Contamination in Rental Housing**

Submitted to Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban  
Development on 6 March 2023.

## Tēnā koe

Thank you for the opportunity to submit on the topic of Methamphetamine Contamination Regulations. In this document, we provide answers to the questions included in the consultation document. Below, we have summarised our main points for your consideration:

- The NZ Drug Foundation appreciates the intention to provide greater certainty to tenants around their health and housing security in situations where methamphetamine residue has been found on the property. While we welcome the regulations in this space, we believe that the health hazards posed by other contaminants (including mould) and insufficiently heated or insulated households pose far greater risks to the health of New Zealanders than third-hand methamphetamine exposure.
- The current regulatory framework and market practices need to be improved, to limit excessive costs and disruption to tenants' lives. Sensible regulation should also account for the need of improving the housing situation for those who are struggling with substance use disorder and their whānau.
- We acknowledge the findings of the Prime Minister's Chief Science Advisor (PMCSO) report as the most current and reliable New Zealand-based evidence. We also acknowledge the findings from ESR reports and our policy positions are informed by this evidence.
- With some reservations that we outline in our submission, we support the proposed regulatory maximum acceptable level of methamphetamine residue of 15µg/100 cm<sup>2</sup> and the proposed maximum inhabitable level of 30µg/100 cm<sup>2</sup>.
- More and more Kiwis are now tenants, not owner-occupiers. We urge the Ministry to view rental properties, first and foremost as tenants' homes – not just landlords' financial assets.
- Despite the stigma and criminalisation of methamphetamine use, people who use it can be good, reliable tenants. While a proportion of people who use methamphetamine have substance use disorders and require support or treatment, many do not, and it is wrong to assume that either group will have antisocial behaviours.
- Almost half (48.2%) of Māori live in rented homes, so Māori will likely be disproportionately affected by the regulations as tenants of the properties in the first place. Under Te Tiriti o Waitangi, the Crown has an obligation to protect Māori. This includes ensuring stable, safe, and healthy housing.
- It is important to recognise that stable housing is part of a range of policies that need to be in place to reduce harm to Māori and other people who use methamphetamine, and who may be at serious risk if their housing situation is disrupted.

- Therefore, we propose a further objective in the policy analysis, as follows:  
*F: Support a harm reduction approach to housing security for tenants who use illicit substances.*
- By applying Objective F, the regulations will help tenants enjoy greater housing security. At the same time, landlords will benefit from more consistent tenancies.
- We specifically **recommend** that the regulations consider the wider implications of a tenant needing to vacate the premises. Because of lack of evidence for harm of third-hand methamphetamine exposure to residents, we **recommend** that tenants (but not landlords) are given power to request remediation or to end the tenancy with two or seven days' notice depending on the levels of contamination detected.

Additionally, there are areas where we believe the regulations could go further:

- I. **Limiting excessive testing:** including provisions that prohibit excessive, retaliatory, or intrusive contamination testing by limiting how often this may be undertaken (e.g. no more often than every 12 weeks). Furthermore, we recommend a provision where if a property has successfully been decontaminated to under  $15\mu\text{g}/\text{cm}^2$ , unless the levels exceed the maximum inhabitable standards under the same tenancy agreement, there is no need for further decontamination. This is to prevent the 'yo-yo' effect for people with low-level methamphetamine use.
- II. **Restricting insurers' ability to impose more restrictive standards than those set out by the regulations:** the regulations could address the potential for excessive or punitive methamphetamine testing by landlords.
- III. **Considering a longer notice period for termination by landlords:** if landlords retain the ability to terminate the tenancy after exceeding the maximum inhabitable level, we recommend extending the notice period for termination by landlord from seven days to 28 days. This could improve the situation of people who may be at risk of harm if they were to be evicted at such short notice.

Underpinning our submission is the desire to see healthy, secure homes for vulnerable tenants. We believe in improving housing stability for tenants who may be more vulnerable than others due to substance use.

Thank you for considering our responses.



Sarah Helm  
Executive Director

The Drug Foundation is a charitable trust. We have been at the forefront of major alcohol and other drug debates for over 30 years, promoting healthy approaches to alcohol and other drugs for all New Zealanders.

## Questions on Part A: Overview

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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?

The NZ Drug Foundation welcomes the regulations, and the effort that was put into this work. We appreciate the intention to improve the health of tenants and provide greater certainty to tenants' housing security in situations where methamphetamine residue has been found on the property.

Our position is that, overall, the health hazards posed by mould and insufficiently heated or insulated households pose far greater risks to health of New Zealanders than third-hand methamphetamine exposure.

We believe it is necessary to regulate the excesses of the current market that create unjustified costs for both tenants and landlords. We observe that the current regulatory framework and market practices contribute to uncertainty, and exacerbate vulnerability of people struggling with substance use disorder and their whānau.

There is overwhelming evidence that housing precarity and evictions have devastating effects on health<sup>1</sup>, mortality<sup>2</sup>, and substance use disorder<sup>3</sup> outcomes in people who use drugs. These risks are more severe among the most vulnerable subset of those who use methamphetamine, including pregnant and parenting women.<sup>4</sup> While we recognise that, in complex cases, more robust wrap-around interventions are appropriate for people with methamphetamine use disorder, improving overall housing stability among the communities of people who use methamphetamine are necessary to prevent further social and health harms.

We **recommend** including a harm reduction perspective in designing policies that address housing. We note there is a decreasing proportion of New Zealanders

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<sup>1</sup> Pan Y, Metsch LR, Wang W, Philbin M, Kyle TL, Gooden LK, Feaster DJ. The Relationship Between Housing Status and Substance Use and Sexual Risk Behaviors Among People Currently Seeking or Receiving Services in Substance Use Disorder Treatment Programs. *J Prim Prev.* 2020 Aug;41(4):363-382. doi: 10.1007/s10935-020-00597-x.

<sup>2</sup> Bradford AC, Bradford WD. The effect of evictions on accidental drug and alcohol mortality. *Health Serv Res.* 2020 Feb;55(1):9-17. doi: 10.1111/1475-6773.13256. Epub 2019 Dec 30. Erratum in: *Health Serv Res.* 2020 Jun;55(3):486.

<sup>3</sup> Pilarinos A, Kennedy MC, McNeil, R *et al.* The association between residential eviction and syringe sharing among a prospective cohort of street-involved youth. *Harm Reduct J* 14, 24 (2017). <https://doi.org/10.1186/s12954-017-0150-5>

<sup>4</sup> Petzold J, Rehmet L, Weber B, Spreer M, Krüger M, Zimmermann US and Pilhatsch M (2022) Housing Correlates in Pregnant and Parenting Women Using Methamphetamine and Accessing Psychiatric Care. *Front. Psychiatry* 13:890635. doi: 10.3389/fpsy.2022.890635

owning the property they live in, indicating that long-term rentals are an everyday reality for many Kiwis.<sup>5</sup> We urge the Ministry to view rental properties, first and foremost as tenants' homes and not only as landlords' financial assets. This means creating policies that effectively protect our most vulnerable tenants.

**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?**

Overall, we agree with the existing objectives. However, we note a lack of recognition that housing stability is a critical pre-requisite for effective drug harm reduction and substance use recovery. As noted in the New Zealand National Drug Policy 2015-2020, "AOD [Alcohol and Other Drugs] policy cannot be viewed in isolation from social factors (such as income, employment, housing and education) that may make people more at risk of being affected, directly or indirectly, by harm from AOD. Effective government intervention requires a cross-agency response."<sup>6</sup>

Therefore, we propose a further objective as follows:

*F: Support a harm reduction approach to housing security for tenants who use illicit substances.*

We encourage more consideration of the wider social and health implications for people who use illicit substances, and the impact of housing insecurity on their health and wellbeing. We believe that including this additional objective will be of benefit to both tenants and landlords.

Not everyone who uses illicit substances has a substance use disorder. Recreational substance use, including of methamphetamine, is not the same as use due to substance dependence (addiction), and not all substance use causes acute harm. Importantly, despite the stigma associated with methamphetamine use, it is not inherently associated with antisocial behaviour. Many people who use methamphetamine can be good, reliable tenants. For those with substance use disorders, housing stability is an important factor which may decrease the risk of harm from substance use.<sup>7</sup>

By applying Objective F, the regulations will help tenants enjoy greater housing security. At the same time, landlords will benefit from more consistent tenancies.

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<sup>5</sup> Statistics NZ (2020). Housing in Aotearoa: 2020. Retrieved from [www.stats.govt.nz](http://www.stats.govt.nz).

<sup>6</sup> Ministry of Health (2015): National Drug Policy 2015 to 2020. <https://www.health.govt.nz/system/files/documents/publications/national-drug-policy-2015-2020-aug15.pdf>

<sup>7</sup> Rowlands Snyder EC, Boucher LM, Bayoumi AM, Martin A, Marshall Z, et al. (2021) A cross-sectional study of factors associated with unstable housing among marginalized people who use drugs in Ottawa, Canada. PLOS ONE 16(7): e0253923. <https://doi.org/10.1371/journal.pone.0253923>

As Dr Lucy Telfar Barnard of the Department of Public Health at Otago University School of Medicine explains:

*... the health and wellbeing risks of eviction from affordable housing are likely to be greater than the risks of living in a dwelling with residue from meth use. If it arose during the current occupancy, the best response is intervention to reduce the risks of drug-related harm, which is best delivered with a foundation of affordable housing. Eviction will magnify rather than reduce those risks.*<sup>8</sup>

**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?**

Broadly, we agree with the scope of the regulations. However, we also **recommend:**

**a) Limiting excessive testing**

Including provisions that prohibit excessive or intrusive contamination testing, by limiting how often this may be undertaken. For example, this could include ensuring that methamphetamine contamination testing takes place no more often than property inspections (if being part of those) are allowed, or that methamphetamine testing cannot take place more often than every 12 weeks. We note provisions must prohibit disruptions of quiet enjoyment for tenants.

**b) Restricting insurers' ability to impose more restrictive standards than those set out by the regulations.**

We note that the Regulations do not address the potential for excessive testing by landlords. Excessive, repetitive testing may unnecessarily inconvenience tenants, and interfere with their quiet enjoyment of the property. The draft regulations do not restrict testing for other reasons, including when required under an insurance policy.

We are aware of guidance from the insurance sector which encourages landlords to “*make an application to the Tenancy Tribunal for vacant possession in accordance with the provisions of the Residential Tenancies Act 1986 if: ... ii. you become aware of any illegal activity by the occupant(s) at the home ...*”<sup>9</sup>. This has clear implications for illicit substance use, and we are concerned that such an “assets over people” approach is not consistent with a harm reduction and housing security approach.

**c) Considering a longer notice period for landlord-initiated termination of tenancy**

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<sup>8</sup> Brown, Russell. (2016) 'Poor Foundations – testing homes for meth gone awry' in Matters of Substance. Vol 27, Issue No. 3. NZ Drug Foundation. p12.

<sup>9</sup> IAG (2017). Your guide to methamphetamine contamination. <https://www.ami.co.nz/PDFs/iag-meth-ebook.pdf>

We acknowledge that the scope of the Regulations under discussion does not include changes to the Residential Tenancies Act 1986, under which exist the provisions to evict a tenant with seven days' notice. We also acknowledge that by raising the threshold for eviction to 30µg/100cm<sup>2</sup>, this will have a positive impact on the numbers of tenants evicted, because there will be fewer at risk of eviction. There will be benefits to these tenants by remaining on the property, while further testing and remedial work is carried out.

We have strong concerns about the implications for tenants who may be at risk of harm if they were to be evicted at such short notice as seven days, especially among those with young children. The impact of having to vacate a house can cause loss of employment, disruption of schooling, separation of family units, loss of important social networks, homelessness and other long term negative impacts on physical and mental health.

We therefore want to advocate for ensuring the ability to terminate a tenancy by landlords is as limited as possible. If this is unavoidable, we recommend including a longer notice period of 28 days or more.

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

Māori will likely be disproportionately affected by the regulations as tenants of the properties in the first place. At the time of the 2020 census, 48.2% of Māori were living in rented homes for which rent was paid, compared to 25.4% of Europeans.<sup>10</sup> We also note that in 2021, only 4% of landlords were Māori.<sup>11</sup>

Under Te Tiriti o Waitangi, the Crown has an obligation to protect Māori. This includes ensuring stable, safe, and healthy housing supply, whether through appropriately regulating private rental or social housing.

We note that Māori are 1.8 times more likely to use amphetamines than non-Māori, and wahine Māori are 2.7 times more likely to use than non-Māori women.<sup>12</sup> We urge the Ministry to recognise that ensuring stable housing enables effective drug harm reduction and substance use disorder treatment access. Policies that support these objectives are essential to give effect to the right to healthcare for Māori who use methamphetamine.

The early tenancy termination and decontamination process is disruptive and can lead to tenants being displaced, which reduces security of tenure. Losing tenancies can be particularly hard for tenants who have limited housing options or complex

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<sup>10</sup> New Zealand Government. Retrieved from: [https://catalogue.data.govt.nz/dataset/465f68b3-4606-4bf6-b867-8858d9ffd67d/resource/3e62ff72-e35c-4f60-8249-bc3640ab3355/download/job-11980\\_table01.csv](https://catalogue.data.govt.nz/dataset/465f68b3-4606-4bf6-b867-8858d9ffd67d/resource/3e62ff72-e35c-4f60-8249-bc3640ab3355/download/job-11980_table01.csv)

<sup>11</sup> Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development, Healthy Homes Guarantee Act Monitoring, Kantar public, September 2021.

<sup>12</sup> Ministry of Health (2021). Annual Data Explorer 2020/21: New Zealand Health Survey [data file]. Retrieved from <https://minhealthnz.shinyapps.io/nz-health-survey-2020-21-annualdata-explorer/>



needs. We have heard very concerning reports that Māori may struggle to re-enter private rental market due to racist practices by some providers.<sup>13</sup>

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

The Drug Foundation's main concern is around the impact of testing and decontamination on vulnerable tenants. This is especially in the case of being removed from the property due to confirmed methamphetamine presence on the premises, or needing to leave the property while decontamination is carried out.

We note that Kāinga Ora data<sup>14</sup> (see our response to question 17), show a significant downward trend in testing, decontamination, and money spent on these procedures. This corresponds with a downward trend in the numbers of tenants who needed to be moved out due to remedial work.

Recent evidence from Tenancy Tribunal hearings<sup>15</sup> supports this downward trend and notes a significant change since the release of the PMCSO report in 2018.

Therefore, we would want to encourage any policies or regulations which aimed to keep tenants residing in a property wherever possible, while any cleaning or remediation work was carried out. We believe this will benefit tenants who may be in a vulnerable housing situation.

**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?**

Boarding houses are often used by vulnerable communities, whose housing situation has been precarious. The implications of eviction at short notice are likely to be even greater for these communities. Short-notice evictions disrupt the social and economic supports people in boarding housing have in place. If someone is using drugs this may place them at further risk and this is in direct contradiction to the values of the National Drug Policy.

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<sup>13</sup> RNZ. *Landlords denying Māori rental properties: 'There's a lot of discrimination'*. <https://www.rnz.co.nz/news/te-manu-korihi/421977/landlords-denying-maori-rental-properties-there-s-a-lot-of-discrimination>

<sup>14</sup> Official Information Act request information from Kainga Ora (dated 20 January 2023).

<sup>15</sup> Sanchez Lozano, C. D., Wilkins, C., & Rychert, M. (2022). Outcomes from the New Zealand Tenancy Tribunal after a review of policy on residential housing methamphetamine contamination. *Journal of the Royal Society of New Zealand*, 1–15. <https://doi.org/10.1080/03036758.2022.2103575>



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

No comment.

## **Questions on Section 1: Regulated levels of methamphetamine**

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**8. Do you agree that the maximum acceptable level of methamphetamine residue should be 15µg/100cm<sup>2</sup>? Why/why not?**

We support that provision, however with certain reservations outlined below.

The proposed regulations prescribe a less conservative threshold and target for decontamination than the current NZS 8510:2017. We note that the current Standard is sometimes applied by the industry, requiring decontamination at very low levels of only 1.5µg/100 cm<sup>2</sup>.

We acknowledge the findings from the Prime Minister's Chief Science Advisor (PMCSO) report which found no data showing any health risk from living in a place where methamphetamine was previously smoked. The report concluded previous 'contamination' standards were set far too low at 1.5µg/100 cm<sup>2</sup>. The report suggested a new level of 15µg/100 cm<sup>2</sup> be used and stated that at this level a health effect is thought to be extremely unlikely. As stated in the PMCSO report: "Indeed, exposure to methamphetamine levels below 15µg/100 cm<sup>2</sup> would be unlikely to give rise to any adverse effects. This level still incorporates a 30-fold safety buffer on a conservative estimate of risk."

Furthermore, remediation in line with NZS 8510:2017 would only be recommended in former meth labs or when there was 'excessive methamphetamine use', which is rare in New Zealand. We further note that there is no evidence that some of the highly toxic precursors or solvents encountered in the US have been in use in clandestine metamphetamine manufacture in Aotearoa, suggesting the risk to be lower than in jurisdictions with more conservative levels.

We note that since the release of the PMCSO report, the Tenancy Tribunal has tended to favour an acceptable level of methamphetamine residue of 15µg/100 cm<sup>2</sup> in cases where contamination was proven.

On the basis of the evidence available to date, we support the 15µg/cm<sup>2</sup> as threshold and target for decontamination.

**9. Do you agree that premises tested following decontamination must have a methamphetamine residue level at or below 15µg/100cm<sup>2</sup> (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/100cm<sup>2</sup>?**

On balance, we support 15µg/cm<sup>2</sup> as a pragmatic target for decontamination. However, we note the risks associated with maintaining the same level as a threshold for decontamination and target for remediation. This may create situations where due to minor discrepancies in testing methodologies, previously

decontaminated properties (for example, to  $14.5\mu\text{g}/\text{cm}^2$ ) upon another test, or very limited methamphetamine use, are considered contaminated (any value over  $15\mu\text{g}/\text{cm}^2$ ).

We therefore **recommend** including a provision where evidence of recent successful decontamination evidenced by validated post-decontamination testing to under  $15\mu\text{g}/\text{cm}^2$  under the same tenancy precludes further decontamination unless levels exceed maximum inhabitable standards under the same tenancy agreement. In an event where tenants have caused the contamination through personal use, the additional level of exposure to methamphetamine from surface contamination is negligible compared to exposure from personal use of methamphetamine.

This could prevent the 'yo-yo'-ing of the costs of decontamination and improve housing situation of people who use methamphetamine, including those who are addicted.

**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?**

No comment.

**11. Do you have any other comments about the proposal to set a maximum acceptable level of methamphetamine residue at  $15\mu\text{g}/100\text{cm}^2$ ?**

We would like more clarity around whether or not a tenant is required to vacate the premises while remedial work is carried out, if testing has found residue above  $15\mu\text{g}/100\text{cm}^2$ .

Our overarching goal would be for tenants not to be required to vacate properties cleaning is undertaken. In case it is not safe to remain at the property while decontamination work is undertaken, the regulations should ensure this is for as short a time as possible. We **recommend** that the Regulations consider the wider implications of a tenant needing to vacate a property, even for a short time, and the impact this could have on their employment, education, health and social well-being. In this regard we advocate for the consideration of our proposed new Objective F: *Support a harm reduction approach to housing security for tenants who use illicit substances.*

**12. Do you agree that the maximum inhabitable level of methamphetamine residue should be  $30\mu\text{g}/100\text{cm}^2$ ? Why/ why not?**

We support introducing a level of certainty for tenants and landlords about the level of contamination which is acceptable to live in a property. On the basis of the evidence available, we would advocate for the level of residue to be much higher than currently stated in the NZS 8510:2017.

We note there is no evidence that  $30\mu\text{g}/100\text{cm}^2$  presents a threshold for health risk and this figure is derived arbitrarily. The evidence around the harms associated with exposure to methamphetamine use or manufacture is not conclusive. The PMCSO report states that “... no data have been reported relating to third-hand exposure situations, which affect a greater majority of the population – that is, non-users living in dwellings (whether remediated or not) that had been previously used only for smoking of methamphetamine.”<sup>16</sup>

Because of lack of clear evidence for harm, we **recommend** that tenants (but not landlords) are given power to request immediate remediation or to end the tenancy with two or seven days’ notice. We recommend at  $30\mu\text{g}/100\text{cm}^2$  landlords are required to undertake immediate remediation, however testing at this level does not empower them to end the tenancy.

We note that there are likely to be very few properties in New Zealand which will breach a level of methamphetamine residue of  $30\mu\text{g}/100\text{cm}^2$  (a level indicating that the property may have been used for manufacturing methamphetamine or methamphetamine use was very heavy<sup>17</sup>). We note that the PMCSO report does not generally recommend remediation unless methamphetamine manufacture or ‘excessive use’ was implicated. We also note that ESR could not confirm  $30\mu\text{g}/100\text{cm}^2$  (or any other value) to be the level where adverse health effects are likely.<sup>18</sup>

We would advocate for maintaining the tenancy as long as possible and preferred by tenants, including during decontamination where possible.

**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.

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<sup>16</sup> Professor Sir Peter Gluckman (2018): Methamphetamine contamination in residential properties: Exposures, risk levels, and interpretation of standards. Office of the Prime Minister’s Chief Science Advisor.

<sup>17</sup> Ibid.

<sup>18</sup> Cressey P, Fowles J. (2020) Methamphetamine contamination in residential environments: Analysis of evidence related to human health effects. ESR Client Report FW20045. Christchurch: Institute of Environmental Science and Research

**15. Do you think there will be any unintended consequences of setting the maximum inhabitable level of methamphetamine residue at 30µg/100cm<sup>2</sup>, for example on different stakeholders? Please explain.**

The Drug Foundation is concerned that tenants who use methamphetamine may be affected, as opposed to those who may manage clandestine labs on the premises. We encourage professional testing by landlords where there is a recommendation by Police or Council to do so, on suspicion of manufacturing.

In particular we are concerned that the short eviction notice period might apply to a tenant who has been recently consuming methamphetamine and may be in a vulnerable housing situation if they were evicted at such short notice as seven days. Eviction is a factor associated with increased mortality among people who use drugs<sup>19</sup>, so we urge the Ministry to ensure regulations minimise the risk of evictions.

**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/100cm<sup>2</sup>, and on the basis that the tenant did not cause the contamination?**

In principle, we believe that if tenants cannot stay at the property or enjoy it fully, they should not pay rent for this period. The same rules should apply where due to decontamination process, the enjoyment of property by tenants is disrupted.

**17. Can you provide any data or other evidence about the likely prevalence of residential tenancies testing above 30µg/100cm<sup>2</sup>?**

Recent data provided by Kāinga Ora to the Drug Foundation via an Official Information Act request (dated 20 January 2023) shows that there has been a steady downward trend in properties found to exceed methamphetamine residue levels of 30µg/100cm<sup>2</sup>. This also reflects a greater downward trend in the number of tests carried out (from 744 tests in 2018, to 108 in 2022). Detailed figures are provided below (and attached in an email forward to the Ministry of Housing and Urban Development staff).

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<sup>19</sup> Bradford, AC, Bradford, WD. The effect of evictions on accidental drug and alcohol mortality. *Health Serv Res.* 2020; 55: 9– 17. <https://doi.org/10.1111/1475-6773.13256>

### Properties and contamination levels by financial year

Financial Year	0-1.49 µg/100 cm <sup>2</sup>	1.5-14.99 µg/100 cm <sup>2</sup>	15-29.99 µg/100 cm <sup>2</sup>	30+ µg/100 cm <sup>2</sup>	Grand Total
2018 (from 01/09/2017)	70	617	113	91	744
2019	32	62	42	40	144
2020	11	17	24	34	84
2021	64	52	31	36	176
2022	91	66	12	26	152
2023 (to 31/10/2022)	59	41	11	15	108

Note that as a property can be tested multiple times within the same year, or over multiple years, it can be counted in multiple years and/or columns.

Source: Official Information Act request information from Kainga Ora (dated 20 January 2023). Grand Total represents the total of properties tested for contamination within the given period.

### 18. Do you have any other comments about the proposal to set a maximum inhabitable level of methamphetamine residue at 30µg/100cm<sup>2</sup>?

The Drug Foundation is concerned that the proposed maximum inhabitable level can result in eviction with two or seven days' notice. This is not consistent with a harm reduction approach, and would not support our proposed Objective F.

It is also not consistent with the increasing recognition of the need for a more health- and wellbeing-oriented approach to tenants' lives.<sup>20</sup> We are particularly concerned about the implications for families, especially those with young children, of having to leave a property at such short notice. The impact of having to vacate a house can cause loss of employment, disruption of schooling, separation of family units, loss of important social networks, homelessness and other long term negative impacts on physical and mental health.

Short notice landlord-initiated terminations of tenancy must remain a last resort solution where serious risks are involved. We do not believe that methamphetamine residue at 30µg/100cm<sup>2</sup> meets this criterium. If caused by the tenant, such levels may be indicative of very heavy use, suggesting methamphetamine use disorder which suggests increased vulnerability. Furthermore, if this level of residue is caused by the tenant, surface contamination constitutes negligible source of methamphetamine exposure compared to actual substance use.

<sup>20</sup> Sanchez Lozano, C. D., Wilkins, C., & Rychert, M. (2022). Outcomes from the New Zealand Tenancy Tribunal after a review of policy on residential housing methamphetamine contamination. *Journal of the Royal Society of New Zealand*, 1-15. <https://doi.org/10.1080/03036758.2022.2103575>

As Dr Lucy Telfar Barnard of the Department of Public Health at Otago University School of Medicine explains: "... the health and wellbeing risks of eviction from affordable housing are likely to be greater than the risks of living in a dwelling with residue from meth use. If it arose during the current occupancy, the best response is intervention to reduce the risks of drug-related harm, which is best delivered with a foundation of affordable housing. Eviction will magnify rather than reduce those risks." <sup>21</sup>

## Questions on Section 2: Requirements for landlords

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**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?**

No comment.

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

Yes, we support testing where Police or Council advise there is methamphetamine manufacturing on premises. We agree that an accredited professional testing provider should be engaged to conduct the testing, to ensure that any evidence of methamphetamine residue is reliable.

Testing by a professional organisation would provide part of reliable evidence should a tenant or a landlord require it later in Tenancy Tribunal or other proceedings.

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

No. We advocate for incorporating our proposed new Objective F: *Support a harm reduction approach to housing security for tenants who use illicit substances*. With this in mind, we would support testing by landlords if it was in the best interests of the tenant, and supported housing stability for tenants.

Our concern is around any potential for the Regulations to encourage over-testing, rather than not enough. We note that the Regulations do not address the potential for excessive testing by landlords. Excessive, repetitive testing may unnecessarily inconvenience tenants, and interfere with their quiet enjoyment of the property. The draft regulations do not restrict testing for other reasons, including when required under an insurance policy.

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<sup>21</sup> Brown, Russell. (2016) 'Poor Foundations – testing homes for meth gone awry' in Matters of Substance. Vol 27, Issue No. 3. NZ Drug Foundation. p12.

We are aware of guidance from the insurance sector which encourages landlords to “make an application to the Tenancy Tribunal for vacant possession in accordance with the provisions of the Residential Tenancies Act 1986 if: ... ii. you become aware of any illegal activity by the occupant(s) at the home ...”<sup>22</sup>. This has clear implications for illicit substance use, and we are concerned that such an “assets over people” approach is not consistent with a harm reduction and housing security approach.

We encourage the Ministry to clarify that pre-tenancy testing is required to require cost recuperation from tenants if contamination over 15µg/100cm<sup>2</sup> is found.

With this in mind, we would support testing by landlords if it was in the best interests of the tenant, and if testing supported housing stability for tenants.

The Drug Foundation wants to advocate for minimal testing. That would be, testing that is on the basis of clandestine manufacturing, on suspicion of activity by the Police or relevant Council. To minimise disruption to tenants’ lives, we believe there should be a high threshold to warrant a test being carried out.

Encouragingly, we are aware that a recent analysis of Tenancy Tribunal Orders has found that Kāinga Ora has reduced its applications to the Tribunal since the release of the PCMSO report. This may reflect a more health- and wellbeing-focused approach to supporting tenants, rather than a zero-tolerance approach to substance use.<sup>23</sup>

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

No comment.

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

Yes, the Drug Foundation agrees that the requirement to re-test is the responsibility of the landlord. We believe landlords should shoulder the costs of re-testing as well.

The onus should be on the landlord to prove that once the property has been decontaminated, the process has been carried out effectively.

It is sensible to ensure that the tester and the decontaminator are different to ensure the integrity of the decontamination process.

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<sup>22</sup> IAG (2017). Your guide to methamphetamine contamination. <https://www.ami.co.nz/PDFs/iag-meth-ebook.pdf>

<sup>23</sup> Sanchez Lozano, C. D., Wilkins, C., & Rychert, M. (2022). Outcomes from the New Zealand Tenancy Tribunal after a review of policy on residential housing methamphetamine contamination. *Journal of the Royal Society of New Zealand*, 1–15. <https://doi.org/10.1080/03036758.2022.2103575>



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

No comment.

**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?**

No comment.

### **Questions on Section 3: Testing for methamphetamine**

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**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?**

No comment.

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

No comment.

**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?**

We agree with this provision – we want to ensure that testing is carried out in a manner that provides objectivity and does not incentivise decontamination providers to over-detect contamination.

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

As per our comments in question 30, we support provisions that ensure reproducibility and objectivity of decontamination testing. We defer to the technical expertise of independent agencies, such as ESR, to provide guidance on performance of different testing methodologies.

**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.

### **Questions on Section 4: Decontamination**

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**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).**

No comment.

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

No comment.

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

No comment.

**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?**

The Drug Foundation believes that anyone should be allowed to carry out decontamination where methamphetamine residue has been detected above the maximum acceptable, or maximum inhabitable levels. This could be done on the understanding that a qualified tester undertakes the test to prove that the cleaning has reduced the acceptable or inhabitable levels to the standard required.

We understand that properties where there have been relatively high amounts of residue found may require in-depth cleaning or professional decontamination. We understand that in such cases, it may not be possible or practical for a non-professional cleaner to remediate satisfactorily. However, in many cases, allowing tenants deemed to have caused the contamination to attempt to satisfactorily clean a property themselves may result in reduced costs for both tenant and landlord.

An alternative suggestion is for remediation to be allowed to be carried out by anyone, if the contamination is between the maximum acceptable level and maximum inhabitable levels.

**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?**

No comment.

**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/100cm<sup>2</sup> (compared with 1.5µg/100cm<sup>2</sup> which was often required in the past) will make a difference as to whether tenants can remain?**

The Drug Foundation's chief concern is the health and safety of tenants. Therefore, if health and safety considerations permit, we advocate for tenants to be able to remain resident on the premises while cleaning takes place. Or, in the case that that a tenant needed to vacate the premises, this would be for as short a time as possible. In this regard we strongly advocate for the consideration of our proposed new Objective F: *Support a harm reduction approach to housing security for tenants who use illicit substances.*

Our concerns regarding eviction where testing has found uninhabitable levels of methamphetamine residue, are similar to whether a tenant would be required to vacate the premises due to cleaning.

We support the higher remediation level of 15µg/100cm<sup>2</sup> compared with 1.5µg/100cm<sup>2</sup>, as this will require far less disruption to tenants' lives. It will also mean fewer properties would need to be remediated, compared to the present day.

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?

No comment.

### **Questions on Section 5: Abandoned goods on contaminated premises**

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

No comment.

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?

No comment.

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

No comment.