

Best Practice Guide

P Labs and Methamphetamine

DISCLAIMER: The information contained in this document is not intended to form professional legal advice or legal opinion on any particular matter.

Background

A property where methamphetamine (“**meth**” or “**P**”) has been used or manufactured is likely to be contaminated with dangerous chemical residue, which can cause serious health effects. Contaminated properties may be residential houses, motels, hotels, holiday camps, apartments and commercial buildings.

The long term effects of the chemicals produced from cooking meth will only be known once the people exposed to them start to experience unusual health problems. Short term effects include asthma like symptoms, breathing difficulties, skin rashes, eye irritations, headaches and nausea. As some people are more sensitive than others, one member of a family may be entirely unaffected while another suffers these symptoms.

Long term health effects can include chronic fatigue, diseases of the central nervous system, circulatory system, strokes and cancer.

Overall, it is costly to own and hazardous to occupy properties that have been contaminated with meth.

How do I recognise a possible meth lab?

It must be remembered that meth lab activity is a criminal offence. If a meth lab is present on a property, you must report the existence of the meth lab to the Police.

Here are some of the more obvious indicators of possible meth lab activity:

- Strange smells
- Fumes/vapour escaping from windows or ventilators
- Unusual activity and at unusual times
- Premises being used for purposes that are not normal e.g. a garage not housing vehicles
- Windows covered/sealed day and night
- Occupants acting as if under the influence of drugs
- Unusual/erratic behavior of occupants
- Property vacated by tenants in a hurry
- Numerous chemical containers (labelled solvent, hazardous, acid, flammable) stored or stock piled
- Presence of empty containers of distilled water
- Numerous plastic or glass containers fitted with glass or rubber tubing
- Numerous cold tablet packages lying around or in the rubbish
- Portable gas tanks or other cylinders not normally seen or used in the area
- Chemical stains around household kitchen sinks, laundry tubs, toilets and/or stormwater drains
- Yellow/brown staining of interior floor, wall, ceiling and/or appliance surfaces

The REINZ Health and Safety Guide (available on the REINZ website) provides further information on meth contamination.

The NZ Police website also provides information on detecting possible meth labs:

http://www.police.govt.nz/sites/default/files/services/drugs/hand_out_-_safety_awareness_public_may_2007.pdf

What shall I do if I suspect a house is contaminated with meth?

As outlined above, contamination can occur:

- when meth has been smoked or used in the property; or
- when meth has been manufactured/ cooked on the property.

It is sometimes difficult to tell if a property has been used for meth production or if meth has been smoked/ used on the premises. The best way to find out is by asking the right questions and getting a test done. **Make sure that the Licensee who has the supervising role within your agency is actively involved in this process.**

It is advisable to refrain from any further marketing of the property until it has either been decontaminated or you have proof that the property is not contaminated. You also should not let anyone onto the property other than those involved in detecting and decontaminating.

If you suspect that a property may be contaminated, we suggest you take the following steps:

Step 1 Talk to the vendor/ property owner

Inform your client immediately and ask questions to see if the client can provide any further information. Use the possible signs of contamination listed above in your questioning. If your suspicion relates to a rental property, ask your client if you can speak to the person or company who managed the property on behalf of the landlord to gain information.

Inform your client that under the Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012, meth contamination is considered a property 'defect'. This means that the disclosure provisions of Rules 10.7 and 10.8 apply.

Rule 10.7 says that where it would appear likely to a reasonably competent licensee that land may be subject to hidden or underlying defects, then a licensee must obtain confirmation from the client, supported by evidence or expert advice, that the land in question is not subject to defect. If no evidence or expert advice is available to confirm that the property is not contaminated, then the licensee would be expected to inform buyers of the risk so that buyers can obtain their own report.

So, if the vendor cannot provide evidence that the property is not contaminated, then you must ask your client if they will consent to you informing buyers of the risk of meth contamination. If your client will not consent to you informing buyers of the contamination risk then, under Rule 10.8, you must cease acting for the client.

Your client also needs to understand that under the warranty provisions of Agreements for Sale and Purchase of Real Estate, vendors warrant and undertake that they have not received any notice or demand from any local or government authority or other statutory body. Cleansing Orders and Closing Orders issued by Council under the Health Act for properties where a P-lab has been found are captured by those provisions.

It is also recommended that you:

- call the police station that is nearest to the house concerned to check for any history of meth related reports or incidents at the house. If the property has a history of meth contamination and the police were involved, they usually will have notified the local council and directed the owner/occupier on appropriate remedial measures. If the Police reported the meth contamination to the Council, it may appear on the LIM report for the property;
- call the nearest Council to check if there are any meth related reports or incidents recorded about the house (see below for LIM reports).

Step 2 Recommend that the vendor contact a local, reputable meth testing company to verify that the property is free of meth contaminants. **As set out above, if the vendor tells you not to tell buyers and does not provide evidence that the property is free from contaminants, you must cease acting for the vendor.**

Step 3 If there is evidence of a P lab on the property you must report it to the Police. The Police will advise the vendor on the steps to take to decontaminate the property.

What is involved with decontamination?

Once it is found that the property has been contaminated with meth then it can be very costly to decontaminate. The home owner will need to check if their insurer will cover some of the related costs. Recent changes in policy wordings provided by insurance companies tend to place restrictions around meth contamination. Many insurers will specifically exclude claims for chemical contamination from their policies as they are updated. If not excluded, they may impose a cap on the maximum they will pay for such a claim.

Initial swabbing by specialists costs approximately \$100- \$500 to detect meth on building materials and house contents. Scientific lab tests reporting on atmospheric levels can cost around \$2,000. The clean-up costs for an average three-bedroom house start at around \$4,000, if P was being used but not manufactured in the house. If the property was used to manufacture P, then the clean-up cost involved can be significantly higher. In serious cases the house will need to be demolished.

According to the Auckland Regional Public Health Service no decontamination procedure can guarantee absolute safety. This means that even if the property has been decontaminated and any notification removed from LIM reports, you should let potential purchasers know of the history of contamination.

Will LIM reports show contamination history?

If Councils are informed by the Police that a house is potentially contaminated they may issue a Cleansing Order under section 41 of the Health Act 1956. The Council may also issue a dangerous building notice which prevents anyone living or staying at the property until it has been cleaned and has passed a retest.

Some territorial authorities add the notification permanently on LIM reports whilst others remove it once decontamination has been completed. However, property file searches (as opposed to LIM reports) usually contain the history of contamination.

If Police aren't involved however, councils won't know about any possible meth contamination, unless property owners approach them. Under the Misuse of Drugs Act, anyone knowingly permitting use of any premises for the purpose of commissioning an offence breaches the Act.

Guidelines have been developed by the Ministry of Health in consultation with relevant key agencies from across central government to inform key audience groups like territorial authorities and public health service units within District Health Boards. This Guideline can be viewed and downloaded from the Ministry of Health website

<http://www.health.govt.nz/publication/guidelines-remediation-clandestine-methamphetamine-laboratory-sites>

What are landlords' obligations for rental properties?

The Tenancy Tribunal considers letting contaminated properties a breach of the landlord's obligations to provide premises in a reasonable state of cleanliness under s45(1)(a) of the Residential Tenancies Act 1986. It has therefore affirmed that the landlord must professionally decontaminate any contaminated house and have it tested to check that any remaining contamination is at an acceptable level before it can be re-let (*Wilson & James v Residential Property Management Ltd (trading as Quinovic Property Management) Tenancy Tribunal Waitakere TT 1708/03, 14 June 2004*). The landlord may be liable to pay exemplary damages of up to \$3000 for contravening s45(1)(a).

If a tenant then wishes to end the tenancy because they believe the premises are contaminated, they can apply to the Tenancy Tribunal to do so under Section 56 of the Residential Tenancies Act.

A meth-monitored property can appeal to prospective tenants, adding a point of difference and deter likely meth cooks. Tenancy agreements should clearly state any periodic testing for meth and the option to install fixed meth monitoring devices.