

22 August 2017

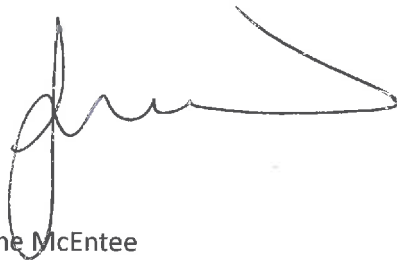
Thank you for the opportunity for Auckland Regional Public Health Service (ARPHS) to provide a submission on the Residential Tenancies Amendment Bill (No: 2).

The following submission represents the views of ARPHS and does not necessarily reflect the views of the three District Health Boards it serves. Please refer to Appendix 1 for more information on ARPHS.

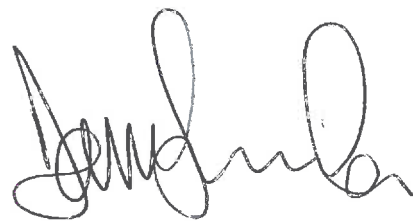
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Yours faithfully,



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Summary

ARPHS offers in principle support for measures that ensure:

- A landlord must not provide premises to a tenant if the premises are methamphetamine-contaminated.
- A strengthening of the law to regulate landlords who tenant unsuitable properties such as unlawfully converted garages, warehouses or industrial buildings as living spaces.

This submission recommends that the Committee:

- Considers a threshold of negligence rather than carelessness for the Bill.
- Clarifies whose responsibility it is to provide the burden of proof for the consequences for damage to rental properties caused by carelessness.
- Regulates the processes to test for and remediate premises following methamphetamine contamination. ARPHS advocates a nationally consistent approach.
- Considers a sliding scale so that the Tribunal has discretion to impose a penalty that reflects the human health risk involved.
- Clarifies roles and responsibilities around compliance and enforcement for regulating landlords who tenant unsuitable properties.

Tenant liability for damage to rental properties

ARPHS supports in principle that tenants be liable for the consequences of defined damage to rental properties caused by negligence or intent. However, the Bill includes a low and subjective threshold of “carelessness” in the amendments to s49B, (clause 7). Many thousands of rental properties are already in a poor state of repair¹, which will inevitably make assessment of whether damages is caused by intent of the tenant or insufficient maintenance by the landlord very difficult. It is important to avoid exacerbating the issue of tenants failing to request necessary repairs in the belief that such a request will put their tenancy in danger. In the absence of legislation that requires every rental home in New Zealand to meet minimum standards, and a paucity of secure forms of tenure², there is currently an imbalance between landlords and tenants that is aggravated in the current housing shortage. As a minimum, the Bill should require a threshold of negligence rather than carelessness, and must clarify whose responsibility it is to provide the burden of proof for the consequences of defined damage to rental properties.

Methamphetamine contamination in rental properties

From a public health perspective, it is important that the Bill prevents harm from on-going methamphetamine exposure in previously contaminated premises. As such, we strongly support measures to ensure that a landlord must not provide premises to a tenant if the premises are

¹ Statistics NZ (2016). Perceptions of housing quality in 2014/15 from the 2014 New Zealand General Social Survey. Retrieved from: Statistics NZ.

http://www.stats.govt.nz/browse_for_stats/people_and_communities/housing/perceptions-housing-quality-2014-15.aspx

² BRANZ (2017) The New Zealand rental sector. Retrieved from: BRANZ.

https://www.branz.co.nz/cms_show_download.php?id=606738ff7cb47451e094ad80f39cc912fa18f7a8

methamphetamine contaminated. Furthermore, we advocate for the landlord to have a duty to establish that a premises for rental is free of methamphetamine contamination.

Clause 32 of Part 2 of the Bill notes that contravening the obligations to provide a rental property free of methamphetamine will result in a penalty of up to \$4,000. ARPHS asserts that while this sum may be appropriate for some aspects of offence, it is inadequate for the wilful letting of methamphetamine-contaminated property, in particular to families with children, who are more vulnerable to the impacts of methamphetamine. The degree of contamination involved also impacts the scale of this offence. As such, we advocate for a sliding scale that would allow the Tribunal the discretion to impose a penalty commensurate to the human health risk involved.

Clause 37 (inserting a new s138C) on regulations is important. ARPHS supports making the recently released New Zealand standard *NZS 8510 – Testing and decontamination of methamphetamine contaminated properties* into regulation. This would make the New Zealand standard legally enforceable and have the side benefit that processes are established for dealing with all contaminated properties, chattels and vehicles whether or not they relate to legal, or illegal, residential accommodation.

Rental premises that are not lawful for residential purposes

ARPHS strongly supports strengthening of the law for regulating landlords who tenant unsuitable properties, such as unlawfully converted garages, warehouses or industrial buildings and substandard housing. Bringing tenancy matters for situations where landlords have offered unlawful properties for rent under the Tenancy Tribunal is welcome, but only addresses part of the problem of substandard housing. More than 42,000 people in New Zealand live in what is termed 'precarious and insecure housing'³. This includes garages, sheds and caravan parks. The links between health and homes is well established⁴, and the number of New Zealanders affected by this is unacceptable. Each year New Zealand hospitals admit around 45,000 children for conditions that are exacerbated by poor quality housing⁵.

Legislation in New Zealand has failed to keep abreast of both the demonstrated links between health and homes, and the demographic change in the rental sector. The number of New Zealanders who rent their homes is increasing substantially, and residents are spending longer periods of their life in rental accommodation⁶. A high proportion of New Zealand's rental accommodation stock is of poor quality, damp, mouldy, poorly insulated, and in poor repair⁷. The

³ The Royal Australasian College of Physicians (2017). Make it the norm: Equity through the social determinants of health. Retrieved from: RACP. <https://www.racp.edu.au/docs/default-source/default-document-library/make-it-the-norm-pres-letter.pdf?sfvrsn=4>

⁴ See for example: Baker, M. G., Zhang, J., Blakely, T., Crane, J., Saville-Smith, K., & Howden-Chapman, P. (2016). Collaborating with a social housing provider supports a large cohort study of the health effects of housing conditions. *BMC Public Health*, 16(1), 159.

⁵ Ibid.

⁶ BRANZ (2017). The New Zealand rental sector. Retrieved from: BRANZ. https://www.branz.co.nz/cms_show_download.php?id=606738ff7cb47451e094ad80f39cc912fa18f7a8

⁷ Statistics NZ (2016). Perceptions of housing quality in 2014/15 from the 2014 New Zealand General Social Survey. Retrieved from: Statistics NZ. http://www.stats.govt.nz/browse_for_stats/people_and_communities/housing/perceptions-housing-quality-2014-15.aspx

link between cold, damp and mouldy housing and poor health has been made in multiple New Zealand⁸ and international studies⁹.

The situation in Auckland is especially concerning. Close to half of the Auckland population rent their homes¹⁰ and Statistics NZ data indicates that just under half of all renters reported they had a problem with dampness or mould¹¹. As such, over 300,000 individuals in Auckland alone are living in conditions that may impact on their health and wellbeing. Poor-quality and overcrowded housing is linked to an increase in infectious disease transmission, a worsening of chronic health conditions and a decrease in mental health¹². The three Auckland metro DHBs have seen the largest increases in overcrowded rental properties when overcrowding is falling in the rest of New Zealand¹³. In response to rising rates of insanitary, unsafe and unhealthy housing, the demand for social housing has risen dramatically. In mid-2017, the waiting list for priority applicants for social housing was close to 40% more than the previous year¹⁴. This is a significant and growing public health issue.

Given the impact that housing has on health and the numbers affected by this issue, there is need for immediate action to upgrade structural and functional standards for premises intended for use as residential accommodation and a strengthening of the law for regulating landlords who tenant unsuitable properties. National regulation of this issue is appropriate and overdue. As part of a process to progressively eliminate residential use of inappropriate accommodation, consideration needs to be given to the social consequences of shrinking the accommodation pool and provision of compliant alternatives for displaced persons.

The Camping Grounds Regulations 1985 introduced the need for relocatable homes to be compliant with conventional building standards. ARPHS supports the application of the same principles to other structures used as accommodation, as well as a clear, enforceable obligation for landlords to ensure that accommodation is healthy and lawful for tenants to live in.

Conclusion

Thank you for the opportunity to submit on The Residential Tenancies Amendment Bill (No: 2).

⁸ Howden-Chapman P, Pierse N, Nicholls S, Gillespie-Bennett J, Viggers J, Cunningham M, et al. Effects of improved home heating on asthma in community dwelling children: Randomised community study. *Br Med J*. 2008; 337: 852–5.

⁹ Jaakkola JJK, Hwang B-F, Jaakkola MS. Home dampness and molds as determinants of allergic rhinitis in childhood: A 6-year, population-based cohort study. *Am J Epidemiol*. 2010; 172(4): 451–9.

¹⁰ BRANZ (2017) The New Zealand rental sector. Retrieved from: BRANZ.

https://www.branz.co.nz/cms_show_download.php?id=606738ff7cb47451e094ad80f39cc912fa18f7a8

¹¹ Statistics NZ (2016). Perceptions of housing quality in 2014/15 from the 2014 New Zealand General Social Survey. Retrieved from: Statistics NZ.

http://www.stats.govt.nz/browse_for_stats/people_and_communities/housing/perceptions-housing-quality-2014-15.aspx

¹² The Royal Australasian College of Physicians (2017). Make it the norm: Equity through the social determinants of health. Retrieved from: RACP. <https://www.racp.edu.au/docs/default-source/default-document-library/make-it-the-norm-pres-letter.pdf?sfvrsn=4>

¹³ Ibid.

¹⁴ The Salvation Army (2017). Taking Stock: The Demand for Social Housing in New Zealand. Retrieved from: Salvation Army. <http://www.salvationarmy.org.nz/research-media/social-policy-and-parliamentary-unit/latest-report/TakingStock2017>

Appendix 1 - Auckland Regional Public Health Service

Auckland Regional Public Health Service (ARPHS) provides public health services for the three district health boards (DHBs) in the Auckland region (Counties Manukau Health and Auckland and Waitemata District Health Boards).

ARPHS has a statutory obligation under the New Zealand Public Health and Disability Act 2000 to improve, promote and protect the health of people and communities in the Auckland region. The Medical Officer of Health has an enforcement and regulatory role under the Health Act 1956 and other legislative designations to protect the health of the community.

ARPHS' primary role is to improve population health. It actively seeks to influence any initiatives or proposals that may affect population health in the Auckland region to maximise their positive impact and minimise possible negative effects on population health.

The Auckland region faces a number of public health challenges through changing demographics, increasingly diverse communities, increasing incidence of lifestyle-related health conditions such as obesity and type 2 diabetes, infrastructure requirements, the balancing of transport needs, and the reconciliation of urban design and urban intensification issues.