Practice guide

Testing and remediating:

Clandestine drug laboratories in dwellings used for community housing services
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1 Purpose

This practice guide is for funded organisations delivering community housing services (providers). It is intended to remind providers of their legislative obligations under the Residential Tenancies and Rooming Accommodation Act 2008 (RTRAA) and their contractual obligations with the Department of Housing and Public Works (DHPW) when a clandestine drug laboratory is detected at a property leased in the delivery of community housing services.

This practice guide identifies some of the resources available for providers to develop their own procedures to respond to potential public health risks associated with chemical contamination at clandestine drug laboratories. It does not constitute legal advice.

2 Clandestine drug laboratory overview

Clandestine drug laboratories (clan labs) are used to manufacture illegal drugs. They pose a risk to human health, with children being the most vulnerable. A clan lab is defined as an illicit operation consisting of apparatus and chemicals that either have been, or can be used to, manufacture illicit drugs or substances listed under the Drugs Of Dependence Act 1989. Such operations are potentially hazardous to the offender, other household members and visitors, neighbours, investigators, responding agencies, and the environment. The degree of hazard depends upon the specific site, the chemicals present, conditions of storage (sealed, open or leaking containers), and proximity to each other (the combination of which may lead to various violent chemical reactions). 1

Given the prevalence of clan labs in the community, it is possible that some may be operating in properties used in the delivery of social housing services.

3 Clan labs in department-owned community housing

This practice guide provides an overview of the steps the department takes when a clan lab is detected in public housing. This information is not intended to be exhaustive. Community housing providers are responsible for tenancy management and determining their own procedures for:

- Identifying a clan lab in a community housing property
- Responding to a notification of a clan lab in a community housing property
- Reporting the presence of a clan lab to the Queensland Police Service (QPS)
- Remediating the property when a clan lab has been detected.

3.1 A report from a member of the community

If a provider receives a report about a suspected clan lab from a member of the community, the provider should advise the individual to report the matter to the Queensland Police Service (QPS). Providers should not enter the property or try and confirm any report of a suspected clan lab. The provider may initiate follow up contact with the State Drug Investigation Unit (SDIU) of the QPS to establish if a clan lab was discovered. If the matter is ongoing when the follow up contact is made, the matter should be monitored until an outcome is known.

3.2 During a property inspection

If a staff member, employed by a provider, suspects a clan lab is present in the property it is recommended they:
- Do not touch anything.
- Exit the property immediately
- Report the matter to the QPS (either the local Police Station or if it is an emergency, call 000).

The staff member who conducted the property inspection or home visit should assume they are contaminated, and seek advice from relevant health/emergency services personnel.

3.3 When a notification from QPS is received

If the QPS attends a property and removes a clan lab and/or hazardous chemicals, they will notify the registered owner of the property (as listed on RP Data) by sending a Notification of Hazardous Chemicals Contamination Letter. As the registered owner of the property, the department will receive the letter of notification.

This letter states that hazardous chemicals and contaminated equipment believed to be used in the manufacture of dangerous drugs have been removed from the site (including internal and external areas). The letter confirms the date that QPS attended the property, however, this may not be immediate and is often due to ongoing police matters.

When DHPW receives the notification, officers immediately identify if the property is being used to deliver public housing or community housing services. If the property is leased to a provider, the appropriate contract manager in DHPW will email a copy of the notification to the provider’s preferred email address, and telephone the provider to advise of the notification.

4 What to do when a provider receives a QPS notification regarding a clan lab?

The provider is responsible for developing procedures to respond to a notification about the removal of a clan lab by QPS. In developing these procedures, providers may wish to consider the following:
- Ensure all relevant staff within the organisation are notified of the possible clan lab, and are advised not to enter the property as the property may have been contaminated and may pose health and safety risks.
• If there are children living in the property, notify the local Department of Communities, Child Safety and Disability Services (DCCSDS) that a possible clan lab has been detected at the property. QPS as the mandatory reporters may have also notified the DCCSDS.

• Send a letter to the legal tenant of the property notifying them that:
  a) A possible clan lab has been removed from the property
  b) The property is potentially contaminated
  c) Testing is needed to confirm the existence and extent of contamination
  d) There may be health risks to the tenant and others who live or visit the property
  e) Tenants remain in the property at their own risk
  f) It is recommended that they seek urgent alternative accommodation (an example letter is included at Attachment A).

• Providers should retain a copy of the information received from DHPW (email, fax, file note etc.).

• Providers may wish to make early contact with their insurance provider to notify them of the QPS notification.

• Engage a suitably qualified person to undertake the necessary testing so the chemicals used and the scope of the remediation work required can be determined. The provider may wish to consider asking QPS to attend the property when the testing is carried out^.

• If the tenant/s is not present or refuses entry to the property at the time and date stated on the entry notice, consider lodging an urgent application to the Queensland Civil and Administrative Tribunal (QCAT) to gain entry to the property.

While not contractually required, it is requested that providers immediately advise their contract manager within DHPW once the results of the testing are known (i.e. if the property is considered contaminated or not contaminated).

^ Entry for testing must be done in accordance with the Residential Tenancies and Rooming Accommodation Act 2008.
5 Testing for contamination of a property

The testing and remediation of a property owned by the department and leased to a provider to deliver community housing services is the responsibility of the provider.

The testing should be undertaken by a suitably qualified person, and include a visual check of the yard for evidence of soil damage, for example, discolouration of grass/soil, or evidence of discolouration around water/sewerage outlet pipes on the exterior of the property.

The Australian Remediation Guidelines and Queensland Health information includes advice about the testing for contamination following the removal of a suspected clan lab.

6 What to do when testing confirms contamination of a property

Remediation works required as a result of contamination from a clan lab is considered tenant damage (unfair wear and tear).

Remediation work to address contamination from a clan lab cannot generally commence until the property is vacant given the health and safety issues for staff, contractors, tenants and household members.

Subsequently, based upon the test results, the provider may consider sending a letter to the legal tenant notifying them:

- Of the positive test results; and
- The potential health risks of living in the property, and that they continue to do so at their own risk; and
- If necessary, requesting that they urgently and voluntarily exit the property, and find alternative accommodation; and
- That if they do not leave voluntarily, legal action may be taken under the Residential Tenancies and Rooming Accommodation Act 2008 (RTRAA) to end the tenancy/rooming accommodation agreement and exit the household.

A sample letter is included at Attachment B.

The provider should consider requiring the tenant to provide evidence of decontamination or disposal of their goods by an appropriately qualified contractor before considering allowing the tenant to occupy other social housing, for example, through a transfer.

If a QCAT application to exit the tenant is unsuccessful, the provider may wish to consider notifying the tenant in writing that:

a) The property is confirmed to be contaminated due to the operation of an illegal clan lab at the property.

b) The provider believes that the property is unsafe for occupation and poses a health risk until the contamination has been ruled out or remediation work has been completed.

c) The provider is unable to remediate the property while the tenant remains in occupation.

d) The provider recommends that the tenant make arrangements for alternative accommodation as soon as possible.
e) If the tenant chooses to remain in the property, they do so at their own risk.

f) That their belongings are likely to be contaminated, and they should consider having them professionally cleaned

Providers should ensure that the property is remediated to an acceptable standard to ensure it meets its obligations under the RTRA, and their contractual obligations to DHPW.

The provider must advise DHPW (including providing a copy of the swab test results) to confirm the decontamination of the property upon completion.

Providers should ensure that the property is remediated to an acceptable standard to ensure they meet their obligations under the RTRA, and their lease agreement with DHPW.

The provider should also ensure that any staff or contractors who will be entering the property have appropriate personal protective equipment (PPE).

If DHPW does carry out any repairs or maintenance to the premises as a result of tenant damage, the provider will be responsible for the cost of such repairs and maintenance and DHPW is generally entitled to (under the relevant contract) recover these costs from the provider.

7 What to do when testing confirms the property is clear from contamination

The provider may consider sending a letter to the legal tenant notifying them of:

• The negative test result; and
• A potential breach of the tenancy agreement if it is found that the premises were used for illegal activity

The provider must advise DHPW (including providing a copy of the swab test results) to confirm that the property is clear from contamination as soon as practicable following the negative test results.

8 Enquiries

For more information about clan labs in community housing, please contact one of the below regional contacts:

<table>
<thead>
<tr>
<th>Region</th>
<th>Phone</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brisbane</td>
<td>3007 4377</td>
<td><a href="mailto:HHSBRORD@hpw.qld.gov.au">HHSBRORD@hpw.qld.gov.au</a></td>
</tr>
<tr>
<td>South West</td>
<td>3437 6047</td>
<td><a href="mailto:HHS-South-West-Region@hpw.qld.gov.au">HHS-South-West-Region@hpw.qld.gov.au</a></td>
</tr>
<tr>
<td>Central and North Coast</td>
<td>4848 7054</td>
<td><a href="mailto:HHS-Contract-Management-CQNCR@hpw.qld.gov.au">HHS-Contract-Management-CQNCR@hpw.qld.gov.au</a></td>
</tr>
<tr>
<td>North</td>
<td>4724 8571</td>
<td><a href="mailto:HHSNQRORD@hpw.qld.gov.au">HHSNQRORD@hpw.qld.gov.au</a></td>
</tr>
<tr>
<td>Far North</td>
<td>4036 5538</td>
<td><a href="mailto:HHSFNQORD@hpw.qld.gov.au">HHSFNQORD@hpw.qld.gov.au</a></td>
</tr>
</tbody>
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Resources

Clandestine Drug Laboratory Remediation Guidelines:

POLICELINK:

Crime Stoppers:

Queensland Health:

Other sources of Information:
Australian Crime Commission Illicit Data Report 2011-2012 available at:

Queensland Police Service:

Queensland Health Fact Sheet:

The Queensland Health advisory service for landlords is a reference point for information about testing/remediation services in the private market at:

Department of Environment and Resource Management:
http://www.derm.qld.gov.au
Sample letters to tenants

Attachment A:

Dear <tenant name>

Possible contamination of property at <address>

<Provider name> recently received notification from the Queensland Police Service (QPS) that hazardous chemicals and contaminated equipment were removed from your community housing property at <address>. It is believed that these were used to manufacture dangerous drugs.

Possible serious contamination

There may be serious contamination at your property. Anyone residing or visiting <address> may be placing their health at risk.

In the interests of health and safety, <provider name> has hired a qualified specialist to test for hazardous substances at the property.

Until the results of this testing are known, <provider name> strongly recommends that you do not remain at the property or allow anyone to enter the property other than qualified contractors involved in testing or remediating the property, and that you make urgent alternative accommodation arrangements.

If you continue to occupy <address>, you do so at your own risk. <Provider name> accepts no liability for your entry or occupation of the property, or the entry of persons you allow to access the property.

Attached with this letter is a Queensland Health fact sheet. <Provider name> strongly recommends that you read both the fact sheet and the documents that are listed under the heading Useful links. The information in these documents recommends that you do not attempt to remediate or clean the potential contamination yourself as there may be health risks in doing so.

Test results

<Provider name> will decide what action to take when the results of the testing for hazardous chemicals are received.

Where hazardous chemicals above the recommended target concentration levels are found at the property, <provider name> may consider taking action to terminate your tenancy in accordance with the Residential Tenancies and Rooming Accommodation Act 2008 and relevant policies. In addition, <provider name> may also seek compensation for remediation costs, if the circumstances justify this action.

Remediation usually includes cleaning of contaminated areas by specialist contractors using detergent and decontamination products. It may also be necessary to remove and dispose of porous materials, such as any wallpaper, carpets and curtains in contaminated areas.

Your goods

Your goods (personal property) may be contaminated and unsafe.
A precautionary approach should be taken to assessing which goods are potentially contaminated. Goods may be contaminated if they have been located in the room where manufacturing processes were carried out, or if they came into contact with any substances used in, or produced by, the manufacturing processes, including any gasses or vapours.

It is not possible to remediate contamination in porous or absorbent goods such as cushions, lounges and mattresses and books and other paper materials. If porous or absorbent items are contaminated, they will need to be disposed of.

Some goods may need to be disposed of even if they are not porous or absorbent, for example, materials that are visibly stained, emitting odour, damaged or thought to have been used in the manufacturing process, for example, a refrigerator used for chemical storage. Any goods that could come into contact with young children or babies should be disposed of.

You are responsible for the disposal or decontamination of your goods.

If <provider name> decides to transfer you to a different property, <provider name> will not allow any [potentially contaminated goods/of the goods at the property] to be taken to the other property as they may also cause contamination and health risks at that property. <Provider name> will require written evidence from an appropriately qualified contractor that any potentially contaminated goods to be taken to the alternative property have been decontaminated.

It is recommended that any disposal or decontamination of potentially contaminated goods be conducted by an appropriately qualified contractor as <provider name> has been advised that safety precautions are required when disposing of or cleaning contaminated goods.

A staff member from <provider name> will be in contact with you shortly regarding the results of this testing and how this tenancy matter will be managed.

If you have any questions about this letter, please contact the <provider name> on (07) xxxx xxxx.

Yours sincerely

<name>

<Position>

<Provider name>
Attachment B:

Dear <tenant name>

**Contamination of property at <address> - requirement to vacate**

<Provider name> recently received notification from the Queensland Police Service (QPS) that hazardous chemicals and contaminated equipment were removed from your community housing property at [INSERT ADDRESS]. It is believed that these were used to manufacture dangerous drugs.

**Contamination**

In the interests of health and safety, <provider name> engaged a qualified specialist to test for hazardous substances at the property. The specialist has reported that hazardous substances were found in the property at levels warranting remediation. This report is attached for your information.

<Provider name> is of the view that the property must be cleaned and remediated to ensure it is safe for human habitation. The property will require specialised cleaning and remediation which can only commence when the property is vacant.

<Provider name> is therefore formally advising you that until the property is cleaned and remediated, <provider name> considers that it may be unsafe for you to reside or anyone else to enter [INSERT ADDRESS], other than entry by a qualified contractor for the purpose of decontamination or disposal of your goods. <Provider name> accepts no liability for your entry, or the entry of persons you allow to access the property, and should you enter you do so at your own risk.

**Action to terminate your tenancy**

In view of the fact that <insert details justifying termination e.g. you have allowed the property to be used for illegal activity by operating a clandestine drug laboratory at the property>, <provider name> is now taking action to terminate your tenancy.

Please note that <provider name> may seek compensation for remediation costs, if the circumstances justify this action.

In the interim, <provider name> strongly recommends that you make urgent alternative accommodation arrangements. If you continue to occupy <address>, you do so at your own risk. <Provider name> accepts no liability for your entry, or the entry of persons you allow to access the property.

**Your goods**

<Provider name> also advises you that your goods (personal property) have also potentially been exposed to contamination from the hazardous chemicals found in your property, and that these goods may also be unsafe.
A precautionary approach should be taken to assessing which goods are potentially contaminated. Goods may be contaminated if they have been located in the room where manufacturing processes were carried out, or if they came into contact with any substances used in, or produced by, the manufacturing process, including any gasses or vapours.

It is not possible to remediate contamination in porous or absorbent goods such as cushions, lounges and mattresses and books and other paper materials. If porous or absorbent items are contaminated, they will need to be disposed of.

Some goods may need to be disposed of even if they are not porous or absorbent, for example, materials that are visibly stained, emitting odour, damaged or thought to have been used in the manufacturing process, for example, a refrigerator used for chemical storage. Any goods that could come into contact with young children or babies should be disposed of.

**You are responsible for the disposal or decontamination of your goods.**

It is recommended that any disposal or decontamination of potentially contaminated goods be conducted by an appropriately qualified contractor as <provider name> has been advised that safety precautions are required when disposing of or cleaning contaminated goods.

For your information I have also enclosed a Queensland Health fact sheet relating to these issues.

If you have any questions about this letter, please contact <Provider name> on (07) xxxx xxxx.

Yours sincerely

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<name>

<position>

<Provider name>