


# **HOME SWEET HOME – Act for the house not the tenant**

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Footscray Community Legal Centre Inc., 2013





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## Key terms

|   |      |
|---|------|
| Consumer Affairs Victoria                   | CAV  |
| <i>Residential Tenancies Act 1997</i> (Vic) | RTA  |
| Victorian Civil and Administrative Tribunal | VCAT |
| Footscray Community Legal Centre Inc.       | FCLC |

## Executive Summary

This project was developed in response to the anecdotal evidence of the poor standard of rental accommodation available to low income earners of the western suburbs of Melbourne, coupled with the lack of tenant-initiated repairs disputes at VCAT.<sup>1</sup>

This project commenced with a team of FCLC lawyers approaching 18 tenants from Melbourne's western suburbs who lived in houses that were in need of urgent repairs. These tenants were approached in an informal manner and offered free, at home legal advice and, if it came to it, representation at VCAT.

None of the 18 tenants interviewed wanted to improve their housing, even when it was explained to them that it was their right when paying rent to live in a well-maintained property. Their reasons for not pursuing any repairs for their property were difficult to determine. Some tenants appeared to automatically mistrust lawyers, VCAT or the whole repairs process. Further questioning of tenants who attended FCLC for various legal matters provided evidence that some of the reasons tenants did not want to pursue repairs and maintenance requests included that they:

- a) were concerned they would be evicted;
- b) did not understand the repairs process;
- c) did not understand they had a right to a well-maintained property under the RTA;<sup>2</sup> or
- d) were thankful to find a house considering the current housing shortage and therefore did not want to ask for repairs.

Whatever the reasons behind tenants' decisions not to pursue their legal rights, it was clear that the Residential Tenancies list at VCAT is almost entirely used by landlords against tenants with 95% of matters on the tenancies list being landlord initiated. 80% of all landlord initiated matters are undefended.<sup>3</sup>

FCLC solicitors viewed properties that had broken windows and locks, leaking pipes, unstable floors, rotting walls and ceilings. FCLC further investigated the state of rental housing in the western suburbs of Melbourne, with a sample survey of 100 tenants, focused on determining the overall state of rental accommodation in these areas and the reasons why tenants decide not to pursue their rights for repairs to their property.

That survey showed there were two overriding problems to the issue; tenant awareness and tenant burden.

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1 Justice Kevin Bell, *One VCAT: President's Review of VCAT* (30 November 2009) VCAT, 25 <<http://www.vcat.vic.gov.au/resources/document/transforming-vcat-one-vcat-presidents-review-vcat-november-2009>>.

2 RTA 1997 (Vic) s 68(1).

3 Bell, op. cit., 25.

## Problem 1 – Tenant awareness

Tenants' reluctance to pursue repair and maintenance requests has resulted in long-term rental properties falling into disrepair, often becoming unsafe and undesirable places in which to live.

71% of survey respondents claimed to need repairs to their property, including 'urgent' repairs under the RTA<sup>4</sup>. There were 240 specific repairs reported ranging from broken door locks and windows to problems with plumbing and running water.

67% of survey respondents who had logged repair requests with their landlord had been waiting longer than two weeks (the required waiting period for non-urgent repairs under the RTA)<sup>5</sup> to have their repairs fixed. Others had waited anywhere from 2 to 25 months or more for repairs. Many assumed repairs would not be carried out and were not aware of their rights for repairs under the RTA. Most tenants stated that they feared eviction if they pursued claims further. Families with young children, newly arrived migrants and low-income earners were most at risk of residing in substandard rental accommodation.

However, while vulnerable tenants may be at greater risk than non-vulnerable tenants, both the quantitative survey data and qualitative data from the FCLC Tenancy Service suggests that tenants of all social-economic backgrounds may be living in residences where landlords are not complying with their responsibilities under the RTA. The fear of eviction and the difficulty some tenants have with finding rental accommodation encourages tenants to accept their living situations, a sad outcome when everyone should have the choice of being able to better their circumstances.

## Problem 2 – Tenant burden

If the tenant does request repairs and maintenance, there is no significant penalty or deterrent for the landlord if he or she refuses to attend to the repairs. Rather, the burden is on the tenant to pursue the matter when the landlord is not in compliance with the RTA.

If a landlord fails to comply with a VCAT repair order, it is still incumbent on the tenant to reapply to VCAT. In other words, breaching a court order is not a strict liability offence under the RTA. The burden remains on the consumer, in this case the tenant, to continue to pursue their mandated rights to a reasonable standard of housing.

For example, the FCLC Tenancy Service has spent over 120 hours on one client file pursuing mandated repairs through VCAT. There will be no significant fine imposed on the landlord for refusing to maintain their property and then continually refusing the tenant's repairs requests. The resources incurred by the tenant and his/her advocate are substantial.

There is no proportional deterrent in the form of penalties or fines for landlords who fail to maintain their rental properties in good repair. Because of this, landlords continue to keep unmaintained rental properties that are then rented to vulnerable people who cannot get accommodation elsewhere.

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<sup>4</sup> RTA s 72.

<sup>5</sup> Ibid s 74(1)(b).

## Project aims

1. To improve the standards of rental accommodation in Victoria;
2. To identify legislative improvements to address this issue;
3. To develop policy recommendations to enable a basic living standards framework to be enforced on all rental properties in Victoria; and
4. To develop policy recommendations regarding a regulating taskforce to monitor Victorian rental properties and penalise landlords who do not maintain properties to a minimum living standards.

## The research

Research was undertaken to determine the state of rental properties in the western suburbs of Melbourne and to profile their tenants.

The FCLC Tenancy Service, a tenancy advice service run by FCLC, provided the case studies to support this report.

To gather data for this project, FCLC, Wyndham Legal Service and Brimbank Melton Legal Centre surveyed clients who were tenants in the western suburbs of Melbourne. A total of 100 people were surveyed between February 2013 and July 2013.

## Key findings of the project

1. Most people renting in the Melbourne's western suburbs were renting from private landlords or agents;
2. Tenants moved frequently with the majority living in their rental accommodation for 12 months or less. The constant moving created hardship for the families who often had to find new jobs and schools for their children;
3. Many of the tenants surveyed were families. Almost half of these families surveyed were single parent families;
4. The majority of the tenants surveyed reported to require one or more repairs to their property;
5. The largest proportion of tenants surveyed were newly arrived immigrants or refugees;
6. Most tenants had been waiting significantly longer than the 14 day legislated time period for their home repairs to be completed;
7. Tenants are generally not aware that they must make repair requests in writing for non-urgent repairs; and
8. The reasons behind tenants' inaction at VCAT is varied. The surveys indicated that the most common reasons include ignorance of the VCAT system, fear of eviction and time constraints.

## Key recommendations

1. Legislate Victorian Housing Standards, for all Victorian rental properties;
2. Legislate for an independent body, such as an ombudsman or Consumer Affairs Victoria and local councils, to enforce the Victorian Housing Standards;
3. Legislate for an independent body such as an ombudsman or Consumer Affairs Victoria to have special powers under the RTA to act for the house and pursue the landlord for costs;
4. Penalties to scale for landlords who do not comply with the proposed Victorian Housing Standards;
5. Energy bill subsidies for tenants living in properties that fail required energy efficiency ratings specified in the Victorian Housing Standards; and
6. Develop a program encouraging landlords to lease to tenants with low socioeconomic backgrounds so these tenants are not required to lease substandard housing.



## The standard of rental housing in Victoria as described by surveyed tenants

*Client A, a refugee from Iran, spoke limited English. She was a single parent caring for her three children. When Client A moved into her property, she alerted the landlord that her shower did not work. The landlord took 5 months to fix the shower. For 5 months, Client A and her children used a bucket to wash.*

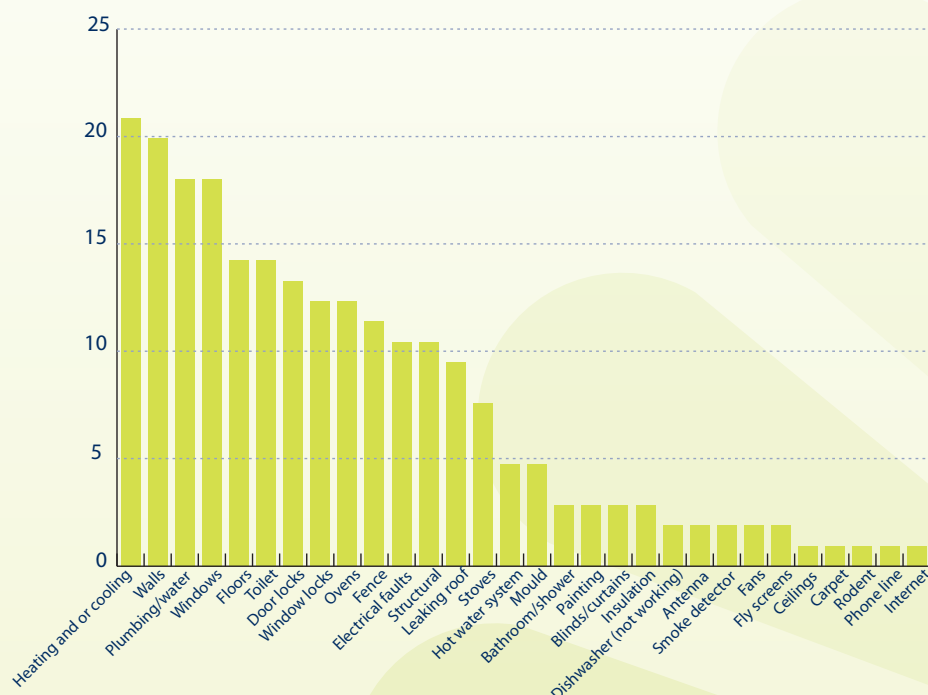
It is difficult to determine with accuracy the standard of housing in Victoria. From this project, responses support a conclusion that standards of living for certain tenants in the western suburbs of Melbourne are significantly below those of other residents in Australia.

71 of the 100 surveyed tenants stated that they required repairs to their rental property. Of these 71 persons there was a total of 240 repairs reported. Many of these repairs fell into the urgent repairs category under the RTA. Repairs included requests for running water, door and window locks, functional ovens and stoves, windows, heating, electrical wiring, fixing leaking roofs and broken or unstable flooring.

Currently in Victoria there is no legislation that measures the basic standard of repair for houses offered for lease. What is an acceptable standard of housing is subjective but some of the rental housing seen at the FCLC Tenancy Service seemed unlivable. These examples of the poorest rental accommodation seem to be at odds with the United Nations Human Development Report 2013 that ranked Australia as second on the Human Development Index<sup>6</sup>.

There is a very clear need for more investigation into the actual standard of rental properties in Victoria, and particularly the western suburbs of Melbourne.

## Maintenance required for the 71 tenants claiming repairs

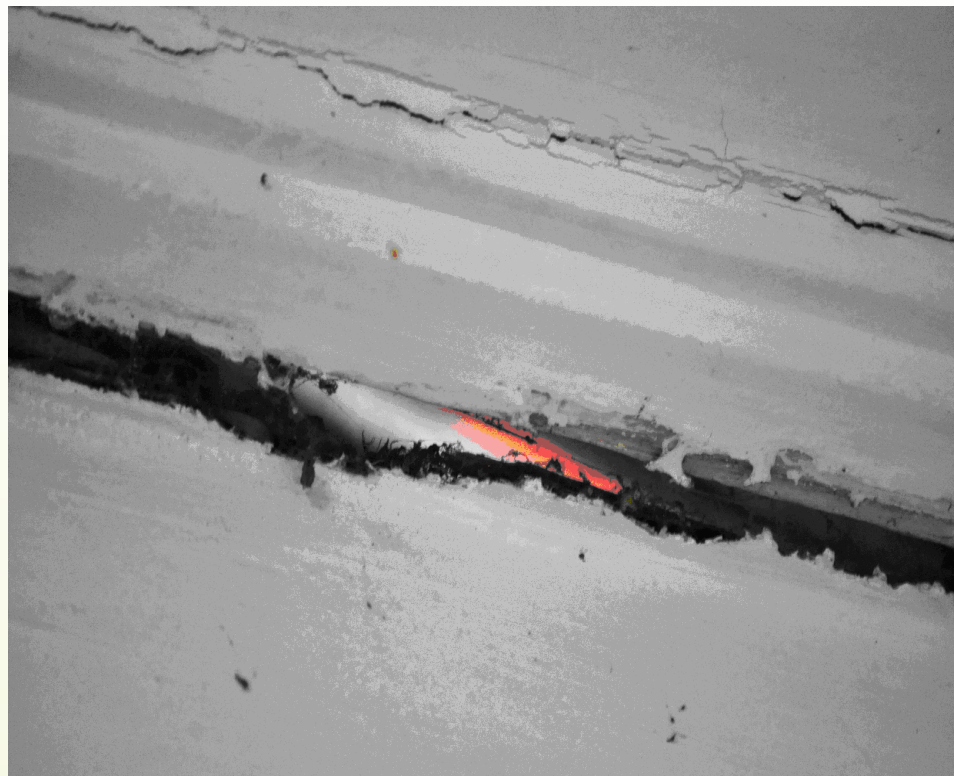


<sup>6</sup> Human Development Report 2013, *The Rise of the South: Human Progress in a Diverse World* (14 March 2013) United Nations Development Programme, 144 < <http://www.undp.org/content/undp/en/home/librarypage/hdr/human-development-report-2013/>>.

## Rental housing and energy efficiency

*Over the winter, Client B used his heater every day and night to keep his house warm for his wife and three young children. Client B had received an electricity bill that was three times his usual amount. Being unable to pay his bill and in fear of having his electricity cut off, Client B attended FCLC to discuss his options. After negotiating a payment plan for Client B, FCLC requested an energy efficiency audit from an independent home energy saver organization.*

*The home energy organisation attended Client B's property and reported that the high use of energy throughout winter could not be rectified through buying more energy efficient appliances. The organization reported that the wide holes in the property's floorboards and ceiling allowed wind to enter the property making it difficult to warm the house without the continuous use of the heater.*



Client B's ceiling with a view of the sky

FCLC has coordinated a Bring your Bills Service and Refugee Financial Counselling Service. One of the services these programs provided was financial counselling and legal representation for tenants with excessive energy bills similar to that experienced by client B.

The financial counsellors attending the clinics noted that many of the clients attending the service were low income renters living in substandard accommodation. After viewing many of the tenants' properties, they observed that the state of the housing made it difficult for the tenants to maintain low energy bills.

Kildonan Uniting Care provide an Energy Audit Program. This program aims to provide people with information and suggestions as to how to improve the energy efficiency in their home. Kildonan Uniting Care states that some of the key reasons for people's inability to improve energy efficiency are:

- a) housing structure;
- b) inefficient window furnishings;
- c) lack of appropriate insulation; and
- d) general maintenance.<sup>7</sup>

Kildonan Uniting Care notes that tenants as opposed to home owners are most at risk of these particular energy efficiency issues.<sup>8</sup>

Tenants' main avenue for improving their home's energy rating is to pursue the landlord for repairs. There is no current evidence from the survey conducted that provides a case where a tenant was successful in pursuing upgrades to their rental property's energy rating. The result is that many tenants, particularly those from low income areas, may be incurring excessive energy bills because of insufficient maintenance of their homes.

## The repairs process in Victoria according to the RTA – the limitations

*Client C lived alone in her one bedroom flat in Footscray. Her property was managed by the landlord who came to her house each month to collect rent. Client C decided to pursue her landlord for repairs to her stove, and cleaning of mould that was forming on the walls of her home. This mould was due to other ongoing repairs issues such as lack of adequate painting and large cracks on the walls. Client C approached FCLC's tenancy lawyers to assist her with the repairs process.*

*After requesting in writing to the landlord that the repairs be completed and receiving no response, Client C decided to pursue the matter in VCAT. After seven VCAT hearings over three months and 120 hours of legal assistance, the repairs were completed. Client C received a small compensation claim of \$200. Two months later Client C's stove broke again and she decided to move out.*

It is submitted that the current repairs process available to tenants is disproportionately complicated to its objective of providing an efficient avenue for landlord attendance to repairs. It is little wonder that of the 71 tenants needing repairs only 51 of those tenants had contacted their landlord to request repairs. All 51 tenants had chosen to leave the repairs unfixed once they did not receive any reply from their landlord.

Under current legislative provisions, the steps to attending to the repair process for rental property in Victoria is as follows:

1. the tenant is required to make written requests to the landlord requesting a repair to the property;<sup>9</sup>
2. if the request is not written, it will not be a valid notice;
3. if the tenant does provide a written notice to the landlord but the landlord does not comply, the tenant must then request an inspection from the CAV housing inspector to evaluate the repair and write a report that can be used as evidence at VCAT;<sup>10</sup>

<sup>7</sup> Jennifer Borell and Sharon Lane, *Kildonan Uniting Care Energy Audit Program Evaluation 2004-2006* (January 2009), 30-1 <<http://www.kildonan.unitingcare.org.au/uploads/publications/KUCEnergyAuditResearchReport2004-2006final.pdf>>.

<sup>8</sup> Ibid 31.

<sup>9</sup> RTA s 74(1)(a).

<sup>10</sup> Ibid s 74.

4. the process continues until the tenant applies to VCAT<sup>11</sup>, where the member can decide if the repair should be done and how long the landlord can have to complete the repair;<sup>12</sup>
5. if the landlord continues to ignore the repairs request, the tenant could then request to have the rent put into VCAT's rent special account<sup>13</sup> until the repairs are completed.

In short, the repairs process typically requires a determined tenant who is confident of their rights and their lease security.

## Why tenants do not take repairs matters to VCAT – the attitude of the tenants

*Client D stated when asked if he wanted his door repaired, 'I don't want to ask for the repairs because when I moved in it was like this, and they may evict me if I ask for it to be fixed'.*

Many of the tenants surveyed noted that they did not request repairs because of fear of retaliation from the landlord in the form of eviction and rent increases. While there is some protection for the tenant under the RTA if they are issued with a Notice to Vacate in response to a request for repair<sup>14</sup>, such protection is difficult to prove. Furthermore, once a Notice to Vacate is issued to the tenant, it immediately creates an unstable future for the tenant and their family.

There is also a common misconception in the surveyed tenants that if a property is damaged when the tenant enters into the lease, the tenant must accept the damage and live in the property as it is. Of the 71 tenants surveyed claiming to need repairs, 51 had requested repairs and 20 had not contacted the landlord. Their reasons for not contacting the landlord were varied but it was noted that many of the people surveyed did not understand the repairs process or the types of items they could ask to have repaired.

## Will just a few repairs maintain a rental property? Repairs vs Maintenance, the grey area

*Client E lived in a two bedroom apartment in Footscray with his wife and two teenage children. He did not speak English or have a car and supported his family on Centrelink benefits. Client E attended the tenancy service to ask for assistance regarding a broken window in his apartment. When the tenancy service solicitors visited his apartment to take pictures of the broken window they noted that there were cracks running down the walls in all of the rooms, mould growing on the bedroom walls and kitchen roof and mould in the cracks of the grout of the bathroom. It was also noted that the carpet was worn and frayed and the kitchen floor lino was peeling and cracked. Client E stated that while the family cleaned the property daily, they could not keep ahead of the growing mould that was protruding from the cracks in the walls. Client E also noted that he would stick masking tape over the paint to try and stop it from flaking off the walls. The tenancy solicitors estimated that the apartment had not been painted in over 20 years and the cracks in the walls were letting moisture*

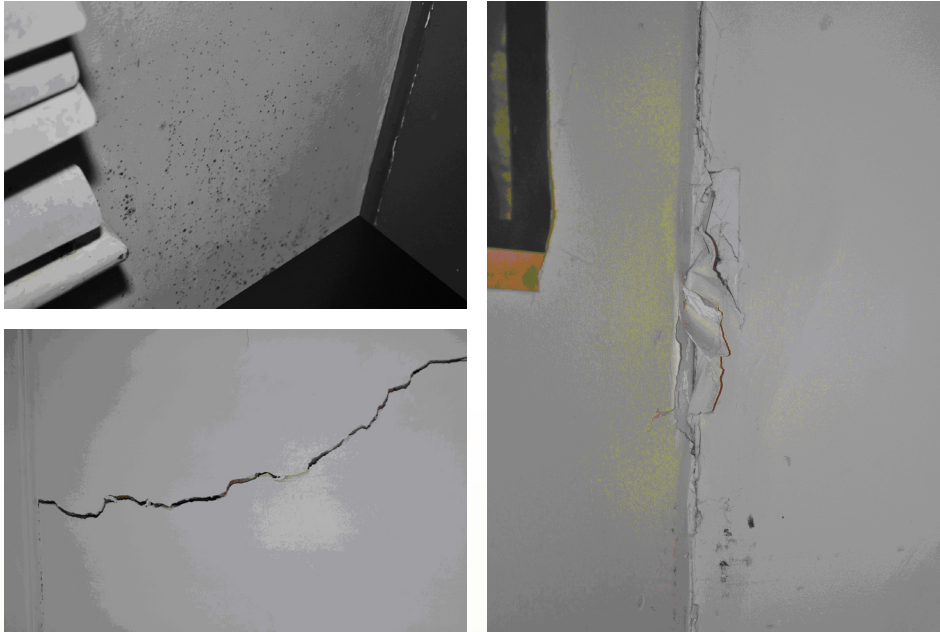
<sup>11</sup> Ibid s 75.

<sup>12</sup> Ibid s 76.

<sup>13</sup> Ibid s 77(1).

<sup>14</sup> Ibid s 266 (2).

*and cold wind in from outside. Client E stated that he had requested that the landlord fix the cracks and paint but was told by the landlord that this would not be fixed because it was too expensive.*



Top Left: Mould on the bedroom and kitchen walls. Bottom Right: One of the many cracks in the tenant's walls. Top Right: Paint flaking from the tenants bedroom walls

The concept of 'what is a repair' under the RTA is limited when considering the maintenance of a property. Properties are expensive to maintain. Repainting every 5 to 10 years, replumbing, recarpeting, restumping and rewiring are just a few of the maintenance issues a house will have over its lifetime. Fixing a lock or a leaking roof are not the only requirements to maintaining a house. Repairs are small fix it jobs, maintaining a property to a livable standard is another thing entirely.

Of the 71 surveyed tenants who had needed repairs, 70 tenants noted that the landlord had not once during their time of tenancy initiated repairs or completed maintenance to the property.

After reviewing the surveys it was concluded that there is a general lack of responsibility by landlords to maintain their properties.

## Why do landlords allow their rental properties to fall into such disrepair? – the attitudes of landlords

Due to restrictions on the reporting process we were unable to conduct research into why many landlords seem to shirk their responsibilities to maintain their investment properties. After reviewing the surveys and the tenants' responses to further questions on landlord behaviour, the following hypotheses have been developed:

1. Out of sight, out of mind – of the 71 tenants who claimed to have needed repairs and/or maintenance to their property, 70 claimed that the landlords very rarely, if ever, visited the property. The tenants stated that either independent agents inspected on the landlord's behalf or there were no inspections at all. In the former, this leaves the agent and/or tenant as the person the landlord may see as 'responsible' for reporting any repairs or maintenance. If there are no requests, then the property was left to fall into disrepair.
2. The property was too old to maintain – it was noted by 15 tenants who needed repairs and general maintenance that their property was in such disrepair it would cost a significant amount of money to fix.
3. No significant penalties for landlords who do not maintain their investment properties – after reviewing the cases assisted by the tenancy clinic, it became apparent that landlords often display a general disrespect of the VCAT process and the orders made at the hearings. While tenants claimed compensation for tardy repairs, this was often a minimal amount that the landlord would simply deduct from their rent or refuse to pay at all. The tenant was left with the option to chase their compensation in the Magistrates' Court, which was commercially unfeasible given the small amount that could potentially be awarded to them.

## An urgent need for Victorian Housing Standards

There is a need for uniform Victorian Housing Standards that can be applied to all rental properties in Victoria. This standard, will protect those tenants who are most vulnerable and living in the poorest conditions.

In other parts of Australia, similar schemes are being discussed and in one case actually implemented.

Tasmania has just developed national-leading minimum standards that are to be applied to all rental properties.

The Residential Amendment Bill 2013 (TAS) was passed on the 26 September, 2013. This Bill provides that all rental properties must have basic provisions like a bath or shower, laundry facilities and toilets<sup>15</sup>, heating<sup>16</sup>, window coverings<sup>17</sup>, decent ventilation<sup>18</sup>, cooking facilities<sup>19</sup> and the premises must be weather proof and structurally sound<sup>20</sup>. The Bill also provides that properties be clean and in good repair<sup>21</sup> including walls and ceilings being free of dampness<sup>22</sup>. This is particularly important when dealing with mould on the walls and ceilings of rental properties.

If Victoria was to develop a housing standard similar to this it would benefit the tenants wanting to better their circumstances and the advocates assisting them.

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<sup>15</sup> Residential Tenancy Amendment Bill (TAS) Part 3B s36K.

<sup>16</sup> Ibid s36M.

<sup>17</sup> Ibid s36N.

<sup>18</sup> Ibid s36O.

<sup>19</sup> Ibid s36L.

<sup>20</sup> Ibid s36I.

<sup>21</sup> Ibid s36J.

<sup>22</sup> Ibid s36I (2)(b).



## Recommendation 1 – Victorian Housing Standards

### Victorian Housing Standards need to be legislated.

While there are many housing standards that are used to design houses, there are no housing standards that have been created for long-term housing. Once a house is built and receives an occupancy permit it is unlikely to be inspected again.

It is recommended that Victorian Housing Standards be developed and legislated so that it can be adopted universally when determining rental property maintenance standards.

When drafting Victorian Housing Standards, consideration should be given to rental properties that are significantly aged. Both the structural and green energy ratings would have to be flexible. The Victorian Housing Standards should primarily focus on health and safety necessities such as locking windows, doors, solid floors and so on. An example of a housing standard outline that could be adapted into a Victorian Housing Standards checklist, is the Department of Housing Leasing Standards and Maintenance Standards<sup>23</sup> for subletting properties.

To satisfy compliance with such Victorian Housing Standards, a certificate could be issued by independent building firms at the cost to the landlord. This could be registered along with the bond or be kept on a database run by a regulating body such as a tenancy ombudsman, CAV or the local council. Unlike the occupancy permit that is only issued once, this Victorian Housing Standard certificate of compliance could be reissued every 5 years to ensure long-term rental properties maintain their Victorian Housing Standards.

## Recommendation 2 – Appointment of a Victorian Housing Standards Regulator.

There needs to be enforcement powers legislated enabling an independent body such as a tenancy ombudsman, CAV and/or local councils to regulate and enforce the Victorian Housing Standards.

To have an effective program that improves rental accommodation it is important to remove tenants' participation from the process. It is recommended that an independent body monitor the standard of rental properties on an ongoing basis to ensure livable standards are met. This could be built on the property inspection regime already in place by CAV.

CAV have property inspectors that provide a service by way of attending rental properties at the request of the tenant to inspect for repairs, damage or evaluation of rent.

It is also possible for CAV to partner with local councils. The local council could act as the regulator and update CAV with information of any landlords that do not meet the Victorian Housing Standards. CAV could act more as an enforcement agent. This would limit CAV's workload and keep the paperwork and record keeping to the local councils.

Alternatively, a Tenancy Ombudsman could be created to act for the tenant. This will mean that CAV could hand all non compliance with the Victorian Housing Standards to the ombudsman who could prosecute. This will keep the tenant out of the process so they are never at risk of being evicted for challenging the landlord.

If there are mandatory Victorian Housing Standards for all rental properties, the responsible regulating authority, whoever it is decided that should be, could act as enforcement agent to ensure landlords maintained their properties to the standards.

23 *Housing Standards Policy Manual* ( July 2008-October 2011) Housing and Community Building, Victorian Government Department of Human Services, ch 7 Leasing Standards Version 1.2 and ch 4 Maintenance Standards version 1.4, < <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/housing-standards-policy-manual>>.

### Recommendation 3 –

#### Victorian Housing Standards appointed Regulator may seek costs.

To fund the Regulator and to act as a deterrent to noncompliant landlords, there needs to be legislation enacted that gives special powers under the RTA for the Regulator to act for the house and seek costs from the landlord for doing so.

Currently only a landlord or tenant has rights under the RTA to prosecute. To enable a regulator to take action against the landlord without the tenant's involvement, legislation needs to be enacted that allows the Regulator to act in the place of the tenant without the tenant's consent. It should also be legislated for the Regulator to claim costs for work done to enforce the Victorian Housing Standards if the landlord has not complied with the requirements on an ongoing basis.

### Recommendation 4 –

#### Harsher fines and penalties for landlords.

There needs to be penalties to scale for landlords who do not comply with the proposed Victorian Housing Standards on an ongoing basis. This will act as a deterrent as there are currently no substantial penalties against landlords who fail to maintain their rental properties.

If Victorian Housing Standard were to be enforced, there would need to be harsher penalties for landlords who do not comply with the standards.

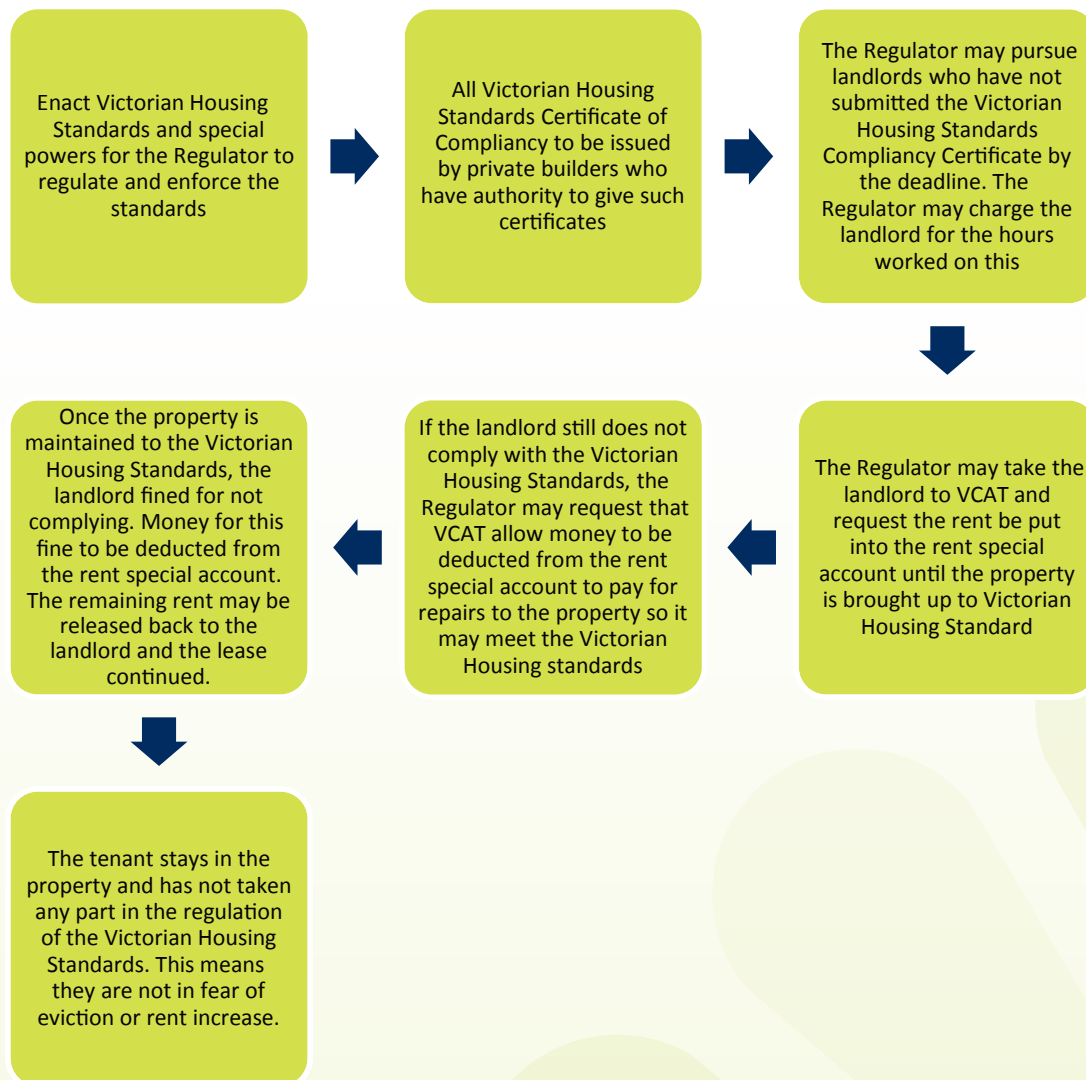
The following penalties are an example of what could be imposed on landlords who do not comply with the Victorian Housing Standards:

- \* Two weeks notice to submit Victorian Housing Standards certificate of compliancy;
- \* If landlords do not submit a Victorian Housing Standards certificate of compliancy by the two-week deadline, a fine will be issued and the Regulator would take the matter to VCAT;
- \* Once matter is at VCAT, the Regulator would request an order to be made for rent to be put into a rent special account until the Victorian Housing Standards requirements are met and a compliancy certificate submitted. The Regulator should be able to deduct its own fees for appearing in the proceedings from the rent that has been kept in the rent special account; and
- \* If a certificate of compliancy is still not submitted within VCAT's designated time frame (it will be different depending on the property's repairs), VCAT should be given the power to deduct money from the rent special account to have the repairs attended to so the property will meet the Victorian Housing Standards.



## Act for the house not the tenant, enforcement flowchart

Act for the House, not the Tenant flow chart outlining the regulation and enforcement of the proposed Victorian Housing Standards and the Victorian Housing Standards Certificate of Compliancy.



## Recommendation 5 –

### Energy bill subsidies for tenants whose houses do not meet the Victorian Housing Standards.

There needs to be a scheme whereby tenants, who live in properties that fail the required Victorian Housing Standards, receive subsidies on their energy bills.

Current energy efficiency ratings are difficult for older houses to comply with. This does not mean they are necessarily energy inefficient, but rather some properties may simply require new insulation, fixed or new windows or holes in floors repaired.

If a rental property was so badly maintained that even when repaired it could not comply with the Victorian Housing Standards energy efficiency ratings, the tenant should not be liable to pay the full amount of energy bills associated with the property.

To increase landlords' responsibility for their rental properties' energy efficiency, a scheme should be implemented whereby a tenant could receive discounts on their energy bills if their property does not meet the Victorian Housing Standards energy efficiency ratings. The scheme should allow the tenant a certain percentage deducted from their bill based on their property's energy rating, with the balance payable by the landlord. This should alleviate some of the financial pressure from the tenant and act as a deterrent to the landlord.

## Recommendation 6 –

### Renting to low income earners.

It is recommended that there be a program encouraging landlords to rent to people of low socioeconomic backgrounds so these tenants are not pushed into substandard housing.

The biggest concern with raising the living standard of rental properties, is that rents may rise with it. This is an issue for every tenant but particularly those who are already financially struggling.

In NSW, there is a scheme that encourages landlords to rent to people of low socioeconomic backgrounds. The scheme provides \$1,000 over and above the rental bond to cover any repairs or rent arrears arising from the tenancy.<sup>24</sup>

If such a scheme was introduced in Victoria, it would encourage landlords of well maintained properties to rent to people who have difficulty entering the private rental market. This should in turn reduce the demand on substandard housing, pushing landlords to improve their rental properties to attract tenants.

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<sup>24</sup> Tenancy Guarantees Housing NSW <<http://www.housing.nsw.gov.au/Community+Housing+Division/Community+Housing+Providers/Products+and+Services/Tenancy+Guarantees.htm>>.

## Appendix A: Data collection method

To gather information and data for this report a survey was given to 100 people who rented in the Western Suburbs of Melbourne.

The survey was conducted by lawyers, volunteers and employees of Footscray Community Legal Centre, Brimbank Melton Community Legal Centre, Wyndham Legal Service and Phoenix Youth Centre. The people surveyed were approached randomly in the above centres waiting rooms and foyers. All interviews were conducted in person.

Many of the people surveyed first stated that they did not need repairs. Once they were assured that they would remain anonymous and their landlord would not be informed they disclosed the state of their housing to the interviewer. All people surveyed seemed to be happy to assist in improving the living conditions for tenants but all were extremely concerned that their own advocacy would result in eviction or rent increases.

None of the people surveyed were questioned about their financial status. It can be assumed however that as most were attending a Community Legal Centre they fell within our means testing. That is, Centrelink recipients or people under extreme financial hardship.

## Appendix B: Instruction sheet for surveys



**Footscray**

Community Legal Centre Inc

Level 1, 72 Buckley Street, Footscray VIC 3011

Email [admin@footscrayclc.org.au](mailto:admin@footscrayclc.org.au)

Website: [footscrayclc.org.au](http://footscrayclc.org.au)

Phone: 9689 8444 Fax: 9689 8155

ABN 57 056 348 794 Reg. No. A0020395F

### **Act for the House, not the Tenant Project** **Minimum Housing Standards Survey Instruction sheet**

#### What is the Act for the House, not the Tenant Project about?

The aim of the project is to produce a report on the general standards of housing in the western suburbs of Melbourne and to help tenants request repairs if they would like assistance. The project also aims to identify repeat offender Landlords who are not maintaining their rental properties to first world standards.

#### Why are you giving this survey?

The survey is to help gather information and statistics for the Act for the House, not the Tenant report. The report aims to be completed by late July. The report is going to discuss the general standards of rental property in the western suburbs, repairs needed in these rental properties and the procedure tenants must go through to get those repairs.

The survey aims to gather statistical data that will be used in the report as evidence of these problems. For example, one of the questions asks the tenant what sort of repairs are need in their house, as the surveyor you are asked to circle all repairs listed and note any others. Once all the surveys are finished and I have analysed all the data it may be determined that 60% of people surveyed are living in properties that have broken door locks. This sort of information is important when determining what repairs are most common in rental properties.

#### Who should you survey?

Anyone who is a tenant in the western suburbs of Melbourne.

#### Should complete the survey if the person being surveyed does not want to give their address?

Yes. If the tenant does not want to answer a question just skip it and move to the next question.

#### When I have finished a survey, who should I give it to?

Please give all finished surveys to An at the front desk and she will place them in the pink folder for myself to collect on Friday.

#### What happens if there is information that I think could be important but there is no question on the survey addressing it?

There is a notes section on the back of the survey, this can be used by you to note any sort of information on the house that you think may be useful for the project.

#### If the person surveyed does have repairs that are needed to be attended to at their property what should I do?

Ask if they want advice and if they do refer them to reception staff 9689 8444 to be booked in to an available tenancy apt. If they need assistance to make an appointment please contact our reception and make the appointment for them.

Signature

All people surveyed MUST sign the survey to agree that their information can be used in the survey, please do not forget this.

Questions

If you have any question about the survey or anything to do with the project please contact me at [jane@footscrayclc.org.au](mailto:jane@footscrayclc.org.au) or I am in the office every Friday.

Thank you for assisting and I look forward to receiving your surveys!

## Appendix C: Sample survey used by data collectors



**Footscray**

Community Legal Centre Inc

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ABN 57 056 348 794 Reg. No. A0020395F

### Act for the House, not the Tenant – Minimum Housing Standards Survey

1. Your address:  
.....
2. How long have you been living at the address for? .....years/months
3. How many people live at the above address? .....
4. What country were you born in? .....
5. What year did you arrive in Australia?.....
6. Do you live in public housing, private rental or a rooming house? (circle)
7. How many people under the age of 18? .....
8. Are you a single parent? Y/N
9. Circle the following items needing repair in your property.

|                  |              |                        |
|------------------|--------------|------------------------|
| door locks       | window locks | windows                |
| hot water system | stove        | oven                   |
| running water    | floors       | toilet                 |
| leaking roof     | fence        | heating and/or cooling |
| insulation       | walls        | electrical wiring      |
10. List any other repairs needed at the property: (e.g *mould from leaking pipes*)
11. In regards to the items listed in questions 9 and 10, have you contacted the landlord to request repairs? Y/N
12. If no, can you tell us why you have not contacted the landlord to request repairs?  
.....
13. If yes, how did you request the repairs? E.g. in writing, phone, email  
.....

14. How long have you been living with the above needed repairs? .....days/months

15. How much rent do you pay PCM? .....

We advise that the above survey is not legal advice and we will not be calling you to offer legal advice. If you would like to pursue your legal tenancy matter, please contact Footscray Community Legal Centre on 9698 8999 to make an appointment at our Tenancy Service so we may assist you.

By signing on the dotted line below I confirm that I have read the above information and consent to the above information being used for statistical purposes in the 'Act for the House, not the Tenant' project.

.....  
Signature of client

**Notes:** (your notes can include the general state of the house or general wear and tear, e.g. frayed carpets, peeling paint on walls etc.)

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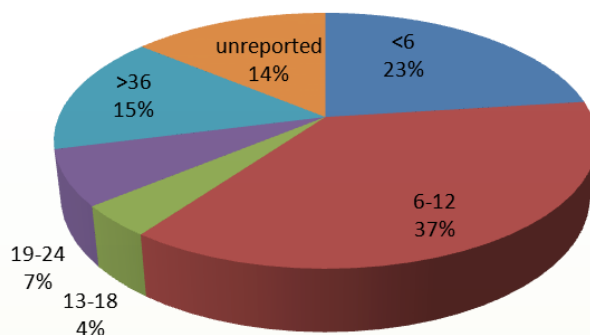
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## Appendix D: Survey data

100 tenants were randomly surveyed by data collectors. Below are charts outlining the survey findings.

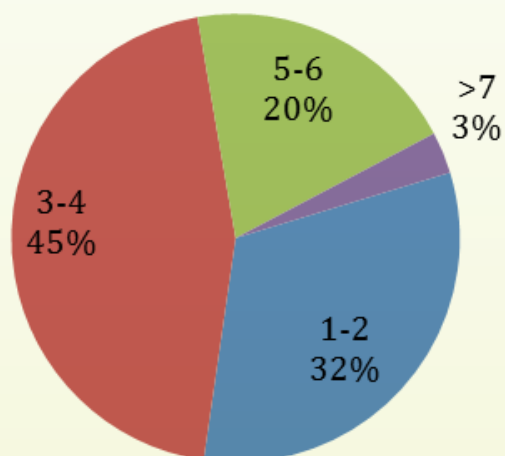
### Time living at property (months)

The below pie chart shows that of the 100 tenants surveyed, most had only been living in their property for 12 months or less. These findings suggest that tenants move frequently.



### Residents per property

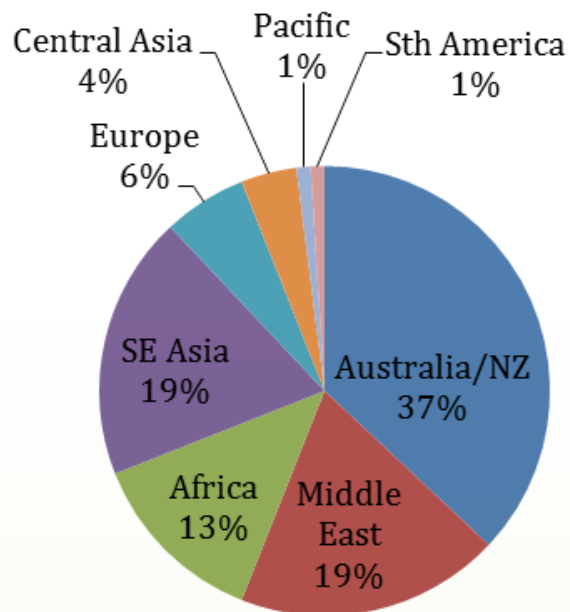
The below pie chart shows that most tenants lived with 3 to 7 or more people.





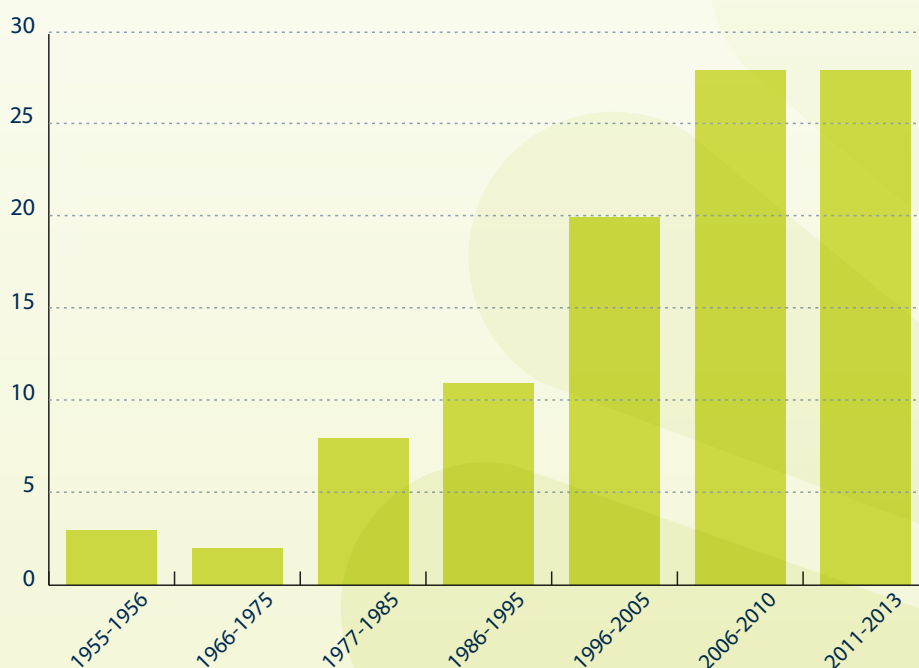
## Region of Birth

The below pie chart shows that the majority of tenants surveyed were born outside of Australia (63%). It also highlights that a significant proportion were born in Australia (36% - New Zealand born 1%) suggesting that problems associated with tenancy involve all tenants, not just those belonging to minority groups.



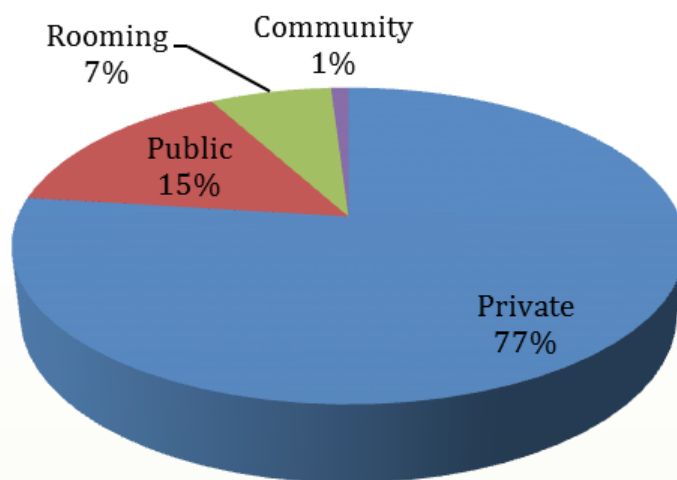
## Year of arrival in Australia of the 63 tenants born overseas

The majority of tenants surveyed who were born overseas had arrived in Australia in the last 7 years.



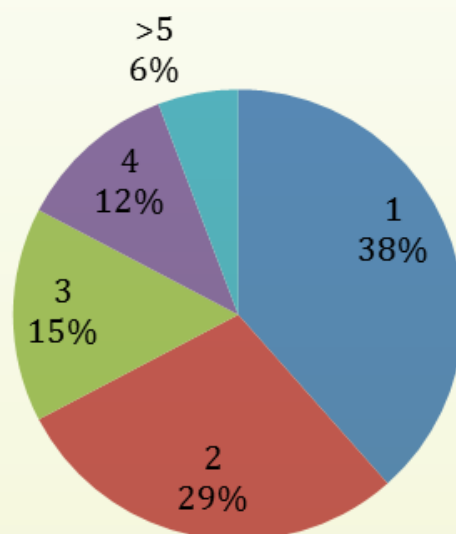
## Type of rental property in which surveyed tenants reside

The majority of tenants (77%) surveyed lived in private rental accommodation.



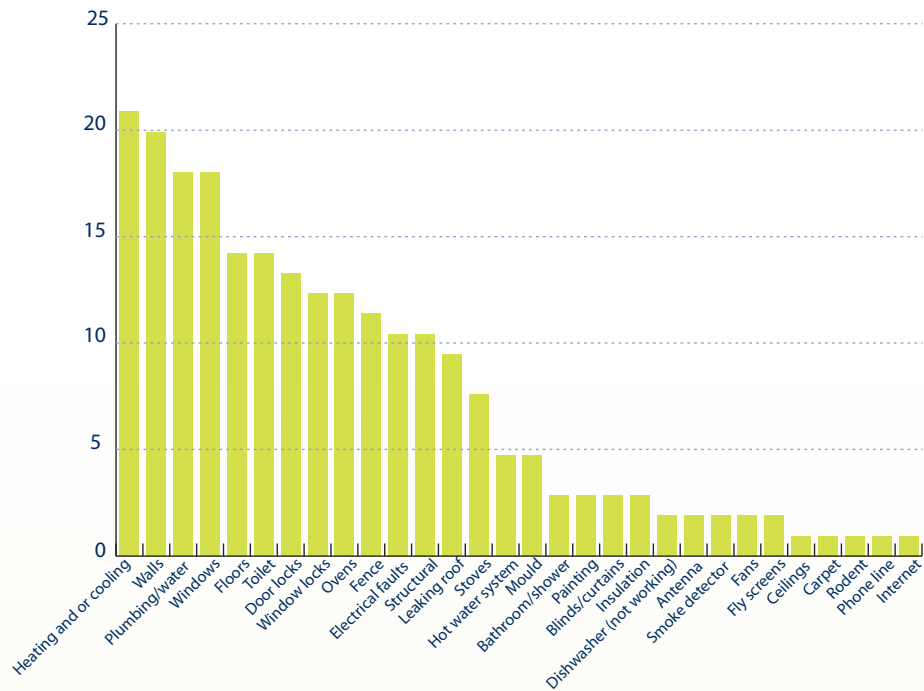
## Number of minors per household

52 of the 100 tenants surveyed reported to have minors living in their household. The below pie chart shows how many minors lived in each of the 52 properties.



# Required repairs

Of the 100 tenants surveyed, 71 claimed to need one or more repairs to their property. There were a total of 240 repairs recorded.

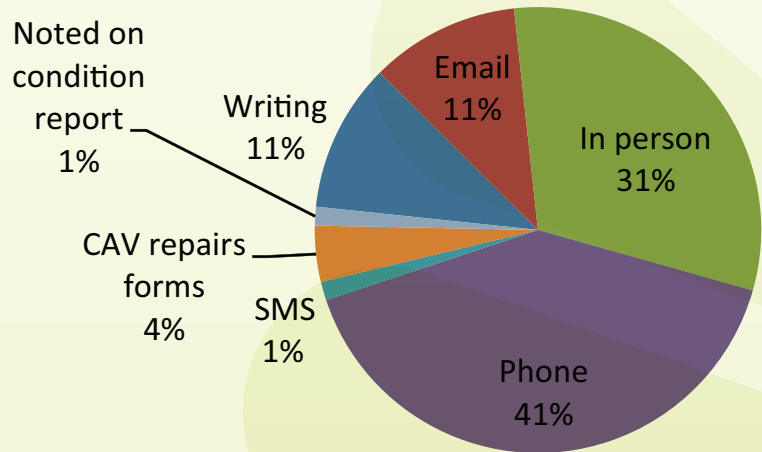


# Contact Method

Of the 71 tenants who claimed to require the above repairs, 51 had contacted their landlord and 20 had not.

The 51 tenants who had contacted their landlord did so on various occasions in person, in writing, email, phone, SMS, official CAV forms or noted on the property condition report.

The below pie chart shows that of the 51 tenants who had contacted their landlords, most had done so in person or by phone.



# Time in months tenants have been waiting for repairs

The RTA requires non-urgent repairs to be actioned within 14 days. Results show that the majority of landlords are in breach of this obligation with a large number of repairs taking 9-12 months.

The below chart shows that of the 51 tenants who had requested repairs, most had been waiting significantly longer than the maximum 14 days.

