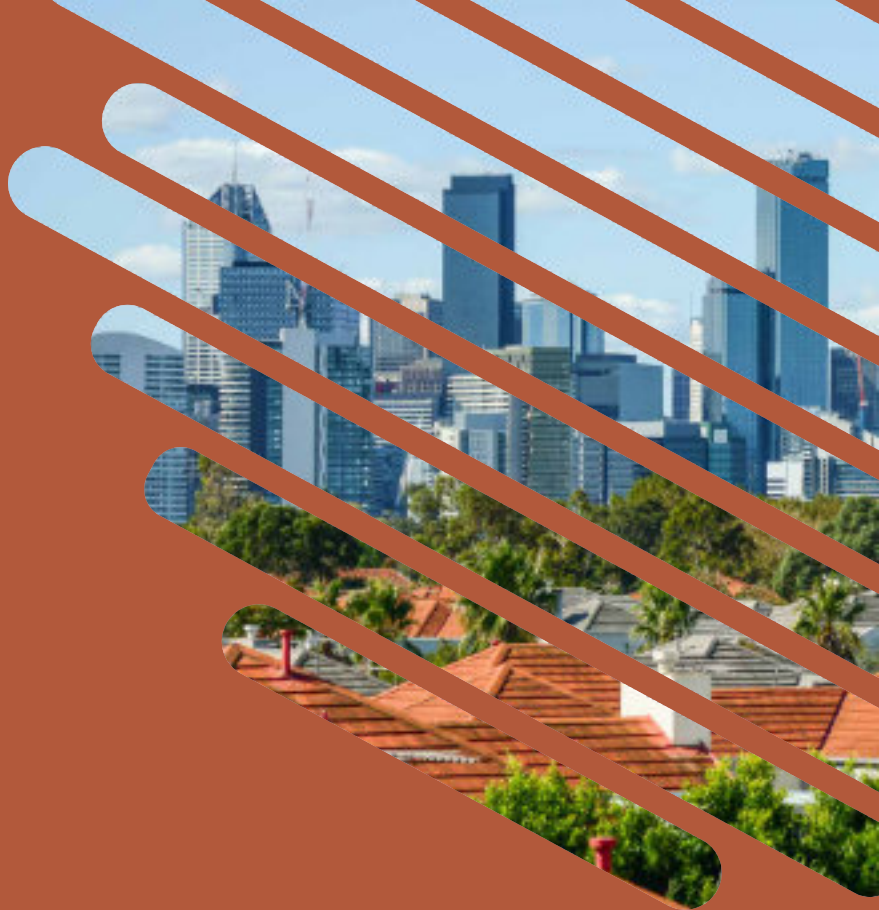




IS IT LIVEABLE?

A mystery shop of private rental properties



CPRC

The Consumer Policy Research Centre (CPRC) is an independent, not-for-profit, consumer think-tank. Our work is made possible thanks to funding from the Victorian Government.

CPRC aims to create fairer, safer and inclusive markets by undertaking research and working with leading regulators, policymakers, businesses, academics and community advocates.

Tenants Victoria

Tenants Victoria (TV) aims to inform and educate renters about their rights, improve renting conditions, improve the status of renters and represent the collective interests of renters in law and policy making.

Acknowledgements

CPRC would like to thank Paul Myers for his input, time and advice in development of this project. CPRC is responsible for the views in this report, including any errors or omissions.

Statement of Recognition

CPRC acknowledges the Traditional Custodians of the lands and waters throughout Australia. We pay our respect to Elders, past, present and emerging, acknowledging their continuing relationship to land and the ongoing living cultures of Aboriginal and Torres Strait Islander Peoples across Australia.

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Executive summary

When a property fails to meet the minimum standards there are immediate consequences for people who rent. They have less privacy without window coverings. They experience more health issues when living in a home with mould. They have trouble staying warm in winter.

From February to April 2023, CPRC and Tenants Victoria arranged a mystery shop of 100 properties advertised for rent in two areas: Wyndham Vale and Bendigo, Victoria. We sent our mystery shoppers to open inspections, presenting as potential renters to get the best possible sense of how people renting would experience these viewings. Mystery shoppers assessed properties based on the minimum standards and other obligations in the *Victorian Residential Tenancies Act*.

The vast majority of properties appeared to meet the minimum standards. This indicates that the standards set by the Victorian Government for rental properties are achievable and that the market has responded to the new requirements for quality rental homes.

A small number of properties fell short of the minimum standards:

9

properties had visible mould.

10

properties failed to provide adequate window coverings.

15

properties failed to meet the standards for heating, with most failing as they had no information about the minimum energy efficiency of the heater.

We found a relationship between overall property maintenance and compliance with minimum standards. Properties that were poorly maintained were also more likely to have visible mould, holes in the ceiling and walls and lack window coverings.

Worryingly, properties we examined were more likely to have maintenance or minimum standards issues when the cost to rent was more affordable. This doesn't mean that all affordable properties were of poor quality. It is very possible to offer an affordable rental that also complies with the law, but enforcement is clearly needed to make sure that all affordable properties do so.

The quality of information provided by agents also stood out as an area that needs improvement. As part of our mystery shop, we asked agents if properties met the minimum standards for gas and electrical safety compliance, about the heater energy efficiency and mould history of the property. Only half of the agents were able to answer these questions – 13 agents could not provide information for any of these essential questions.

The current laws require that this information is provided to potential renters before their application is finalised, not necessarily at the point of an inspection or in writing. A simple change to the law to require disclosure in writing of essential information about a property at the point of advertising or inspection, would help more Victorians find rentals that meet their needs and likely lead to immediate higher compliance with minimum standards. Proactive information requirements are already in place for property sales. We need to see similar useful information provided to people who rent.

Key findings

Most properties met all minimum standards we assessed.



9

of the properties we viewed had visible mould



15

of the properties failed to meet the standards for heating



10

of the properties failed to provide adequate window coverings



26

of the properties did not meet good practice for smoke alarm placement



Half of all agents could not provide information on the compliance and safety of the property to prospective renters



24

24 agents could not provide electricity and gas compliance and safety check information



22

22 agents could not provide information about the energy efficiency of heaters



39

39 agents could not provide information about the history of mould in the property



28% of the properties had maintenance issues, with these issues more common in lower cost properties.



39% of low-cost rental properties were not well-maintained versus 18% of higher cost rentals.

5

5 properties had significant damage to walls, floors or ceilings.



Recommendations

CAV should provide clear guidance about legal obligations

In conducting this mystery shop, we identified a range of areas where there is little guidance about specific aspects of the minimum standards or other legal requirements. In some cases, like with smoke alarm placement or the ventilation minimum standard, rental providers and people who rent need to read technical building codes to understand how requirements apply to their situation. In other cases, such as lighting requirements, there is no information about how to interpret a standard.

CAV should develop detailed guidance to help all parties better understand what is required for a private rental property. Specifically, we see a need for guidance about:

- requirements for toilets in enclosed spaces and if doors are required
- structural soundness
- how to identify if mould is caused by or related to a building's structure
- adequate lighting
- ventilation, and
- smoke alarm placement, providing clarity on the minimum requirements as well as good practice.

This guidance should be provided in plain English and translated to a wide variety of languages to meet the needs of all Victorians.

Monitoring and enforcement priorities in the private rental market

CAV should target its monitoring and enforcement work on properties with lower-than-average rent and consider maintenance issues as well as compliance with minimum standards, focusing on mould issues. From the Tenants Victoria work, it is apparent that a significant proportion of mould occurrences are not being resolved between the people who rent and property owner and are escalating into formal dispute resolution. This research indicates that rental properties with mould appear to be more likely to have additional problems with maintenance, have holes in walls and ceilings, and may lack sufficient smoke alarms.

Legal reform required to improve information provision

Essential information about a property should be proactively offered at the point in time when people most need it: at or before an inspection.

Current disclosure requirements in the *Residential Tenancies Act* and the *Residential Tenancies Regulations* are not leading to quality information provision for people who rent. The disclosure needs to take place only after someone has been offered a tenancy and has invested in viewing and applying for the property, often in a tight rental market.

There are no published decisions from VCAT relating to the enforcement of the disclosure provisions, indicating that these protections are rarely used and likely difficult to use.¹ We consider it very unlikely that renters would be aware of these provisions, and given there is no requirement for written disclosure, renters may have difficulty demonstrating that a rental provider has not complied with the obligations. This drafting also likely makes it difficult for regulators to enforce this information disclosure requirement.

One approach to simplify disclosure is to bring essential information together in a prescribed written form that must be offered to prospective renters at open inspections and in response to enquiries. This could look very similar to the agent price guide provided for properties for sale, as required under Section 47AF of the *Estate Agent Act 1980*. This law requires agents to list an indicative selling price for properties for sale. This information is now available when properties are advertised for sale and is incorporated into online listings.

The Victorian Government should explore this simple legislative change to prescribe the form of disclosure about minimum standards that all prospective renters receive about the private rental properties they inspect.



Recommendations (cont.)

Role for industry leadership to improve good practices

The Real Estate Institute of Victoria (REIV) can play a key role in educating agents to help provide good quality information about properties at the point of inspection, rather than later in the tenancy process. REIV has an opportunity to encourage agents to seek key information from the rental provider early, helping lift practices in the market beyond the requirements of the current legislation.

Improving the standards to make homes more liveable

The minimum standards offer important protections to people who rent; however, homes that can meet these minimum standards and still not deliver safe and healthy home. This is best seen with the heating standard, where there is no requirement that homes have cooling features or that the heater will be adequate to heat key parts of the home. A heater could be installed in the living area but with no heating available in the bedrooms.

There are also no standards that speak to the thermal efficiency or insulation of a home, meaning a heater may be available but that a home could be very poor at retaining that heat. This leaves people who rent paying much higher energy bills just to heat their home.

There is room for improvement with the minimum standards to make sure everyone is comfortable and safe at home. Minimum standards should be expanded to cover adequacy of heating and cooling, insulation, draught proofing and overall energy efficiency of the home.

Improving standards to make homes safer

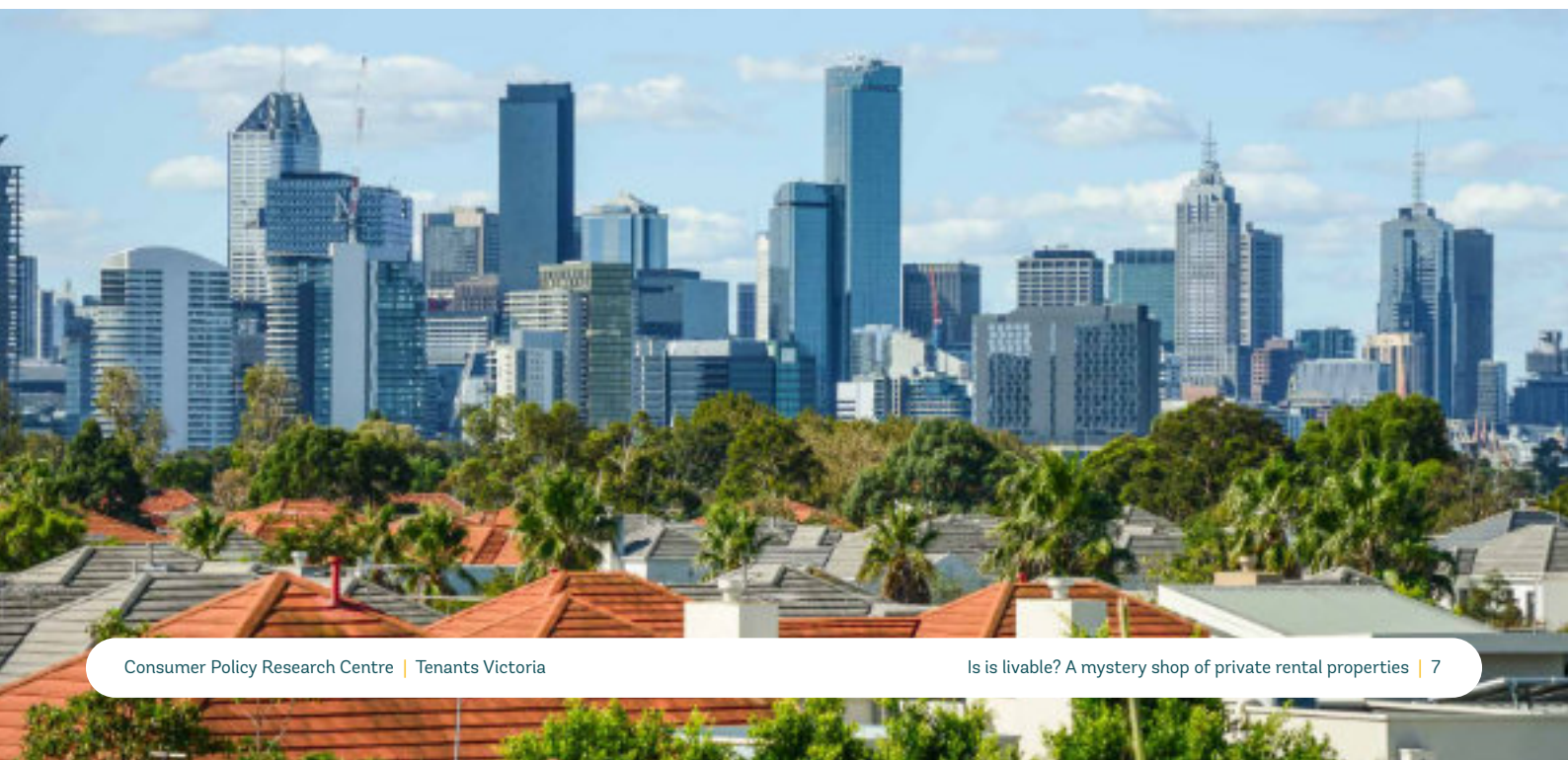
While not directly covered in this research, we note that essential safety checks only apply to rental agreements made after March 2021. This means that ongoing tenancies made before this date are not covered by obligations to check fire, gas, or electrical safety.

This applies to a very large number of tenancies in Victoria. As of 5 July 2023, 43.5% of existing residential agreements would not be required to comply with the smoke alarm testing or other safety requirements.² This has matter has been raised by the Coroners Court of Victoria as a serious safety issue, specifically in relation to a case of a fire that could have been prevented if regular safety checks of a fire alarm occurred.

Fire alarm placement requirements should be brought into the minimum standards and all safety checks should be extended to retrospectively apply to all rental properties in Victoria.

Scope for further research

This mystery shop covered a reasonable sample of properties in two geographic areas. However, every area has unique housing factors that affect availability and quality, such as when stock was built and the quality of agents in the area. There would be great value in extending this mystery shop methodology to other areas, particularly areas which offer affordable private rental properties. The Victorian Government should explore this simple legislative change to prescribe the form of disclosure about minimum standards that all prospective renters receive about the private rental properties they inspect.



Context and methodology

In 2015, the Victorian Government commenced a review of the *Residential Tenancies Act 1997* (the Act). Over a two-year period, the Government consulted on a range of rental issues from security of tenancy to minimum standards for rental properties.

In 2018, the *Residential Tenancies Amendment Act 2018* was passed.³ Key reforms included new minimum rental standards (the minimum standards) that appear in Schedule 4 of the *Residential Tenancies Regulations 2021*. The standards were introduced over a transition period beginning in March 2021 and ending in March 2023 to give rental property owners time to bring their properties into compliance with the standards. As of March 2023, new tenancies must comply with the regulations before a new renter enters the property.

Between late February and April 2023, the CPRC in collaboration with Tenants Victoria mystery shopped private rental properties offered to prospective renters in Bendigo and Wyndham Vale, Victoria.

1

We completed a visual review of the properties on offer, where possible assessing if the property met the minimum standards.

2

We assessed if the property was in good condition.

3

We asked the agent to pass on basic information about the standards that the property met.



Minimum standards

The minimum standards complement existing requirements in the Act and provide a more accessible checklist for prospective renters.

The reforms include 14 new standards for safety, security and health. The standards are provided for by Section 65 of the Act and detailed in Schedule 4 (Regulation 29) of the *Residential Tenancy Regulations* 2021. Broadly the standards require:

deadlocks on external doors

any laundry to be connected to hot and cold water

external windows that can be opened and are lockable

vermin proof rubbish bin

structurally sound building

lighting in all areas

a toilet in good working order

no mould or damp caused by the building structure

ventilation in all rooms including the bathroom, shower, toilet and laundry,

a bathroom with washbasin, water efficient shower\bat connected to hot and cold water

compliant electrical switchboards, circuit breakers and safety switches

energy efficient heater installed in the main living area

kitchen with a functioning cooktop, oven, sink connected to hot and cold water and food preparation area

curtains or blinds on external windows

Under Section 65A of the Act, owners must ensure all standards are met when a new renter enters the property. A penalty can be applied for a breach. Note, our mystery shop was conducted at the viewing stage, before a tenancy would commence. There is a possibility that some of the issues we identified in this work could or would been addressed by the owner or agent before a renter moved in. This resolution is most likely for minor issues(e.g. missing curtains), and lower for significant issues (e.g. mould).

In addition, Section 65A of the Act also prescribes that in cases where a new renter enters a property that does not comply with the standards, the renter can issue a notice to the owner for urgent repairs at the owner's expense (as provided for in Section 72AA, and under Section 72) and/or apply to VCAT for an order requiring the owner to carry out the urgent repairs or pay for the urgent repairs (under Section 73). The Act also contains duties about disclosure of information to renters, maintenance and cleanliness of the property.

Methodology

The mystery shop of rental properties in Bendigo and Wyndham Vale provides insights into regional centres and the outer growth areas of Melbourne, where people on lower incomes have more housing options.

Between February and April 2023, we inspected



25 of 124
rental properties
advertised in
Bendigo

+



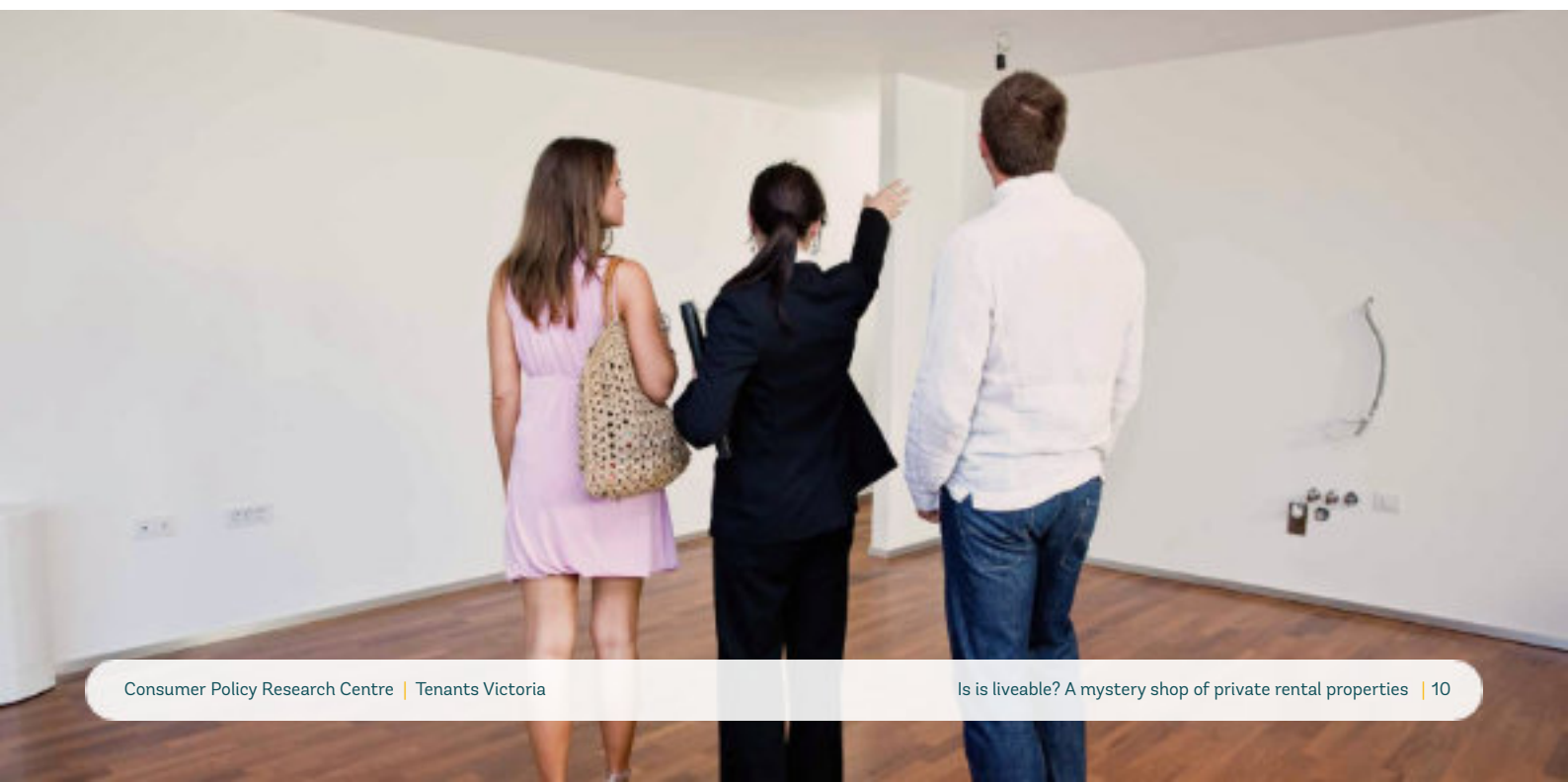
75 of 182
rental properties
advertised in
Wyndham Vale

The mystery shop does not draw conclusions about rental properties across Victoria but provides focused insights on quality in these two areas. We acknowledge that the rental market is highly dependent on local factors such as type of housing, age of housing and agents available in the area.

Mystery shoppers attended open inspections of rental properties, conducted a visual inspection using a checklist, and asked questions of the agent. The checklist included 18 items, 14 items for the visual inspection and 4 questions to ask the agent. Comments and photos were also recorded to elaborate on the reason for the rating.

We assessed properties based on a visual assessment of likely compliance with 11 of the 14 minimum standards:

Locks	
Toilets	
Bathrooms	
Kitchen	
Structural Soundness	
Mould	
Window Coverings	
Windows	
Lighting	
Ventilation	
Heating	



Sample design

Data gathering was conducted over an eight-week period, between 22 February and 19 April 2023. At the time of reporting, there were a total of 794 rental properties in Bendigo and 1,700 rental properties in Wyndham Vale.⁴ Given the smaller number of rental properties in Bendigo the sample of 100 properties was divided into 25 properties from Bendigo and 75 from Wyndham Vale.

Rental properties advertised in these regions were selected using sites such as realestate.com.au and domain.com.au.⁵ During the data gathering period, 124 properties in Bendigo and 182 properties in Wyndham Vale were advertised on the property sites monitored by the survey. This meant the coverage of advertised properties was high, with approximately one fifth of advertised properties surveyed in Bendigo and just over 40% of advertised properties surveyed in Wyndham Vale.

While coverage of all rental properties in each area was reasonable, at between 3 and 4 percent of all rental properties, the survey is likely to be more representative of properties being offered to prospective renters, given properties must comply with the standards when offered to a new renter, rather than during the tenancy. It is not reflective of the quality of rental properties with tenancies that commenced before the minimum standards were introduced.

The composition of the sample may be similar to some other regional centres and outer metropolitan growth areas. Of the 100 properties:

-  84 houses had **two, three or four bedrooms**
-  82 houses were constructed from **brick**
-  8 were **weatherboard** properties located in Bendigo
-  47 had **four bedrooms**, and

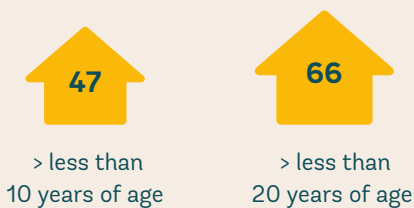
	most Bendigo properties comprised two or three bedrooms	most Wyndham Vale properties had three or four bedrooms.
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Most Properties



reflecting the relative newness of Wyndham Vale and its weight in the sample.

Of the 75 properties surveyed in Wyndham Vale



In contrast, Bendigo properties were spread evenly across all age ranges through to 50+ years



Capturing properties with lower rental rates

To assess quality at the lower end of the market, properties with rent of less than \$390 per week⁶ were deliberately included in the sample.



Of the 100 properties surveyed, 31 were advertised to rent for less than \$390 per week; 8 in Bendigo and 23 in Wyndham Vale. These properties would be more affordable to lower income households. As may be expected, these properties attracted more interest at inspections, suggesting more competition for low rent properties.



On average, seven people viewed each property advertised at less than \$390 per week at the same time as the mystery shopper. This compares to an average of five people viewing each property with rent between \$390 and \$479 per week and three people viewing each property with rent of \$480 per week or more.

Study notes and limitations

- The mystery shopping exercise did not attempt a full compliance audit because some standards require a technical assessment or require examination of areas not accessible during an open inspection.
- In some instances, agents were asked about compliance. For example, we were unable to visually assess the energy efficiency of heaters and instead relied on agent disclosure of this information.
- Standards for vermin proof bins and laundry were not assessed as some apartment complexes had these in separate areas that couldn't easily be viewed at an inspection. The standard for electrical safety was also excluded as it would require a technical inspection, however, the agent was asked whether gas and safety checks were up to date, and this result is reported in the section on agency performance.
- Where there wasn't clarity about whether a property passed a minimum standard or room for interpretation, we have erred on the side of caution and assumed compliance. With this in mind, results outlined in this report should be viewed as the best-case situation for the areas examined.
- Where there is apparent non-compliance, the extent of rectification required may vary widely, for example the absence of blinds on one window may be relatively simple to rectify whereas presence of mould could require significant rectification. The research does not quantify the extent of rectification required.



Rental properties and minimum standards



Most properties in our sample met minimum standards, indicating that large parts of the rental provider market are responding to the new requirements.

Compliance was weaker for standards for mould, window coverings, and heating; with more issues encountered in older homes. The property size (measured by the number of bedrooms) had little effect on whether the property met minimum standards.

Across our sample, rent amount was the best predictor of whether a property met minimum standards. While some lower cost properties met all minimum standards, these properties were more likely to fail to meet minimum standards, as well as have issues with other obligations such as poor maintenance and cleanliness.

Results by standard	Bendigo – out of 25	Wyndham Vale – out of 75	Total
Doors	25	75	100
Windows	24	73	97
Toilets and Bathrooms	25	72	97
Kitchens	25	75	100
Structural Soundness	Not possible to measure – we instead identified homes with holes in walls or windows.		
Mould	22	69	91
Window Coverings	19	71	90
Lighting	24	74	98
Ventilation	25	75	100
Heating	18	67	85

Table 1: Property and agent performance results for each standard

What does good look like?

While the majority of this report will focus on what non-compliance looks like, it's important to recognise that the vast majority of rental properties viewed were meeting minimum standards. This shows that the majority of the market is responding to the requirements that Victoria has introduced. It also indicates that other states could see similar levels of compliance if they followed the Victorian Government's lead to introduce clear or more extensive minimum standards for rental properties.⁷

Properties that met the standard had the basics for people to live comfortably: a working kitchen, a home free from visible mould and security measures, like window covers and locks on doors.

Great agents had information about the property at hand and could answer immediately when mystery shoppers requested information about electrical/gas tests, mould history and the energy efficiency for heating.



All the rooms have windows with good natural lighting. Floors are clean and well maintained with no signs of stains or excessive wear.



The bathrooms and toilets had exhaust fans and windows that would provide adequate ventilation. There was no evidence of mould in the kitchen or bathroom or any other rooms, also checked the wet areas and under the sinks.

Images 1 and 2 and mystery shopper comments: Examples of properties that met all minimum standards



Doors and windows

All properties met the minimum standard for locks on doors. This standard:

- requires all external entry doors to have either a functioning deadlock or a locking device
- does not require that screen doors have locks if they are attached to an external door with a lock, and
- does not apply to a public lobby door or in some cases where heritage listing applies to the property.⁸

While all properties had locks on doors, some issues were identified with windows locks at three houses in the mystery shop. The standard for windows requires that:

- all external windows capable of opening must be able to be opened and closed
- all external windows capable of opening must have a functioning latch to secure against external entry. A lock or bolt on the window can meet this requirement.⁹

Two properties we viewed had issues with window locks. In one property, there were locks only on some windows: one window had a broken lock and some bedroom windows were missing a locking feature all together. The second property had an older-style bathroom window which could be opened, but had no latch, lock or bolt.

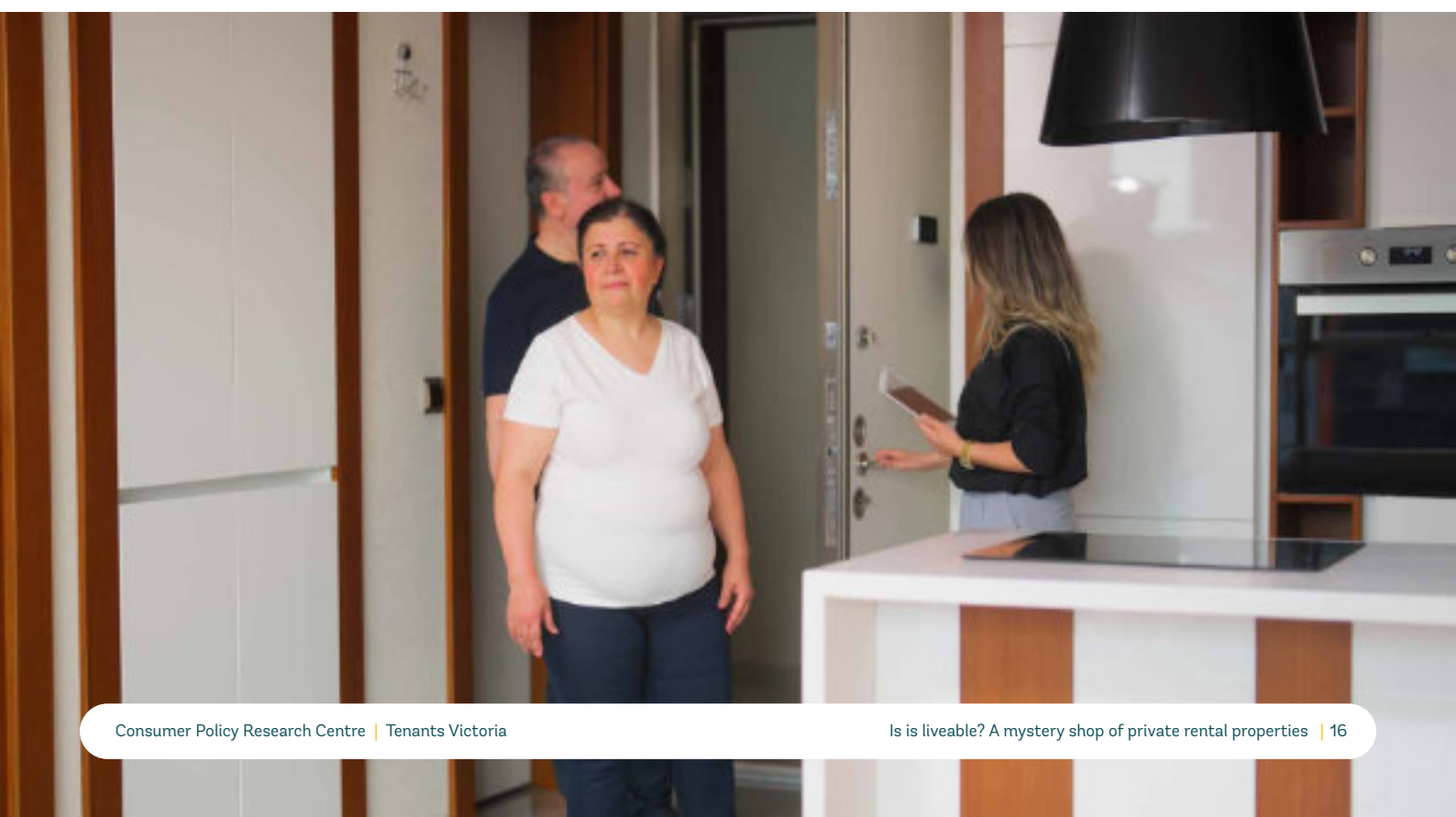
In another property, our mystery shopper identified that all doors and windows had locks; however,

“the agent said they did not have the keys to all the windows”.

Practically, this fails to meet the standard as it means the future renter of this property would be unable to open all windows.



Image 3: broken window lock in Wyndham Vale, presenting a future security issue for a person renting the property.





Toilets and bathrooms

Mystery shoppers assessed these two standards via confirmation of the presence and availability of a toilet and a bathroom. All properties had bathrooms and toilets, but we did identify three toilets without a door, likely failing to meet the standard.

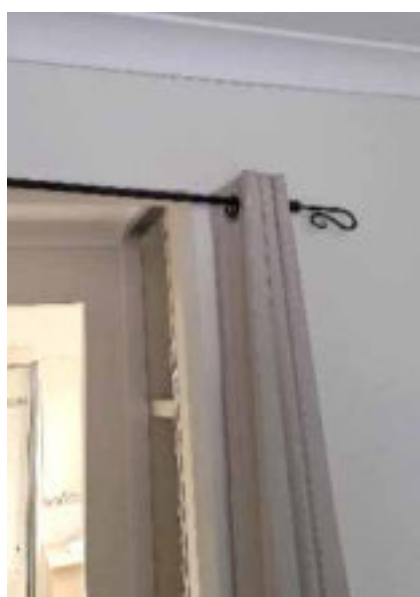
The standards for toilets and bathrooms require that:

- a toilet is in good working order is part of the home, with some sewerage connection requirements
- the toilet is located in a “room that is intended to be used as a toilet area”, specifically a separate toilet or bathroom, combined bathroom and laundry or separate enclosed structure
- a bathroom is available with a reasonable supply of hot and cold water¹⁰
- the bathroom has a washbasin and a shower or bath, and
- if there is a shower, that there is a shower head that meets a minimum rating for water efficiency, unless one cannot be installed.^{11 12}

The requirement that the toilet is meant to be in a separate room has been interpreted in this mystery shop as a being in a room with a door that can shut. However, we note, this isn't explicit in Consumer Affairs Victoria's (CAVs) information about the minimum standards. Further clarity from CAV on the specific need for a door on a room with a toilet would be useful for people who rent and rental providers.

Three properties had toilets in rooms with no door. In two cases, a shower curtain (or other curtain) was hung to enclose the room with the toilet. In the other case, there was no barrier between a bedroom and the room with the toilet. It appeared that the house was designed with a bathroom or ensuite with no door to the bathroom.

All of these properties had three or more bedrooms, making it very likely that more than one person would live in the home. Whether someone is sharing a house with other adults or children, it is very reasonable for people to expect that their bathroom will have a door for privacy and sanitary reasons.



Images 4, 5 and 6: three bathrooms without doors, two with curtains provided as an alternative.



Kitchen

All properties in the mystery shop met the minimum standard for kitchens. The standard requires that properties must have a kitchen with:

- a dedicated cooking and food preparation area
- a sink in good working order connected to a reasonable supply of hot and cold water
- a stovetop in good working order that has two or more burners, and
- if an oven is provided, that the oven is in good working order.

There are some exceptions to these standards, for example, heritage listed properties with an approved exemption from the standard.¹³

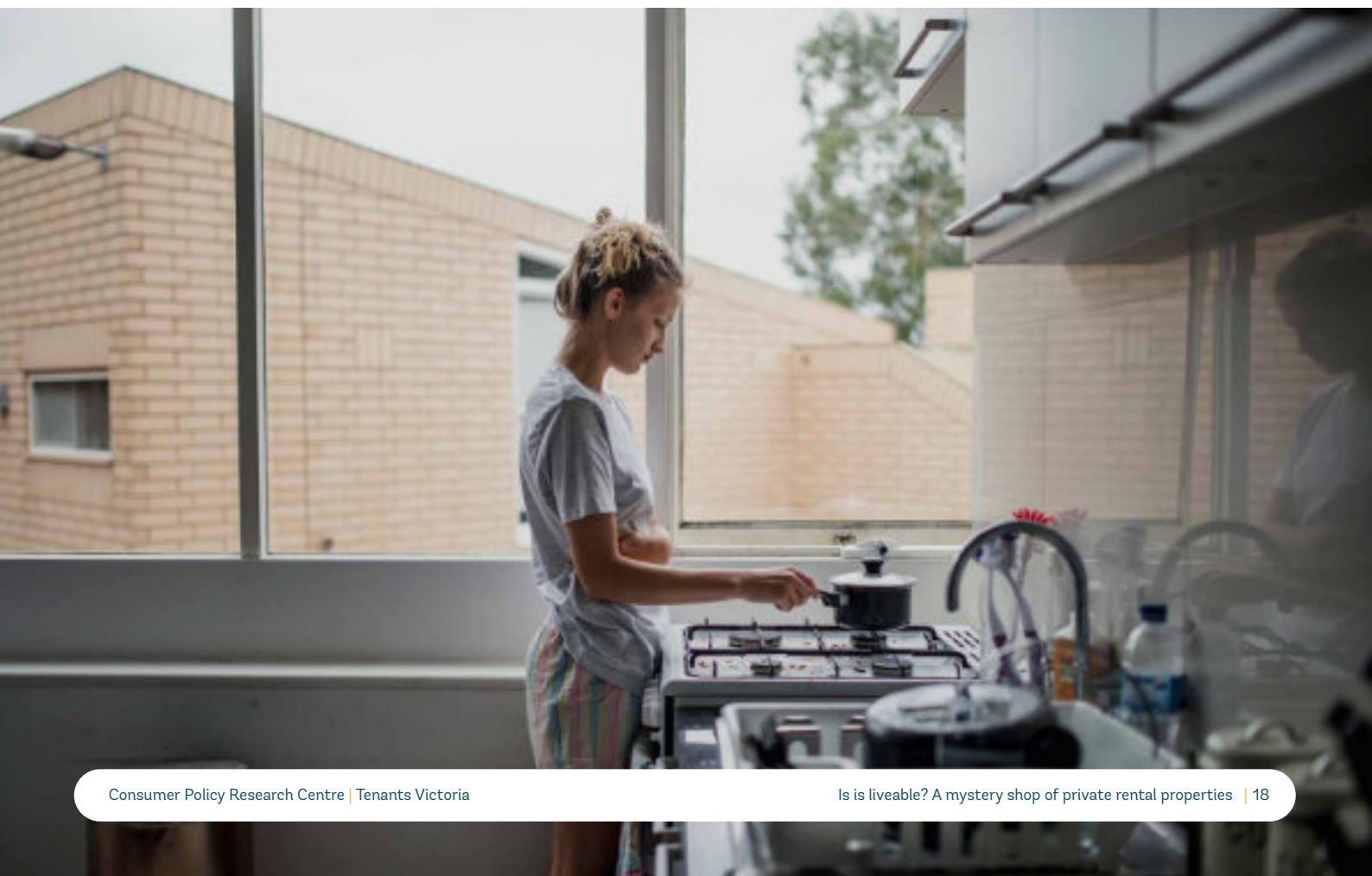
For this standard, mystery shoppers were unable to assess the quality of the water supply or if they stovetop or oven worked. Instead, they sighted if all facilities required were present.

Most of the properties viewed delivered facilities well beyond what was required by the standard. For example, many properties had dishwashers, rangehoods, fridges or significantly more bench space than what the minimum standards specify.

“Property had modern kitchen with stainless steel appliances such as 900 mm stove & oven, range hood, dishwasher, stone benchtop, pantry and lots of overhead and lower cupboards.”

“This property had a beautiful kitchen, complete with upgraded stainless steel appliances, dishwasher, and ample storage.”

Comments from mystery shoppers who viewed properties with kitchens that went beyond the minimum standards.





Structural soundness

When commencing this research, we had hoped to assess structural soundness in our mystery shop. However, in looking closely at this standard it became clear that we could not assess this in a meaningful way.

The standard requires that “rented premises are to be structurally sound and weatherproof.”

It’s very difficult for people who rent to assess whether their property meets this minimum standard. The term “structurally sound” is not defined in relevant building or rental legislation. In court cases, structural soundness has been determined through expert engineering reports and related to whether the building was safe as per relevant Australian Standards.¹⁴ In some VCAT decisions relating to heritage protections (not rental protections), buildings have been considered structurally unsound when significant parts of the building, like the foundation, wall or roof, are likely to collapse within the ‘foreseeable future’ (within the next 10 years).¹⁵

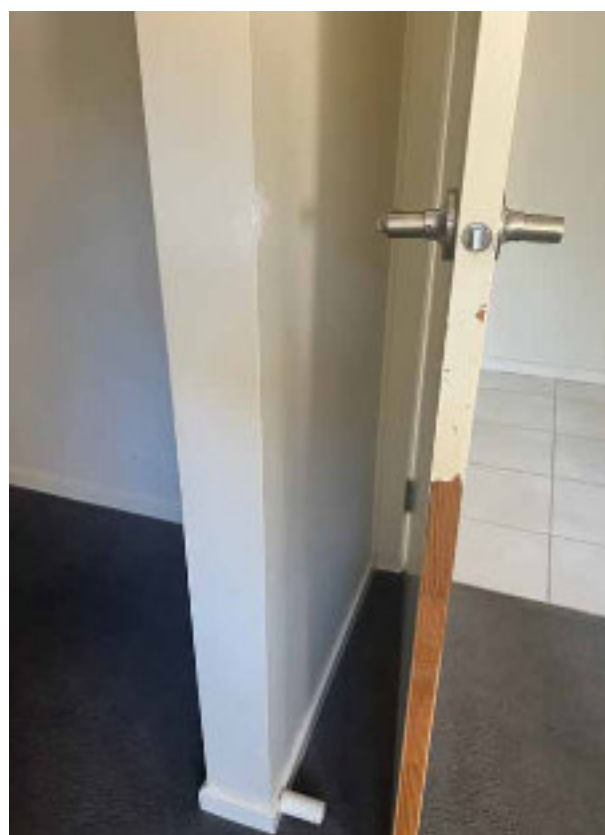
This minimum standard is the one most in need of clear guidance from CAV to assist rental providers and people who rent. CAV should provide clear examples to help all parties understand what failing this minimum standard would look like in practice.

While we couldn’t identify if properties met this minimum standard, we did ask mystery shoppers to look for holes in the walls and ceilings, and to examine the condition of the floor, as practical indications of the state of the built structure that would be relevant to renters. While this approach was able to give us a sense of where properties have visual issues and some indication of potential structural issues in extreme cases. However, it did not tell us if the property is compliant with the minimum standard.

In total, 20 properties presented with holes in walls, windows or other visual issues. These issues varied from very minor visual issues to significant concerns that would greatly affect someone living in the property.

Paint damage

Looking at the minor issues, we found 16 properties with paint chips or paint damage. These issues are not required to be addressed under the minimum standards but do affect the visual quality of a home. Some paint damage was significant, with paint removed from large parts of walls or doors.



Images 7 and 8: examples of paint damage identified in the mystery shop

Structural soundness (Cont.)

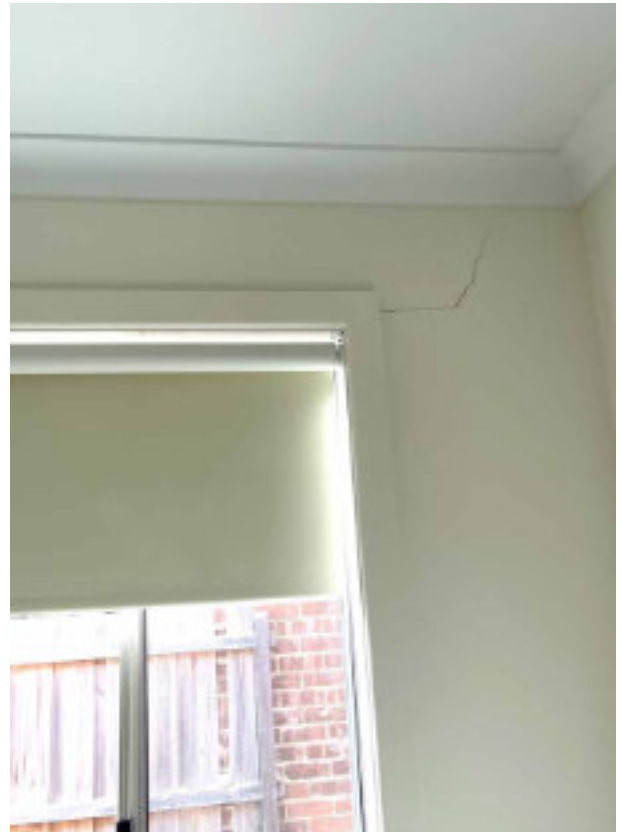
Small holes in walls

There were three properties with small holes in the wall (likely from a TV once being mounted on the wall or old picture hooks). Again, these issues are likely only to present visual problems for a future renter.

Cracks in walls or ceilings

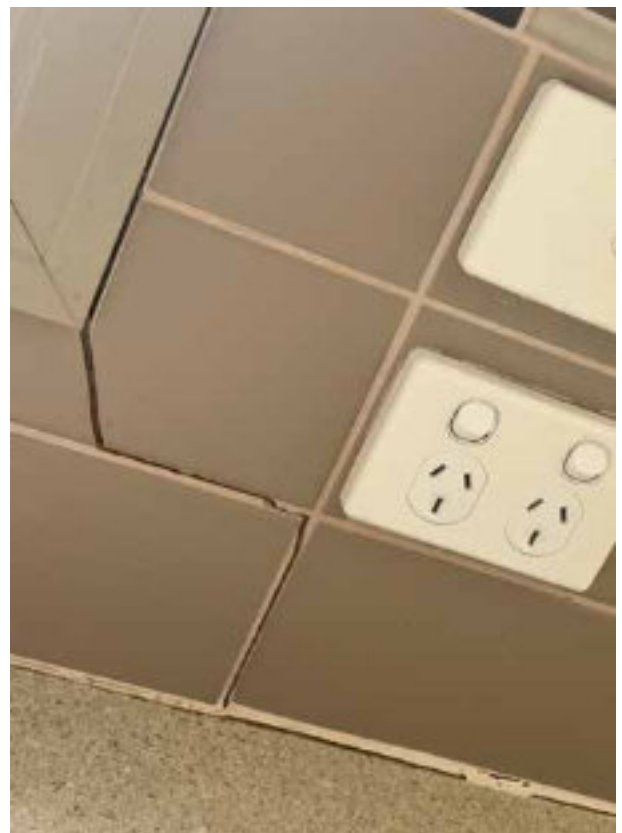
Seven properties had cracks in walls or ceilings. In most cases, these were relatively small cracks that presented visual issues only, at least in the immediate term.

Some cracks were significant and could make it more difficult for someone to heat or cool the home or more likely to let in pests. In one case, when a mystery shopper asked the agent about any plans to address a major crack; they were informed that the owner had no intention to address the issue as the matter wasn't structural. Given the vague definition of "structural soundness" it's very unlikely that a renter could successfully assert that large cracks are breaches of minimum standards. However, large cracks can affect the quality of a home and should be addressed for the comfort of people living there.



“I noticed two big cracks in the entertainment room near the window placement. I asked the agent about the cracks and if the owner planned to fix it and he noted that they did not feel it was a structural issue and as such had no immediate plans to fix it.”

Comments from mystery shopper observing a large crack in a wall



Images 9 and 10: Examples of a small visual crack and a larger crack identified in the mystery shop

Structural soundness (Cont.)

Major damage identified in the mystery shop: holes, uneven flooring and water damage

Our mystery shoppers found five examples of significant damage to walls, floors or ceilings.

We found three homes with major holes in walls or window frames. These holes go beyond visual damage, making spaces within the property unusable or creating a safety hazard for renters. We also identified one issue with flooring that was so poor that a room would have been difficult to use.

In one home, the mystery shopper was told that there was water damage that the agent promised would be fixed before a new renter moves in. While it was positive that this promise

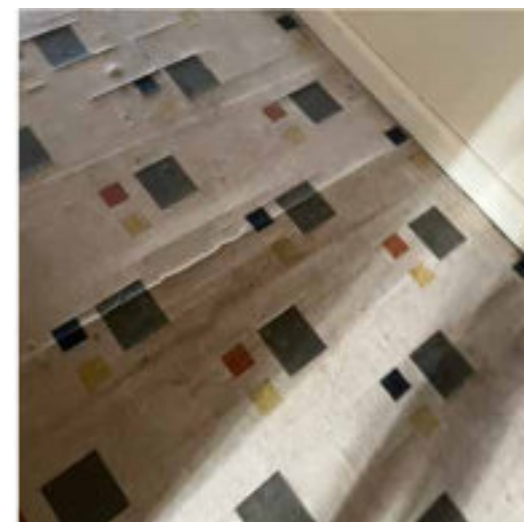
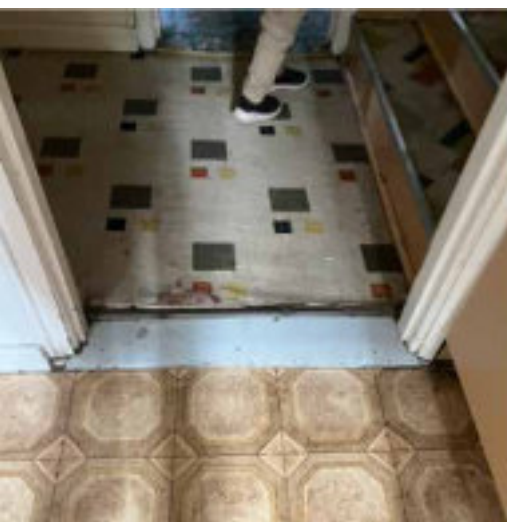
was made, the damage was so significant that it would have been difficult to fully resolve in a short period of time.

“Two areas were covered off due to water damage. One area was in the ceiling upstairs. The other area was downstairs in the living area... there appeared to be a leak in the wall downstairs and there was another leak in the ceiling upstairs which the realtor advised had mould in it.”

Comment from mystery shopper



Images 11, 12 and 13: Examples of larger holes and water damage identified in the mystery shop



Images 14, 15 and 16: An example of damaged and uneven flooring from the mystery shop



Mould

Rental properties must be “free from mould and damp caused by or related to the building structure”.¹⁶ If untreated, mould can cause asthma and other health conditions, and render a property uninhabitable.¹⁷

This mystery shop identified visual mould in the property but could not make a judgement about whether the cause is structural or related to the building structure. Again, this is an area where further guidance from CAV would be useful – how can a person renting a property know if mould or damp is caused by or related to the building structure?

Our mystery shoppers found 91 of the 100 properties were free of mould. We identified nine properties as having visual signs of mould based on an examination of all accessible areas within the property. However, in some instances, it wasn't clear if the marks were mould, dirt or stains and consequently an additional three properties were given the benefit of the doubt and assessed as likely compliant.

Mould was most commonly found in older properties in the 30–39-year age range, followed by the 29–30-year age range, suggesting older properties are more likely to have mould or damp. However, newer properties were not always free of mould and damp, despite a lower occurrence. Considering the sample composition, with many homes in Wyndham Vale being relatively new, instances of mould identified in this mystery shop may be lower than in other areas in Victoria.

Other relevant factors may also include the timing of the survey: summer and early autumn; and it is also possible that some properties may have been painted before inspection, potentially disguising some mould.



Image 17: Presence of water damage and mould in a property where the agent was unaware of the mould history

“The real estate agent advised they were unaware of any mould reports, even when I mentioned there was water damage and mould in the bathroom cupboard.”

Observation of poor practice from a mystery shopper



Image 18: Three examples of mould identified in the mystery shop



Window coverings

The window coverings minimum standard requires that:

- each window in a room at the rented premises that is likely to be used as a bedroom or as a living area is to be fitted with a curtain or blind that can be opened or closed by the renter to—
- (a) reasonably block light; and
- (b) provide reasonable privacy to the renter.¹⁸

Ten properties in our mystery shop did not have adequate window coverings. Issues varied from windows having only transparent lace covers offering no privacy benefits and where the light could get through, windows with no coverings, and windows with broken blinds or shades. These issues could be quickly addressed if the rental provider decided to act.

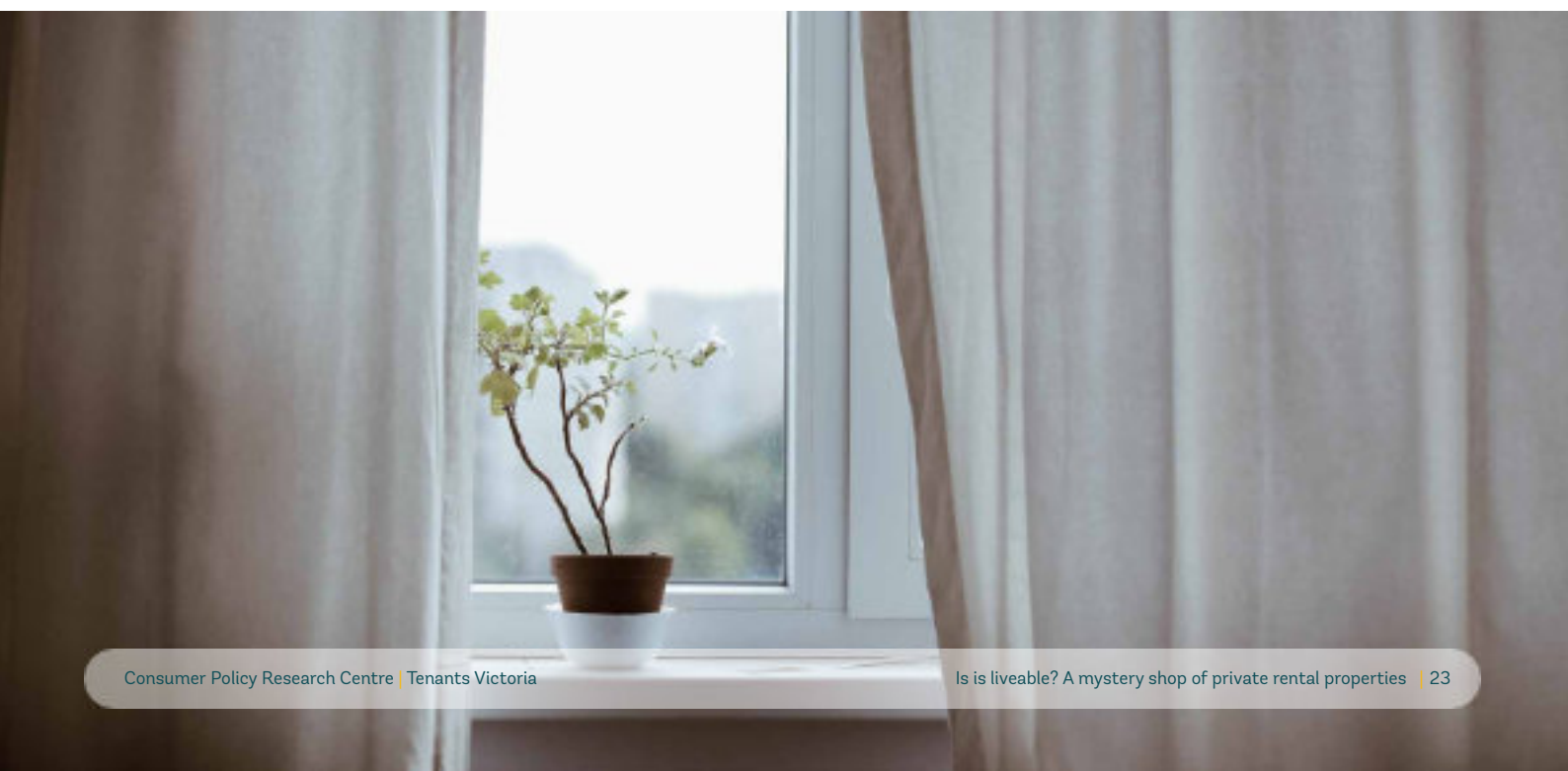
“Not all windows had coverings. Some only had transparent lace style coverings. One curtain rail, as previously mentioned, was broken.”

“There were no window coverings on the large window doors or the large window in the lounge area.”

Comments from mystery shoppers who viewed properties with kitchens that went beyond the minimum standards.



Image 19: Example of a broken curtain rail and example of living area without window coverings





Lighting

The minimum standard for lighting requires that:

- Interior rooms, corridors and hallways have access to light (natural or artificial) to provide a level of illumination appropriate to the function or use of those rooms.
- Each habitable room has natural light during daylight hours (even if borrowed light from an adjoining room) and artificial light in non-daylight hours.

Exceptions are available for heritage listed buildings.¹⁹

In our mystery shop, two properties out of the hundred failed to meet this standard. In both cases, the properties were viewed in daytime and judged to have very little natural light in the sleeping areas of the house. It is important to note that assessment of adequate lighting was a judgement call based on comparison of 100 homes – there is little guidance available in relation to the meaning of “adequate lighting”.

Both properties we considered to fail the standard were older, and the lighting issues would be difficult to rectify without major redesigns or renovations. This points to an area where CAV could provide greater guidance for rental property providers – how can people renting out older properties meet the lighting requirements, and what is the minimum level of acceptable natural daylight?



Ventilation

Properties need to have “adequate ventilation” in all habitable rooms including the bathroom, shower, toilet and laundry.²⁰ The definition of “adequate” varies depending on property type, with very limited guidance given by CAV to people who rent or rental providers. Instead, people are left to navigate the technical requirements outlined in the Australian Building Code. This code outlines that ventilation can be achieved with an adequately sized window that can be opened, or an exhaust fan or other means of mechanical ventilation, noting that specific requirements vary based on building type.²¹

We did not identify any issues with compliance with this minimum standard although some mystery shoppers noted properties with poor airflow or poorly placed windows that would practically make ventilation difficult.



Heating

The minimum standard for heating in a rental property requires that a fixed heater in good working order is present in the primary living area, and for some types of heating, that the heater meets minimum energy efficiency requirements.²² There is no requirement to have a quality heating system in the home, or to have a house that efficiently retains heat.

The standard for heating used to assess all homes in this research came into place from 29 March 2023.²³

To assess the heating minimum standard, we looked at two factors:

- Was a fixed heater available?
- Did the agent provide information about energy efficiency of the heater if it was a gas space heater or heat pump? These are required to have a minimum 2 star heating rating.

In total, 15 properties did not meet our assessment of the minimum standard. In one of these cases, no heater was present in the home, just an air conditioning unit duct taped into a wall.

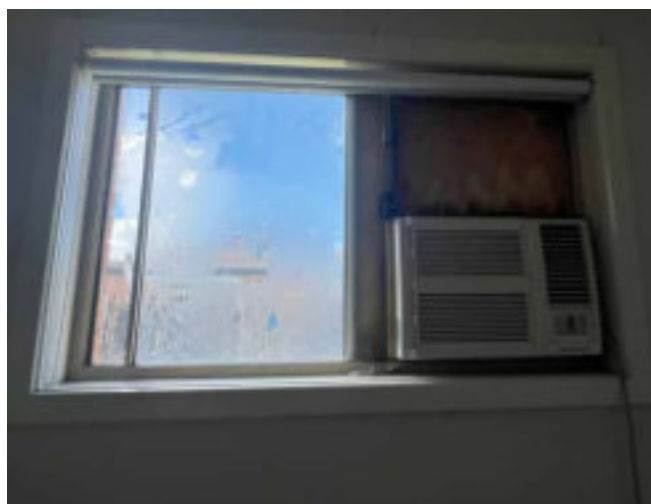


Image 20: The air conditioning unit duct tapped into a wall – from a house with no heater present.

For the other 14 failures, a gas space heater or split system/heat pump was present, but the agent could not provide information about the energy efficiency of the unit. In some of these cases, the heater was clearly quite old and had not been updated in many years.



Image 21: One of the older heaters from an inspection in Bendigo

Even if a property met the heating standard, that was no guarantee that the house had adequate heating or cooling to create a liveable home. In many instances where a heater was present, in combination with the agent providing information about compliance with the energy efficiency standard, the heating available would not have heated the house.

“The property only has one gas heater in the lounge room to heat the entire house. There is no air conditioning or fans in the rooms.”

“The Real Estate Agent confirmed that there was only one split system to heat and cool the entire house, a small unit but not enough to travel to all the rooms.”

Comments about properties with a heater that met the minimum standard.

In other cases, the heating was more than adequate to create a safe and liveable home.

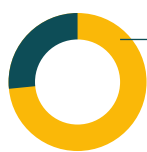
“The property has ducted heating installed and roller shutters to keep out the heat during summer, as well as screened windows.”

“The property has gas ducted heating and refrigerated cooling, as well as ceiling fans installed in the living room which I believe to be sufficient for this size home.”

Comments about properties with high quality heating and cooling options

Other obligations for rental properties





74% of properties had two or more AC smoke alarms. Many properties only had one alarm which, while this can meet the minimum legal requirements, is not good practice.

Smoke alarms are not covered by the minimum standards. Instead, they are requirements outlined in the National Construction Code and have been adopted into Victorian Law by the Section 9 of the Building Act 1993. Fire Rescue Victoria provide the following summary of the requirements.²⁴ We also note that CAV requires that tenancy agreements contain some information about fire safety, as seen in the prescribed for new rental agreements.²⁵

By law, all residential properties must have working smoke alarms complying with Australian Standards AS 3786.

- Residential homes constructed before 1 August 1997 may have battery-operated smoke alarms.
- Residential homes constructed after 1 August 1997, or homes which have undergone a major renovation or extension, must have smoke alarms connected to 240-volt mains power with battery backup.
- Residential homes constructed after 1 May 2014, or homes which have undergone a major renovation or extension, must have smoke alarms interconnected (if there is a requirement for more than one smoke alarm)

Smoke alarms must be:

- Installed outside each sleeping area; and
- Installed on each storey in a multi-storey home, located in the path that people will use to evacuate.

Victorian fire services also recommend smoke alarms be installed inside all bedrooms.

In our mystery shop, we counted the number of smoke alarms in the property and noted their placement (i.e. if they were in or near bedrooms). A total of 74 properties had at least two smoke alarms present, with at least one smoke alarm placed near bedrooms.

We did see some examples of best practice, where there were multiple alarms present and alarms placed inside all bedrooms as recommended by Victorian fire services.

“They were a total of 9 smoke alarms located in the property. There was one in each bedroom, two in the main living area and one in the entertainment room along with the bathrooms and garage.”

Observation of good practice from a mystery shopper

However, 26 properties had one or no smoke alarms. Technically, many of these properties could meet the standard set out in the Building Act as the smoke alarm is placed in the hallway near all bedrooms. However, one smoke alarm can put residents at risk if a fire starts in certain areas of the house. There is opportunity to improve the practices of smoke alarm placement in these homes to better protect people who rent.

In five instances, we observed non-compliance with the smoke alarm standard at the time of inspection; specifically an absence of alarms, alarms present but not yet installed (e.g. on a kitchen bench), or alarm placement that breached the Building Code requirements, such as not being installed near bedrooms. In some cases, agents made promises that the required alarms would be installed soon.

“We asked the agent and she confirmed our observation of there being only 1 smoke alarm within the entire property. The smoke alarm is located within the corridor leading into the 2 bedroom spaces. There is no smoke alarm close to the kitchen area/living room and the kitchen area is in the corner of the dining room, fairly far from where the smoke alarm is located within the corridor.”

“I could not find the smoke alarm when enquired the agent informed me it will be installed as per the regulations.”

Observations of poor smoke alarm placement from mystery shoppers

Given the technical nature of this requirement, this is an area where CAV could consider further education and guidance for rental providers and agents to help improve practices.



Maintenance



Poor property maintenance is prevalent across all rent levels, but is more likely in low-cost rental properties.

While maintenance is not directly addressed in the standards, a rental provider has a duty to maintain the property throughout a tenancy under Section 68 of the Act.

The Act states that:

- A residential rental provider must ensure that the rented premises are provided and maintained—
- (a) in good repair; and
- (b) in a reasonably fit and suitable condition for occupation.²⁸

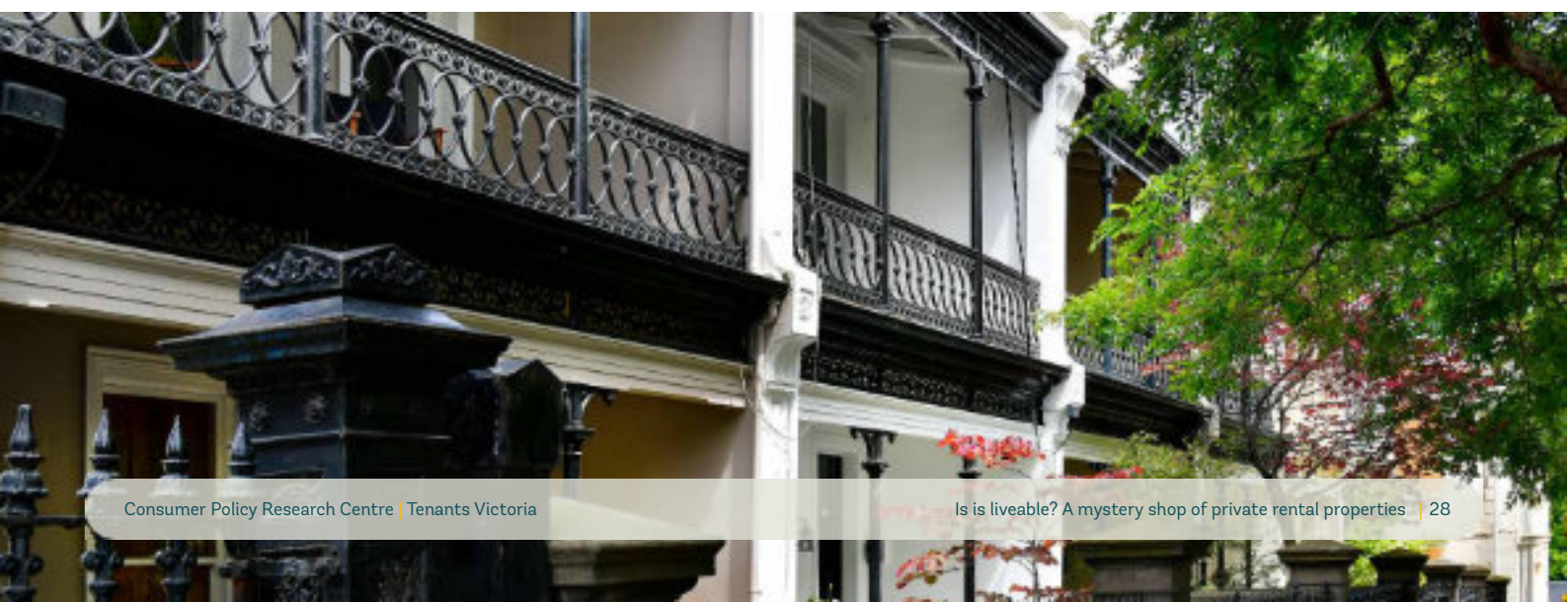
Our mystery shoppers were asked to identify and comment on whether they thought the property was well maintained, looking for general signs of damage or maintenance issues that a renter would need to request action on.

We found that poor maintenance was more likely in low-cost rental properties, but was also present in medium and high rental properties. Of the 100 assessed properties, 72 were deemed well-maintained. We found 61% of low-cost rental properties well-maintained overall but 50% in Bendigo and 65% in Wyndham Vale.

Poorly maintained properties had issues such as plaster falling off walls, peeling paint, broken glass, exposed electric wires or significant damage to carpets or flooring.

	Bendigo		Wyndham Vale		Total	
Properties by location, maintenance and weekly rental	Well-maintained properties	Total Bendigo Properties	Well-maintained properties	Total Wyndham Vale Properties	Well-maintained properties	Total properties
\$300-\$389	4	8	15	23	19	31
\$390-\$479	6	11	33	41	39	52
\$480-569	6	6	8	11	14	17
Total	16	25	56	75	72	100

Table 2: Number of properties that were assessed as well-maintained



Maintenance (Cont.)

Maintenance is also an ongoing duty of the property owner, unlike the standards that apply at the time a property is offered for rent. Poor maintenance can lead to other problems such as mould (covered by the standards), which was found in greater frequency at poorly maintained rental properties. Rental properties with poor maintenance were also likely to lack of coverings on windows and a lack of cleanliness.

Action to improve maintenance of rental properties, across the rental property stock, could both improve conditions for renters and potentially improve performance against the standards when properties are offered in the market.



Images 22 and 23: Example of poor maintenance – broken glass on indoor doors

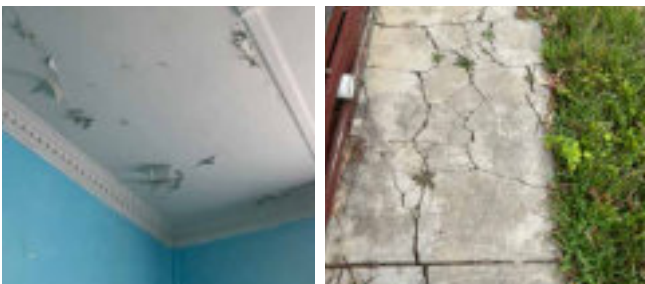
“The property was not particularly well maintained:

**** There was a broken glass pane in one of the interior door panels that could easily cut someone***

**** The heater in the kitchen had been removed but there was still a pipe sticking out of the floor which I would consider to be a trip hazard***

**** One light switch was broken, and the cover was loose and coming off which could be an electrical hazard.”***

Observation of poor practice from a mystery shopper



Images 24 and 25: Example of poor maintenance inside and outside

“Paint was peeling off the walls and ceiling both externally and inside the property.”

“This concrete path around the house was cracked and there were a number of stones and dirt being used to block a hole that led under the ouse because the wood had been broken. ”

Poor maintenance example uncovered in our mystery shop



Images 26 and 27: Examples of poor maintenance- a broken light fitting and a damaged door



Cleanliness

Cleanliness is not addressed in the minimum standards; however, Section 65 of the Act imposes a duty about cleanliness that applies at the commencement of a tenancy.

The Act states that:

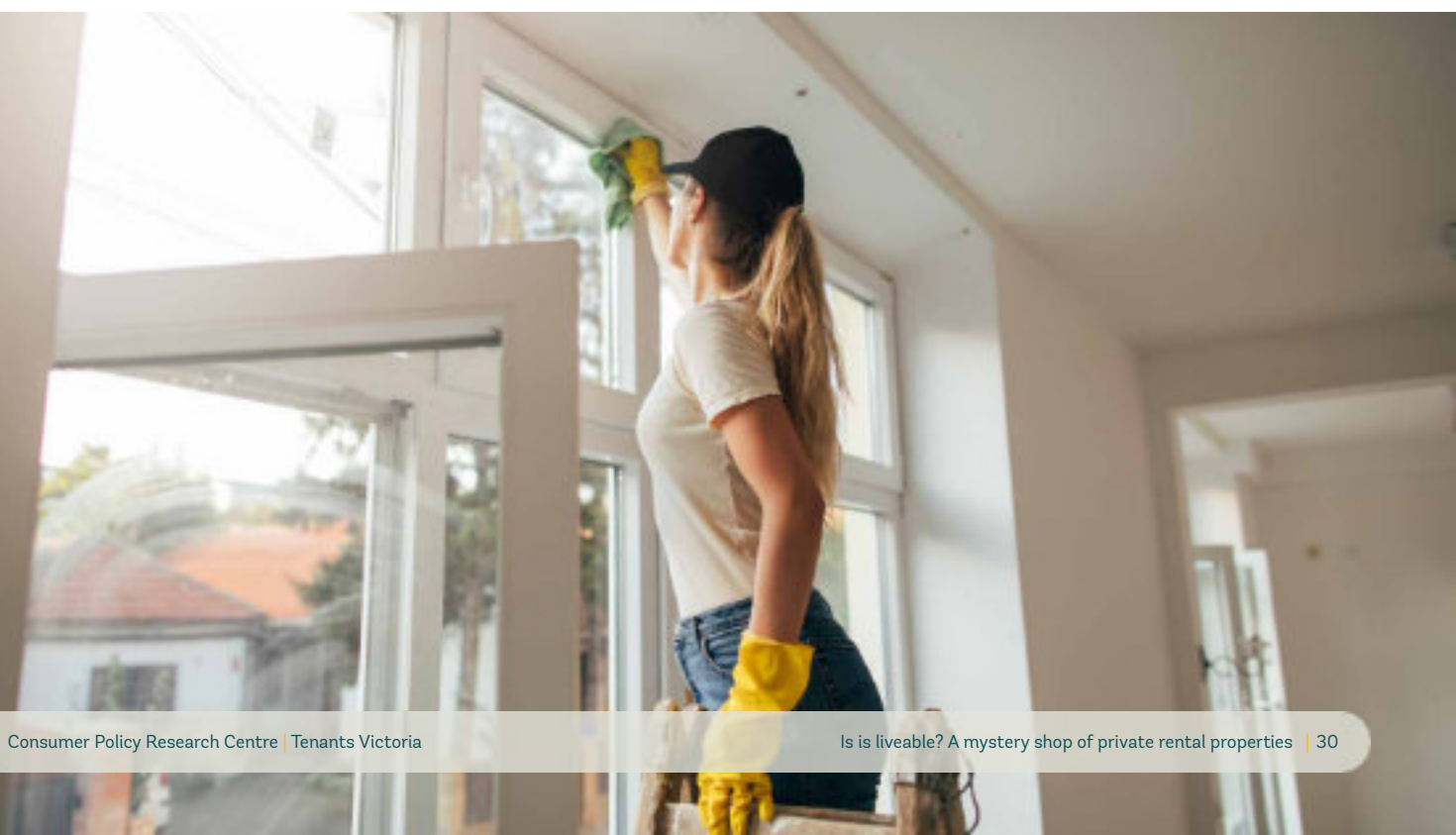
- A residential rental provider must ensure that on the day that it is agreed the renter is to enter into occupation, the rented premises—
- (b) are in a reasonably clean condition.²⁷

Cleanliness was relatively poor, with 81 properties rated as clean and 19 properties flagged as needing some form of cleaning before a renter could move in.

The state of cleanliness was consistent across rental ranges and there was no consistent pattern across rental ranges in Bendigo and Wyndham Vale.

	Bendigo		Wyndham Vale		Total	
Properties by cleanliness and weekly rental	Clean properties	Total Bendigo Properties	Clean properties	Total Wyndham Vale Properties	Clean properties	Total properties
\$300-\$389	7	8	18	23	25	31
\$390-\$479	7	11	35	41	42	52
\$480-569	6	6	8	11	14	17
Total	20	25	61	75	81	100

Table 3: Number of clean properties categorised by rental rates



Cleanliness (Cont.)

For some viewings there were still renters in the property and significant cleaning would very likely take place before any new tenancy would commence. However, several of the cleanliness issues identified in our mystery shop related to properties that were vacant.

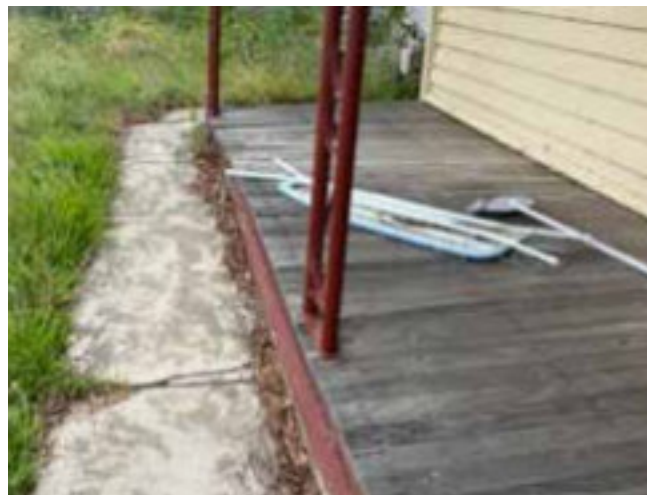
There were reports of rust, stained carpets and soiled bathroom fixtures that could need commercial cleaning.

“This property was filthy, it had not been professionally cleaned. When entering the property, it had an unbearable smell throughout.

“The property was not clean, it looks to have been vacant for quite some time and covered in dust, dirt and cobwebs. – comment from a mystery shopper inspecting a vacant property.”

“The property had rubbish in the front and backyards including a tyre, ironing board, old broken bamboo screen, plastic pool, chair and shell shaped sandpit. There were also cobwebs all over the exterior. Inside of the house there was dirt, papers, plastic wrappers, leaves, a pile of screws and rubbish on the floors. The bathroom extractor fan also had fluff on the screen.”

Comments from a mystery shopper inspecting a vacant property



Images 28 and 29: Examples of debris found in untenanted properties in the mystery shop.

The tight rental market may mean that some rental providers and agents have not felt the need to take the extra step for providing a clean property for renters, given the high demand for rental properties. It does highlight the need for CAV to undertake surveillance and enforcement not just in relation to the standards but also regarding specific parts of the Act.



Pets

Renters are allowed to keep pets under Section 71A of the Act with the owner's consent. Further, owners cannot unreasonably refuse a pet under Section 71C.²⁸

The survey found agents indicated pets would be allowed for 97 properties. On a number of occasions, agents provided advice on the need to lodge an application, which is consistent with Section 71B of the Act. It is unclear whether rental providers and agents would discriminate against a pet owner if they received multiple applications.

This is an area that may need further investigation via examples of lived experiences of renters with pets.



Information provision by agents

Agents play a key role in ensuring a prospective renter is properly informed when they decide to enter a new tenancy agreement.

Under Section 30D of the Act and Section 16 of the regulations, a residential rental provider is required to disclose key information to prospective renters including:

- (b) if the rented premises comply with the rental minimum standards;
- (c) whether they have received a repair notice, in the last 3 years, relating to mould or damp in the premises caused by or related to the building structure
- (d) the date and any outstanding recommendations ... from the gas safety check
- (e) the date and any outstanding recommendations ... from the electrical safety check.²⁹

Looking closely at these obligations, the law requires this information is provided by the rental provider (landlord) or their representative before a renter enters into a residential agreement. This can mean that the disclosure happens after someone applies for a property but before the lease documents are signed. There is not a specific requirement that this information is provided before or during an initial inspection of the property, when the information would be useful for assessing the property. There is also no specific requirement about the format of these disclosures – they do not need to be in writing.

This drafting makes it extremely difficult for an external body to assess whether agents or rental providers are providing basic information to renters.

While agents are not specifically required to provide information at an inspection, they would need to have this information available before the lease is signed. Agents should reasonably have this information at hand.

In our mystery shop, agents were asked three questions about:

- gas and electrical safety compliance
- heater energy efficiency compliance, and
- the mould history of the property.³⁰

Half of the agents (50) could provide an answer to all three questions; 21 agents gave an answer to one or none of the three questions.

Answers to requests for information	Number of agents
3	50
2	28
1	9
0	13
Total	100

Table 4: Answers to requests for information

Performance was lowest on disclosure of mould history, with 39 agents unable to disclose the mould history of the property. The best performance was on heating, with 78 agents able to disclose whether the fixed heater met the new energy efficiency standard. Performance was generally lower in Wyndham Vale when compared to Bendigo.

Agents by location and question	Bendigo	Wyndham Vale	Total (out of 100)
Agent informed me that all electrical and gas safety checks were up to date	23	53	76
Agent informed me that the heating installed met standards, or would be updated by March 2023	18	60	78
Agent informed me of any mould issues in the past 3 years, demonstrating that the agent was clear about their requirement around disclosing mould.	20	41	61

Table 5: Agent information provision by location and question

If an agent could not answer one question it was more likely they could not answer other questions, suggesting there is a general problem with the information collected by or provided to the agent prior to an inspection. For example, among agents who could not answer the question on electrical and gas safety checks, only 46% could answer the question on heating standards and 17% could answer the question on the mould history of the property.

“When prompted, the agent did not provide the definite answer to the inquiry and said “not sure” but I was informed that since the tenants are already living in the house, the electrical and gas safety checks definitely must have been in place. I was provided no further information.”

“When I enquired about the mould issues in the house in the past 3 years, the agent was not confident but stated that “I don’t see anything here.”

Observations of poor practice from two mystery shoppers

There were 54 agencies representing the 100 properties in our sample. Most agencies represented one or two properties while the larger agencies represented up to 10 properties, with the top five agencies representing 34 properties. In terms of overall performance, the larger agencies were in the middle of the pack and did not appear to have any advantage over the small or sole agent representatives.



Endnotes

¹ Accurate at time of reporting, 30 September 2023.

² Coroners Court of Victoria, COR 2022 000829: *Finding into death without inquest*, Page 16, https://www.coronerscourt.vic.gov.au/sites/default/files/COR%202022%20000829%20Form%2038%20-%20Finding%20into%20Death%20without%20Inquest_Signed.pdf.

³ <https://www.consumer.vic.gov.au/resources-and-tools/legislation/public-consultations-and-reviews/fairer-safer-housing>.

⁴ Based on data presented on the REIV website, accessed 20 June 2023.

⁵ Properties exclusively offered through agency websites or through general websites (gumtree, Facebook etc.) were not included in the sample.

⁶ This was derived following ABS 'quintiles' of household income per week and selecting low to medium income quintiles.

⁷ Further information about state and territory minimum standards requirements and the importance of liveability requirements is available at National Association of Renters' Organisations (2023), 'The National Nine: Principles for Strengthening Renters' Rights', <https://files.tenants.org.au/policy/2023-national-nine-principles-for-strengthening-renters-rights.pdf>.

⁸ *Residential Tenancies Regulations 2021 (Vic)*, sch 4, part 1.

⁹ Ibid, part 11.

¹⁰ Note we were unable to assess adequacy of water supply in the mystery shop.

¹¹ Note we were unable to assess the water efficiency rating for the shower in the mystery shop.

¹² *Residential Tenancies Regulations 2021*, sch 4, parts 3 and 4.

¹³ *Residential Tenancies Regulations 2021*, sch 4, part 5.

¹⁴ See for example *Omar Property Pty Ltd & Ors v Amcor Flexibles (Port Melbourne) Pty Ltd (No 4)* [2020] VSC 216 (1 May 2020) <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSC/2020/216.html>.

¹⁵ See *1 Victoria Avenue, Albert Park Pty Ltd v Port Phillip CC* [2019] VCAT 688 (7 June 2019) <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2019/688.html>.

¹⁶ *Residential Tenancies Regulations 2021*, sch 4, part 8.

¹⁷ Asthma Australia, "Mould and how to reduce the risk of asthma symptoms", (2020), <https://asthma.org.au/blog/mould-and-how-to-reduce-the-risk-of-asthma-symptoms/>.

¹⁸ *Residential Tenancies Regulations 2021*, sch 4, part 10.

¹⁹ *Residential Tenancies Regulations 2021*, sch 4, part 12.

²⁰ *Residential Tenancies Regulations 2021*, sch 4, part 13.

²¹ <https://ncc.abcb.gov.au/editions/ncc-2022/adopted/housing-provisions/10-health-and-amenity/part-106-ventilation>.

²² *Residential Tenancies Regulations 2021*, sch 4, part 14.

²³ Note the timing of this research spanned 22 February -April 2023. We acknowledge the possibility that the energy efficiency components heating standard may not have applied for some homes (those classified as class 2 buildings) viewed in the early part of our data collection, depending on when a tenancy technically commenced.

²⁴ Fire Rescue Victoria, "Smoke alarms", (May 2023), <https://www.frv.vic.gov.au/smoke-alarms>.

²⁵ See CAV prescribed for Residential Rental Agreement <https://www.consumer.vic.gov.au/library/forms/housing-and-accommodation/renting/form-1-residential-rental-agreement.docx>.

²⁶ *Residential Tenancies Act 1997 (Vic)*, s. 68.

²⁷ *Residential Tenancies Act 1997 (Vic)*, s. 65.

²⁸ *Residential Tenancies Act 1997 (Vic)*, s. 71A and s. 71C.

²⁹ *Residential Tenancies Regulations 2021*, sch 16(2).

³⁰ Specifically, mystery shoppers asked Real Estate agents: (1) if all electrical and gas safety checks were up to date (2) if the heating installed met standards or would be updated by March 2023 (3) to provide information of any mould issues in the property in the last three years.

