

Rooming House Standards Taskforce

CHAIRPERSON'S REPORT

September 2009

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1. Executive Summary

The establishment of the Rooming House Standards Taskforce was announced by the Victorian Premier, John Brumby MP, on 15 July 2009 as part of the State Government’s strategy to take “action on those predatory operators of intentionally sub-standard rooming houses who prey on some of the most vulnerable members of our community”.

There is increasing evidence that in response to Melbourne’s tight rental market, a new model of for-profit rooming house provider has emerged. In this model operators convert suburban houses to accommodate larger numbers of people and run multiple premises.

Of particular concern as this model grows is a significant subset of providers in this growth sector who are operating outside the current registration and regulatory regimes and exploiting vulnerable groups in urgent need of affordable or emergency accommodation. Much of the effort of the Taskforce has been focused on developing a better understanding of this “rogue” section of the market, the conditions which have allowed it to blossom and the types of intervention which government could consider to bring poor performing operators to a higher level of professionalism.

The report which follows outlines the rooming house sector in Victoria, the profile of residents, the problems with private rooming houses and describes a plan for action in the rooming house industry around the key terms of reference of the Taskforce which were:

- Standards
- Compliance and Enforcement
- Registration and
- Supply.

A series of guiding principles unify the 32 recommendations contained within the report. These principles are:

- Placing the onus of responsibility for the conditions of and management practices in rooming houses on rooming house operators
- Improving and bringing together the minimum standards that apply to rooming houses
- Ensuring active compliance and effective enforcement
- Government moving to ensure access to private affordable rental and increases in the supply of both public and private affordable housing.

A listing of all the recommendations is provided in Appendix 6.

Six recommendations are made on improving rooming house standards. The key recommendation relates to the immediate introduction of a range of additional standards, including locks on bedroom doors, bathrooms and toilets, fire management and the provision of basic window coverings as well as the exploration of additional standards after analysis of the impact on affordability and supply.

Eight recommendations are made on improving the compliance with, and enforcement of, rooming house regulation. The key recommendation relates to increasing the fines under the *Residential Tenancies Act 1997* (RTA) as a deterrent to non-compliance with rooming house provisions. Other compliance and enforcement related recommendations include providing the Director of Consumer Affairs Victoria (CAV) with greater powers to investigate and act on breaches of legislation and considering changes to the RTA to allow third parties to bring action on behalf of vulnerable residents.

Five recommendations are made on the registration of rooming houses. The key recommendation is the introduction of a registration process for rooming house operators to drive improved professionalism and reduce exploitative practices in the sector. Other registration-related recommendations include the establishment of a state-wide register of rooming houses that can be provided to those organisations that refer homeless people to rooming houses and phasing in restrictions on the use of Government Housing Establishment Funding so that it is only made available to registered rooming houses.

Six recommendations are made on increasing the supply of affordable accommodation. The Taskforce saw these recommendations as critical. Ultimately only increased supply of affordable housing will reduce the demand which is driving exploitative practices by some rooming house operators. The key recommendation in relation to supply involves the purchase of high quality rooming house and singles accommodation. Other supply related recommendations include:

- Undertaking a review of the leveraging policy for registered housing agencies to ensure there are not disincentives to developing projects to house single people and, more broadly, people on low incomes
- Establishing an alternative smaller rooming house accommodation program to be managed by the not-for-profit sector
- Developing a package of 200 Nation Building properties targeted to families in housing crisis
- Developing a targeted private rental brokerage program to support people to access and remain in the private rental system.

Finally, there are a number of recommendations that relate to phasing in the new regulatory requirements to limit any negative impact on rooming house residents. Specific recommendations include trialling more innovative crisis accommodation options, including the use of the Housing Establishment Fund (HEF) and supporting the Registered Accommodation Association of Victoria (RAAV) to strengthen levels of professionalism among private operators.

After serious consideration of the current state of the rooming house industry in Victoria it is the view of the Taskforce Chairperson that some loss of stock will be an inevitable consequence of the reform agenda outlined through the preceding recommendations. None the less, government must take action to prevent vulnerable Victorians living in circumstances which do not meet community expectations of decency and amenity.

2. Introduction

Housing and homelessness have become a major focus for government and the community in recent years. While some Victorians have benefited from growth in the Victorian housing market, the phenomena of a rising market has made finding access to housing which is affordable, appropriate and connected to relevant services particularly challenging for those on low incomes.

Traditionally, privately managed rooming houses made up a significant component of affordable housing. They provided a low-cost alternative to house people who could not otherwise rent independently in the private market.

Over recent years notable and unanticipated changes have emerged in the private rooming house market, changing the face of an industry which was previously of concern because of its decline. New models of rooming house provider have emerged. These providers eschew capital investment in purpose-built properties in favour of conversions of suburban houses or commercial premises which are then let room by room.

There is increasing evidence that in response to Melbourne’s tight rental market, this model of smaller rooming house is experiencing significant growth. Of particular concern as this model grows is a significant subset of providers who are operating outside the current registration and regulatory regimes and exploiting vulnerable groups in urgent need of affordable or emergency accommodation. This type of practice is of concern to the community and government and also to reputable and professional registered rooming house providers who feel that their industry is being brought into disrepute.

The Rooming House Standards Taskforce was announced on 15 July 2009 by Victorian Premier John Brumby as part of the state’s strategy to take “action on those predatory operators of intentionally sub-standard rooming houses who prey on some of the most vulnerable members of our community.”

The Hon Richard Wynne MP, Minister for Housing, and the Hon Tony Robinson MP, Minister for Consumer Affairs, asked Martin Foley MP as Chairperson of the Taskforce to report on solutions for problems associated with poor quality rooming house accommodation and services.

Specifically, the Ministers asked for the following issues to be considered:

- The adequacy of existing enforcement and registration processes for rooming houses
- Options for increasing affordable accommodation to residents who would normally utilise rooming house accommodation
- Best practice approaches in other jurisdictions
- Appraisal of the need for any additional standards, and changes to the existing regulation and enforcement processes for rooming houses
- Consideration of the impact of any changes on the supply of affordable rooming houses.

Full details of the Terms of Reference for the Taskforce are in Appendix 1.

Representation on the Taskforce sought to cover a broad spectrum of organisations which interact with the rooming house sector. It included for-profit and not-for-profit rooming house providers, tenancy and homelessness service advocates, councils, real estate and social welfare peak bodies. In developing this response, the Chairperson met with Taskforce members six times. He also conducted face to face consultations with, and received submissions from, a range of other interested parties. Appendix 2 outlines Taskforce membership and notes consultation participants.

Through its deliberations the Taskforce has identified that the business model which is of concern is predicated on opportunistic targeting of vulnerable individuals and, it seems, a deliberate strategy of operating on the fringe of legality. Much of the effort of the Taskforce has been focused on developing a better understanding of this “rogue” section of the market, the conditions which have allowed it to flourish and the types of intervention which government could consider to bring poor performing operators to a higher level of professionalism.

This report describes a plan for action in the rooming house industry to lift standards to be more in line with minimum community expectations. In considering reform, the report highlights that any government action must be implemented with sensitivity to the impact which any regulatory changes may have on the supply of rooming house stock in an already tight housing market. The report also contends, however, that despite the risks of a reduction in rooming house accommodation poor practices and conditions can no longer be accepted and that government must intervene.

The recommendations in this report have been framed drawing upon the expertise of Taskforce members and government advisors made available to the Taskforce. In analysing the situation in Victoria, the Taskforce also considered best practice examples of rooming house regulation and reform from like jurisdictions including Queensland, South Australia, the United Kingdom, the United States and Canada.

The report has been structured to outline the nature and scope of problems affecting rooming houses and then examine the adequacy of the current approach to standards. The report goes on to consider means to ensure that standards are met through appropriate registration schemes for the industry and ensuring the regulatory regime is effective via appropriate compliance and enforcement. Finally the report discusses the supply of affordable accommodation, especially for marginalised groups in private rental, given that it can be reasonably expected that increased government monitoring of rooming houses may result in some current rooming house providers exiting the market.

A series of guiding principles unify the recommendations contained within the report. These principles are:

- Placing the onus of responsibility for the conditions of and management practices in rooming houses on rooming house operators
- Improving and bringing together the minimum standards that apply to rooming houses
- Ensuring active compliance and effective enforcement
- Government moving to ensure access to private affordable rental increases in the supply of both public and private affordable singles housing.

3. Section A – Rooming Houses in Victoria

3.1 What is a Rooming House?

There is no one model of rooming house. Nevertheless, a rooming house, which is sometimes referred to as a ‘boarding house’, usually has some of the following characteristics:

- Primarily single room accommodation
- Shared access to common facilities, such as bathrooms, kitchens, laundries and living areas
- No formal supports are present on the premises
- The owner and their family generally do not live on the premises
- Increasingly used by long-term homeless people or those in housing crisis.

Leasing arrangements distinguish rooming or boarding houses from shared houses. Residents of a share house have exclusive possession of the entire rented premises, whereas residents of a rooming or boarding house only have exclusive possession to their room. They exercise no control over who else lives in the premises with them. This paper will use the term ‘rooming house’ to refer to both rooming and boarding houses across all their incarnations as distinct from shared houses.

3.2 Market Segmentation

The rooming house market in Victoria is not homogenous. Changes occurring in the business models used by private rooming house providers are a key factor driving renewed government interest in the rooming house market. These changes, as outlined later in this report, have arisen in response to the failure of the private rental market to provide accommodation which is accessible to those on low incomes or statutory benefits.

For the purposes of this report the Chairperson has categorised rooming houses into three primary groups outlined below. These distinctions allow for a more sophisticated analysis which highlights the diversity in the rooming house market and the different forces impacting on different market segments.

3.2.1. Not-For-Profit Operators

The Director of Housing’s Rooming House Program emerged in the early 1980s in response to significant decline in the numbers of large private rooming houses in the inner city. Now, the program includes around 116 not-for-profit rooming houses which are owned by the Director of Housing and the community sector.

Not-for-profit rooming house operators are registered housing agencies. They are regulated through the *Housing Act 1983* as part of the government’s approach to increasing the supply of affordable rental housing for low-income Victorians. The regulatory framework holds agencies accountable to the government, tenants, investors and the community for their use of public and private funds to provide community housing. Agencies are subject to compliance and enforcement monitoring through the Housing Registrar.

Stock in the Rooming House Program is a mix of the “traditional” rooming house style (private bedrooms, shared facilities) and self contained bedsits or units. The Director of Housing’s strategy for rooming house expenditure has been to try to balance conversions and upgrades of existing properties with acquisitions to meet demand. Conversions improve standards and amenity, increasing numbers of self-contained rooms in the program, but often result in a reduction in the total number of rooms available.

Recent activity in this program has included the purchase of Wesley Altona Court (53 rooms) with funding from the Victorian Property Fund, upgrades to approximately 250 units and four additional projects funded through the Nation Building and Economic Stimulus Plan.

Rooming houses in this category contribute approximately 1600 rooms of stock.

3.2.2. Traditional Rooming Houses

Rooming houses were historically large-scale facilities. Now ageing but purpose-built, they are predominantly located in the inner suburbs. Examples of these types of facilities include the Gatwick in St Kilda and Wavenhoe in East St Kilda.

In their heyday, during the early twentieth century, such premises were a common accommodation choice, providing housing for between 5–10 per cent of Melbourne’s population. Their status generally declined from the 1920s onwards as community expectations regarding privacy drove a preference for self-contained accommodation. Other factors driving decline include gentrification of inner suburbs and costs of maintaining premises. These factors combine to entice owners to sell or redevelop their properties in order to realise capital tied up in their asset.

Those facilities that remain are privately owned and operated for profit, although it should be noted that many may make little profit because low income levels of tenants make it difficult to pass on costs through rent increases.

Generally these properties are easily identifiable features of their local communities. In many instances the property owner is also the tenancy manager and although they may not reside at the property they are known to residents and local enforcement agencies.

3.2.3. New Model – Small Rooming Houses

The new model emerging in the rooming house sector is characterised by small rooming houses, operated for profit. In many cases, this accommodation utilises suburban homes with multiple bedrooms – or sometimes commercial properties not designed as residential accommodation – which are often lawfully or unlawfully modified to accommodate larger numbers of people.

This is the segment of the rooming house market which is growing rapidly, particularly in suburban areas which have previously not been familiar rooming house territory. Much of this growth is difficult for enforcement agencies to monitor if operators do not willingly comply with regulatory requirements as these premises often appear indistinguishable from other forms of residential or commercial property.

Within this segment distinction needs to be made between operators who own their premises and those which work on a head-lease model.

Owner operators invest capital in land and premises. Types of owner operators identified during consultations included “Mum and Dad” investors seeking to maximise income from one or two rental properties and more entrepreneurial operators using debt financing to develop a profitable portfolio of rooming houses.

Head leasing operators do not make the same upfront capital investments. Instead they lease a property from a landlord and then sublet individual rooms through residency agreements. This model is flexible, low-cost and has the potential to be highly profitable as illustrated by the case study below.

Case Study – Profiteering in Reservoir

A four bedroom house in Reservoir has had its lounge room converted into a fifth bedroom. There are no communal areas other than the kitchen and bathroom.

One resident reports that four adults live with six children in the house.

The health and safety of residents is at risk due to the unsanitary condition of the property. There is inadequate provision for the removal of rubbish. Consequently, there is a large pile of rubbish beside the house. The small bathroom is inadequate for washing, given the number of people living in the house.

The resident reports that the children experience ongoing illness, which they believe is due to the unsanitary and overcrowded state of the property.

Each of the residents pays \$230 or \$260 per week for their room, totalling \$4248 per month for the entire property. However, the property is rented from the landlord by the rooming house operator at a cost of \$1300 per calendar month. This equates to a profit of \$2948 per month for the rooming house operator, as demonstrated by the following figures:

Rent paid by resident 1:	\$997
Rent paid by resident 2:	\$997
Rent paid by resident 3:	\$1127
Rent paid by resident 4:	\$1127
Total rent paid by residents:	\$4248 per calendar month
Rent paid by operator:	\$1300 per calendar month
Total profit:	\$2948 per calendar month

By comparison, the Office of Housing Rental Report, March Quarter 2009 reports:

Average rent 1 bedroom flat:	\$996 per calendar month
Average rent 2 bedroom flat:	\$1126 per calendar month
Average rent 2 bedroom house:	\$1170 per calendar month
Average rent 2 bedroom house:	\$1300 per calendar month

Source: Tenants Union of Victoria (TUV)

Leasing also allows operators to open and close rooming houses and relocate tenants very quickly. Complex corporate structures can exist behind lease arrangements, obscuring management responsibilities and making it hard for residents, advocates and enforcement agencies to pursue claims against the operators.

Case Study – Who is the Operator in Clayton?

Rob goes to a welfare service for assistance to find housing after moving to Melbourne from interstate. The welfare service refers Rob to Greg from Central Accom at a property in Clayton for a room to rent and gives financial assistance with rent in advance. Greg shows Rob the room and the premises. Rent in advance is subsequently paid on behalf of Rob by the welfare service to an entity named Accom South.

After Rob moves in to the room his dealings are with Brent as manager of the rooming house. Rent payments are arranged through a Centrelink deduction to an entity named Central Accommodation Services South East.

Rob goes away for a weekend and returns to find all his goods in the common area of the rooming house. The goods are allegedly removed by Brent due to rent arrears. Some goods have been stolen. Rob returns the remaining goods to his room, which has been left open but the lock changed, and closes the door.

Rob has dealt with the welfare service, Greg and Brent but is unclear about who the actual rooming house operator is. Following some advice, Rob applies to the Victorian Civil and Administrative Tribunal (VCAT) and VCAT makes orders requiring the rooming house operator, Central Accommodation Services (CAS), to allow access to the room. When Rob returns to the premises, his goods have again been removed to the common area and more goods have been stolen.

Rob then seeks compensation for illegal eviction and lost goods against CAS at VCAT. At this time, Rob is homeless and has a significant part of his limited property missing, presumed stolen.

Rob is represented by the Tenants Union of Victoria (TUV) in his claim for compensation. Rob’s estimate of the value of his stolen goods and other losses was more than \$17,000. At the initial hearing, a representative for CAS and another entity called Accommodation Services North tells the VCAT member that CAS is simply an agent for Accommodation Services North. Until this time, Rob has never heard of Accommodation Services North. It is later identified that there are a number of entities using a similar name, including a deregistered company. The matter is adjourned to enable the attendance of a company director.

As far as the TUV is able to ascertain, no Accommodation Services North entity has any assets or income so any order for payment against Accommodation Services North may be unenforceable.

The VCAT member ultimately makes orders against a number of the parties apparently involved in the matter. The orders are essentially that Rob is awarded \$6000 compensation for which five parties may be jointly and severally liable.

This shared liability may increase the complexity of enforcing the VCAT order if payment is not received and will increase the difficulty of prosecuting the parties for non-compliance. Rob has now been advised that one of the parties to the VCAT order will be appealing the VCAT decision to the Supreme Court with significant cost and time implications for Rob.

Almost six months after his goods went missing, Rob has not been compensated and the matter is ongoing.

Source: TUV – NB Names have been changed to protect privacy

3.3 Who Lives in Rooming Houses?

Low-income singles are the main group identified with rooming house accommodation because they experience the most difficulty in purchasing low-cost accommodation. Their housing experiences are characterised by factors such as:

- Deinstitutionalisation and decline in Supported Residential Services
- Previous poor rental histories that preclude them from accessing private rental
- Difficulties in presenting and competing for affordable and low-cost private rental opportunities
- Previous eviction from other accommodation options
- Presentation at homelessness services as a pathway into a rooming house.

The client profile brings with it an array of other issues, such as mental health problems, drug and alcohol abuse, disability and poor health. It is likely that some rooming house residents engage in violent or anti-social behaviour. Analysis of the 2006 Australian census shows that the number of people receiving a disability support pension due to psychiatric illness listed as residing in board or lodging (that is, rooming houses) has increased by 43 per cent since 2001.

3.4 New Trends in Resident Groups

Demographically and stereotypically the resident profile has been dominated by middle-aged, single men. However along with business models, the resident profile in Victorian rooming houses is also changing.

3.4.1. Younger Residents

A 2007 research project commissioned by HomeGround surveyed 228 rooming house residents about the standard and cost of rooming houses. Some key findings from this survey are:

- The largest group of respondents was in the 26–34 age group (36 per cent) followed by those aged 22–25 (19 per cent)
- Nearly half were on Newstart allowance, with the remainder on some other form of Centrelink benefit or low income
- More than 1/3 had been homeless for 1-2 years or longer and another 18 per cent had been homeless for 6–12 months.¹

3.4.2. Crisis Accommodation Service Users

Stakeholders reported to the Taskforce that rooming houses increasingly accommodate people who do not have complex needs but are simply unable to obtain private rental accommodation in Melbourne’s tight rental market.

Organisations providing crisis and transitional housing also refer clients to rooming houses in increasing numbers when there are no other forms of temporary accommodation available. This has created moral, ethical and legal dilemmas for crisis workers who are aware that the conditions in many rooming houses present risks to residents’ safety and welfare. These dilemmas are shared by government whose funding for crisis housing responses is increasingly being directed to sub-standard premises as demand on existing crisis and transitional housing grows.

1 HomeGround Services – *Bulletin* #3, March 2008

3.4.3. Families with Children

Crisis services and Taskforce members expressed particular alarm at the increasing trend of single parents with children and other families living in rooming houses.

There is no way to identify exactly how many families live in rooming houses but indicative data suggest they are a significant and growing group.

The most recent data available from the Supported Accommodation Assistance Program, for example, identified 333 instances during the 2007–08 financial year where families who came into contact with support agencies were residing in rooming houses.²

Analysis of more current data from individual homelessness agencies provided to DHS indicates growth rates of almost 100 per cent in the numbers of families referred to rooming houses for emergency accommodation between 2007–08 and 2008–09.³ This is despite concerted efforts by homelessness agencies to use rooming houses only as a last resort for families. Neither of these figures count those families who do not approach homelessness services.

Given the often transitory nature of rooming house clientele, the range of complex needs presenting and the communal nature of the living arrangements, the emergence of children as a growing resident group should be of great concern to government because of the risks that shared facilities pose.

Experience in responding to families in housing crisis has demonstrated the need to provide accommodation and support that keeps families close to their existing networks, for example extended family and school.

3.4.4. International Students

International students represent an emerging group of rooming house residents. More than 160,000 overseas students were enrolled in Victorian educational institutions in 2008, with numbers of overseas student enrolments growing by 92 per cent between 2003–2008.⁴

These students are placed at risk of exploitation because of language difficulties and a lack of understanding of the operation of the local rental market. Stakeholders reported instances of international students and non-English speaking migrants being targeted by members of their own communities seeking to accommodate them in unregistered, overcrowded and substandard rooming houses.

3.5 Rooming Houses and Homelessness

Residents of private rooming houses are homeless, according to the cultural definition of homelessness, with their housing lacking both private facilities and security of tenure.⁵

A recent report by the Council to Homeless Persons suggested that rooming house accommodation is seen as a last resort where no other accommodation options are available.⁶ Stakeholders, including people who

2 2007–08 SAAP National Data Collection Victoria Confidential Unit Record Files

3 DHS, Unpublished analysis of referrals through the Housing Establishment Fund

4 Source: Australian Education International, Commonwealth Government. <http://aei.dest.gov.au/AEI/MIP/Statistics/default.htm>

5 Chamberlain, C and Mac Kenzie, D (1992) ‘Understanding Contemporary Homelessness: Issues of Definition and Meaning’, Australian Journal of Social Issues, 27(4), 274–297

6 Council to Homeless Persons “Housing Establishment Fund in Crisis Accommodation” Project, Melbourne 2007

had experienced homelessness, reported to the Taskforce that because of the poor conditions in many private rooming houses people in housing crisis would often choose to sleep rough rather than go to some rooming houses.

Homeless people move around and through a range of temporary housing, in the process falling through gaps in service delivery. Rooming houses feature strongly in their lives. In an extensive survey of the experience of homelessness in Melbourne, Chamberlain, Johnson and Theobald identified that 85 per cent of respondents had stayed in a rooming house at some stage.⁷

The July 2007 edition of *Parity*, the magazine of the Council to Homeless Persons, noted that “rooming houses have become a dominant part of the service response to homelessness”. To be a useful response rooming houses need to succeed in providing accommodation which affords homeless people the opportunity to stabilise their lives.

Case Study – Jennie and South Port Community Housing

Jennie is 38 years old and has lived with South Port Community Housing Group for five years. Before that, she experienced long periods of homelessness. Jennie slept in parks and other public places in and around the city and paid exorbitant rents of more than half of her income for unclean and unsafe rooms. At times Jennie’s accommodation was so bad that she paid for a week and stayed only one night.

Jennie was once married with a child and a mortgage. She did a nine month jail term for a crime connected with her heroin addiction and this resulted in the end of her marriage, the loss of her home and losing custody of her child to her parents. Jennie came to South Port Community Housing in 2004 and lived for a number of years in a couple of different shared facility rooming houses. She says South Port’s rooming house accommodation kept her off the street and wishes she had known about it a few years earlier

Jennie has continued to struggle with the addiction and with men in her life who were violent and exploitative.

In May 2009 Jennie moved back to a newly refurbished rooming house in a brand new, good-sized, renovated bed-sit room with a personal kitchen and bathroom. She says it makes her feel different about herself and what she hopes for. She is taking an interest in cooking and shopping. She has never lived anywhere so quiet. Her mum has been to visit and so has her daughter. In all her years in rooming houses she never invited either of these two most important people in her life to her home as she was ashamed of where she lived. She hopes she can live there forever. She is getting things under control.

Source: South Port Community Housing

7 Chamberlain, C et al (2007) *Homelessness in Melbourne* RMIT Publishing, p.27

3.6 In Summary

Overall, the resident profile indicates high levels of vulnerability with strong reliance on health, welfare and community services and few alternative accommodation options. As a result of these characteristics, residents of rooming houses are often reluctant to pursue issues with rooming house operators for fear of being evicted into homelessness or other forms of recrimination. It is therefore critical that other effective avenues exist to establish and enforce appropriate rooming house standards and protect residents.

3.7 Existing Legislative Framework

Rooming houses are governed by a number of different pieces of legislation, each of which is enforced via different mechanisms. Details of the key pieces of legislation are summarised below.

Submissions made in response to CAV’s Residential Accommodation Strategy issues paper in 2007 indicated widespread confusion about the regulatory requirements in the sector.

3.7.1. Residential Tenancies

The *Residential Tenancies Act 1997* (RTA) primarily governs the relationship between rooming house residents and rooming house owners and managers. The purpose of rooming house provisions in the RTA is to establish statutory rights and obligations on both parties. The RTA covers issues relevant to the high-density and shared facilities of rooming house accommodation, rather than the actual physical condition of the room or rooming house.

CAV enforces the provisions in the RTA and the Victorian Civil and Administrative Tribunal (VCAT) is responsible for hearing matters relating to the RTA.

3.7.2. Health

The *Health Act 1958* (HA) is administered by the Minister for Health and aims to ensure the protection of public health. The HA requires all classes of prescribed accommodation be registered with local councils. Rooming houses are a class of prescribed accommodation and therefore are required to register with local councils.

Attached to this Act are a number of regulations, including the Health (Prescribed Accommodation) Regulations 2001 (HPA Regulations), which aim to prevent the spread of communicable diseases. These regulations define rooming houses as a form of prescribed accommodation and control the maximum number of people per room, room size, maintenance of common areas, cleanliness, water supply, sewage discharge, refuse management and toilet and shower facilities.

Local councils enforce the provisions of the *Health Act 1958* and therefore the provisions as they apply to rooming houses.

In December 2008 the definitions of rooming houses in two key pieces of regulation, the HPA Regulations and the RTA, were aligned. As a result smaller rooming houses with four or more people now fall under the protections of the HPA Regulations and are required to be registered.

Victoria’s new *Public Health and Wellbeing Act 2008* (PHWA) will come into effect from 1 January 2010. The new Act will replace the *Health Act 1958* and modernise Victoria’s public health framework. Public comment is currently being sought on the Proposed Public Health and Wellbeing Regulations which will accompany the new Act. There are no significant changes to the public health requirements for prescribed accommodation (including rooming houses) proposed in the new laws. However there are some provisions in the PHWA and draft PHW Regulations that are designed to expand or clarify powers exercised by councils in their role as regulators of rooming houses.

3.7.3. Building

The *Building Act 1993*, Building Regulations 2006 and Building Code of Australia (BCA) all have provisions that apply to rooming houses. This legislation contains technical provisions for the design and construction of buildings and other structures, including rooming houses. These Acts and codes include requirements for fire protection, building structure, access and egress, services and equipment and certain aspects of health and amenity.

Examples of provisions that specifically apply to rooming houses include the requirement to have smoke alarms in place and sprinklers for rooming houses with 12 or more residents. Different provisions apply to the type of building and are dependent on the number of residents.

Local councils also enforce the provisions of the *Building Act 1993*, Building Regulations and BCA.

3.7.4. Planning

There is no definition of a rooming house in planning schemes. However, it is likely that a number of rooming or boarding houses would fall within the common meaning of crisis/community care or shared housing. Clause 16.04 of the *State Planning Policy Framework* of the Victoria Planning Provisions provides for the establishment of crisis accommodation, community care units and shared housing in residential areas. The provisions exempt such accommodation from the need for a planning permit on the condition that the facilities provide self-contained accommodation and contain no more than 10 habitable rooms. Where the accommodation contains more than 10 habitable rooms, planning permission from council is required

3.8 Government Response to Rooming House Issues

In 2007 the Victorian Government under A Fairer Victoria committed to “improving the regulation of rooming houses, including strengthening and standardising legislation, improving coordination and compliance activities under the Residential Tenancies Act 1997 and the Health Act 1958”. This commitment sought to enhance protections for vulnerable Victorians residing in rooming houses.

In July 2007, CAV released its Residential Accommodation Issues Paper, calling for public submissions to improve protections for residents in a range of accommodation types, including rooming houses, caravan parks, residential parks and general private rental.

In response to this, a Rooming House Inter-Departmental Committee was established to address issues relating to the rooming house sector. The committee was initiated by the Ministers for Housing, Consumer Affairs and Planning, to provide a whole of government, coordinated approach to address the complexity of issues relating to rooming houses.

The committee has prepared a work plan, which includes a number of initiatives to be undertaken to improve outcomes for rooming house residents. The alignment of the definitions in the Health (Prescribed Accommodation) Regulations and the RTA is a product of the work of the committee.

In late 2008 CAV commenced an integrated compliance program with four councils to conduct joint inspections of rooming houses. Since July 2009 it has expanded the program with additional inspectors and is now working with nine councils to improve compliance and enforcement activity of rooming houses. This integrated approach will ensure more inspections of rooming houses are undertaken, rooming houses are properly registered and compliance notices are issued to ensure rooming houses comply with legislated standards.

In addition CAV has developed new education materials for residents about their rights and for owners and operators about their obligations.

In 2008 a new National Affordable Housing Agreement (NAHA) was signed between the Commonwealth Government and state and territory governments. Fundamental to this agreement is the aspirational objective that all Australians have access to affordable, safe and sustainable housing that contributes to social and economic participation. The Agreement has integrated policy and funding across housing and homelessness. The Agreement is complemented by four National Partnership Agreements covering:

- Social housing
- Indigenous housing
- Homelessness
- Nation Building and Jobs Plan.

Additional investment by commonwealth and state governments through these agreements seeks to expand social housing, providing increased accommodation options for people in need of housing assistance. The agreements also require the pursuit of a number of major policy reforms that will increase successful housing opportunities. The investment recently made through these agreements comes on top of the Victorian Government’s \$510 million investment in 2007-08 to boost social housing and homelessness assistance.

Under the National Partnership Agreement on Homelessness Victoria will match Commonwealth Government funding to deliver services that will contribute to an overall reduction in homelessness. The Implementation Plan for the National Partnership Agreement on Homelessness has a focus on prevention, early intervention and building a foundation to reform and diversify the response to homelessness in Victoria. Initiatives are targeted at a range of demographics including those experiencing primary homelessness and people in rooming houses.

The Commonwealth and Victorian Governments are contributing \$154.8 million over four years to reduce homelessness under the Agreement. Victoria has developed an Implementation Plan setting out new initiatives.

The Victorian Government has commenced work on the development of a new Victorian Homelessness Strategy. Building on the National Partnership Agreement on Homelessness, this work will establish the strategic directions for achieving reform of the homelessness sector and mainstream service systems over the next 10 years.

With an emphasis on prevention and early intervention and collaborative efforts across government and service systems, the new strategy will provide the plan for Victoria to reduce the incidence and impact of homelessness. Consultation across government, the homelessness sector and mainstream providers will be central to the development process.

Given the pivotal role which rooming houses play for those at the margins in the housing market, the reform agenda for rooming houses proposed in this report will form an important first step in improving the experiences of homeless people in Victoria in advance of the development of the Homelessness Strategy.

4. Section B – The Standards Problem in Victorian Rooming Houses

Rooming houses operate in a context where providing a safe living environment is important and difficult to achieve.

Issues of concern in the sector in the past include the poor amenity of ageing premises and the challenging behaviour of some residents. New issues, however, are emerging and impacting on the industry and residents. These include overcrowding, profiteering, bad management practices and a further deterioration in conditions.

4.1 Overcrowding and Illegal Building Works

Enforcement agencies and advocacy groups reported repeated instances of identifying properties with large numbers of residents often occupying spaces which were smaller than those required by the HPA regulations.

In Moreland in 2008, one rooming house was identified which housed 48 Nepalese students. The property operator, also of Nepalese background, had a further property which allegedly housed 28 students. In Brimbank, council inspectors identified a property where a pantry had been converted into a bedroom.⁸

Taskforce members reported that illegal building modifications are often undertaken to facilitate housing larger numbers of residents. In the Moreland case above, council reported that it understood 18 people lived in backyard sheds. At a two bedroom property in Thomastown the dining room was converted into two separate rooms and the living room dissected to make a further sleeping area. These modifications allowed 10 people to live in the property.⁹

Case Study – Sarah Doesn’t Feel Safe

Sarah is 29 years old and receiving Newstart allowance. She has been homeless less than three months but has previously stayed in up to four rooming houses.

She pays \$160 per week for a single room with no bedding provided. The heating is only on for one hour every morning and night. Her room has a lock on the door, but no space to keep locked belongings. Her door is easily broken and has been kicked in three times in the past week. There is no lock on the outside door to the building.

Sarah can only use the kitchen until 9pm every day, and shares a bathroom with more than 10 others. Her concerns include the fact that the bathroom is covered in blood most days, there are no lights in the corridors, making her feel very unsafe and she has no access to a caretaker at night.

‘I can’t afford to live anywhere else and public housing takes too long. Needles, blood and bed bugs everywhere in this shit joint. Kitchen, what kitchen?’

Source: HomeGround Services

8 *Star Newspaper* 1 September 2009

9 *Whittlesea Leader* 17 June 2009

4.2 Profiteering and Poor Management Practices

Taskforce members reported that rooming house residents are often forced to pay excessive rents because of the lack of alternative accommodation options. DHS was made aware of one case in which a family of four was paying \$500 a week to live in a single room with shared bathroom and kitchen facilities. In the Thomastown example cited above residents were paying between \$170 and \$250 per week for rooms.¹⁰

Social service agencies reported instances of operators receiving residents’ entire Centrelink benefits, deducting rents and then supplying alcohol, cigarettes, drugs and other provisions. TUV reported operators failing to fulfil basic requirements under the RTA such as providing rent receipts and displaying house rules. Taskforce members also advised of reports of rooming house operators using intimidation and threats of violence towards residents who made complaints to CAV or councils.

Lack of consideration by the operator to the mix of residents placed in a property can create safety and welfare concerns. Taskforce participants reported women and children being fearful of using shower and bathroom facilities when sharing the rooming house with unknown men.

4.3 Poor Amenity and Repair

Profit seeking and overcrowding combine to contribute to very poor conditions in some parts of the market.

Overcrowding places pressure on essential services such as plumbing, electrics and waste disposal, creating public health and fire risks. Building modifications made without required permits or oversight mean that premises are often not fit for the purpose for which they are being used.

Unpublished data provided by the Metropolitan Fire and Emergency Services Board (MFB) to the Chairperson charted a 20 per cent growth in fires in rooming houses over the period 2004 to 2008.

In the Thomastown property described above, the single bathroom was mouldy with a pool of water on the floor due to a leaking shower and poor drainage.¹¹ In a property in Glenroy, more than seven residents shared a single working power point.¹²

Taskforce members reported that squalid conditions are common. Residents report broken locks, broken doors, a lack of working smoke alarms and dirty or unusable shared facilities such as toilets, showers and kitchens. In a survey of 228 rooming house residents conducted in 2007 HomeGround Services identified:

- 33 per cent did not have a lock on a shared bathroom door
- 14 per cent reported being unable to lock their bedroom door
- 18 per cent had no lighting provided in their room
- 22 per cent had no access to power points in their room
- 47 per cent had no heating
- 8 per cent had no window in their room.¹³

10 *Whittlesea Leader* – 17 June 2009

11 *Whittlesea Leader* 17 June 2009

12 *The Age* 4 September 2009

13 HomeGround Services – *Bulletin* # 3 March 2008

4.4 Growth in Unregistered Rooming Houses

A key issue of concern is the rate of growth of new rooming houses, many of which are not registered with local council as required under the *Health Act 1958*, and the emergence of new vulnerable groups in these rooming houses.

Counting the Homeless 2006 identified 4457 people as resident in rooming houses on Census night.¹⁴ Chamberlain and MacKenzie, however, highlight the need for caution when considering this figure in relation to rooming houses, indicating that in reality the number will be higher. They acknowledge that in their analysis of Census data they will have undercounted residents in boarding houses, particularly those in the new model emerging in typical suburban houses which Census collectors are unlikely to recognise as rooming houses.¹⁵ As a result, many residents in this type of rooming house will have been counted as living in private dwellings. They also caution that Census data cannot identify families residing in rooming houses.

At June 2009, there were 497 registered rooming houses in Victoria according to DHS. It is very difficult to estimate the number of unregistered rooming houses. All indicators however point to significant growth which is occurring almost exclusively in the new “small rooming house” segment. For example, 269 suspected unregistered rooming houses have been reported to CAV since it established its reporting hotline on 14 July 2009. Based on outreach and advocacy work the TUV estimates it has had contact with at least 300 unregistered private rooming houses and predicts that there are many others operating of which it is not aware. Middle and outer suburban councils provided estimates of up to 200 unregistered rooming houses in their municipalities alone. Other estimates provided to the Taskforce have placed numbers of unregistered rooming house properties in the range of 500 to 1000.

These numbers would suggest that, at a conservative estimate, there could be between 1500 and 2500 residents in unregistered premises. As the earlier section on resident groups highlighted, it is expected that among these residents there would be at least 300 families with children. At a minimum it is reasonable to infer that the rooming house population in Melbourne would now be considerably more than Census data suggests.

For government, the challenge is to identify unregistered premises and bring them into the regulatory regime. It should be concerned with the small rooming house segment where the requirement for registration may not be understood by ‘Mum and Dad’ operators and profiteering operators are believed to be knowingly evading their legal obligations. Here we need to find ways to bring operators who are unaware of the existing regulation into the regulatory regime, while also ensuring that operators who are wilfully non-compliant are made to meet their obligations.

¹⁴ C Chamberlain and D MacKenzie, *Counting the Homeless 2006: Victoria*

¹⁵ C Chamberlain, *Counting the Homeless 2006: Victoria*, a seminar presented at the Department of Human Services Victoria on 25 August 2009

4.5 Why has the Market Failed?

Declining affordability and availability of private rental housing in Melbourne is creating conditions in which unscrupulous operators can seek to maximise returns from rooming houses.

There has been a declining supply of private rental housing in Melbourne with vacancy rates at record lows of below 2 per cent since 2005. Affordable private rental is now out of reach of lower income earners. Population growth in recent years has also contributed to a significant increase in demand for rental accommodation, with internal migration on the rise, along with increasing numbers of overseas migrants and international students looking to enter the rental market.

The proportion of social and public housing in the general housing stock has also declined as it is unable to keep pace with population growth. This is despite record investment in social housing by the Victorian Government and more recently the Federal Government. As a result, blockages exist in the transitional housing system with support agencies having difficulty securing permanent accommodation for people in crisis.

In such a tight marketplace, low-income households are particularly disadvantaged, both because of the lack of overall supply and also because of the tendency for the affordable supply that does exist to be rented to households on higher incomes. Singles on low incomes are at a significant disadvantage and, unlike families with children, low-income single workers are not eligible for rent assistance.

In the past rooming houses were seen as a low-cost housing option and the issue of low standards was connected to low returns. Now some operators are exacting high profits from residents who, because of a lack of alternatives, have no choice but to pay the excessive rents. Such high rents prevent rooming house residents saving to apply for private rental accommodation. It also prevents residents from being able to pay for necessities such as clothing and food.

5. Section C – A Plan for Action

The preceding sections of this report have demonstrated the failure of the private rooming house market to provide rental opportunities to people on low incomes which are affordable, secure and accessible. It has also shown the growing pressure on social housing providers as they seek to respond to the increasing numbers who find themselves on the margins of the housing market.

Given the failure of the private market to operate in the public interest it is the view of the Taskforce that the case for increased government involvement in the private rooming house industry has been made. This report now turns its attention to what that action should be.

In framing this response the Taskforce has been aware that private rooming houses remain an important affordable housing option. The following guiding principles unify the recommendations contained within the report with a view to securing better quality and better managed rooming houses. These principles are:

- Placing the onus of responsibility for the conditions of and management practices in rooming houses on rooming house operators
- Improving and bringing together the minimum standards that apply to rooming houses
- Ensuring active compliance and effective enforcement
- Government moving to ensure access to private affordable rental and increases in the supply of both public and private affordable singles housing.

5.1 Standards Framework

The Taskforce has established the very low level of amenity and poor conditions in unregistered private rooming houses. Members have identified many as being substandard, overcrowded, unsafe or not fit for purpose. These concerns are shared by fire services who report frequently attending incidents at rooming houses.

5.1.1. Existing Prescribed Standards

Currently, minimum standards in rooming house accommodation are contained in several separate pieces of legislation, including residential tenancies, health and building. Appendix 3 outlines the protections for health, safety and amenity included in the current regulatory system.

It should be noted that community-managed rooming houses generally meet additional, higher, management and amenity standards because of their relationship with government. DHS Housing and Community Building Division has policies on housing standards applicable to all properties under the care, management or funding of the Director of Housing. In the case of community-managed rooming houses these standards include, for example, larger space requirements for bedrooms and higher ratios of communal toilets and bathrooms to residents, (1:6 versus 1:10). It should be noted that these standards are outlined in policy and not prescribed in regulation.¹⁶

The current regulatory approach to housing standards in the private market is predicated on consumers being able to exercise choice in a competitive market. The issue of minimum standards emerges when tenants on low incomes need trade off standards which most people would think were basic to find a home they can afford.

¹⁶ DHS Community Housing Standards Versions 1.1 March 2009

As rooming house residents are often on low incomes or have complex needs they are particularly vulnerable to exploitation in the market place. They have few alternative options and are unable to “shop around” for accommodation of a higher standard. It is for this group that the minimum protections afforded through legislation are the most important.

5.1.2. Problems with the Existing Standards

In relation to minimum standards, discussions among Taskforce members have highlighted:

- Prevalence of illegal building works to enable overcrowding
- Concerns about the adequacy of and compliance with existing fire safety provisions
- Tensions between a desire to increase standards and the capacity of the market to respond without widespread closures further compromising residents’ accommodation options.

As discussion among Taskforce members and information from the MFB highlights, the issue of standards is strongly connected to issues of compliance and enforcement. These issues will be dealt with in subsequent sections of this report.

The current legislated standards for rooming house accommodation are actually more prescriptive than those for general rental, with the *Health Act 1958* and HPA Regulations providing additional standards in relation to overcrowding, maintenance and cleanliness, water supply, waste disposal and toilet and bathroom facilities.

None the less, during the consultation period evidence of incidents of concern which could be ameliorated through additional standards were repeatedly reported to the Taskforce. These included female residents being assaulted in shared toilet and bathroom facilities, overloaded electrical outlets posing a fire risk, frequent incidents of drug dealing and resident on resident violence and many residents feeling unsafe both in shared areas and within their own rooms. One council advised of an increasing trend of residents storing their property in their rooms but sleeping in parks due to concerns for their personal safety.

Advocacy groups highlighted the need for operators to ensure that regular maintenance occurred so that standards continued to be met and expressed concern about the reluctance of profiteering operators to invest in essential property maintenance. Examples were cited of properties that were not draft or weatherproof, bathrooms with persistent leaks, broken toilets and damp problems, premises that lacked insulation and window coverings. The health, safety and energy use impacts of poor maintenance were borne by residents who faced problems such as difficulties keeping warm or cool or maintaining adequate levels of hygiene.

Private operators moving into the rooming house market reported to the Chairperson that the current standards framework required them to negotiate multiple pieces of legislation and was difficult to understand. Private operators also highlighted anti-social resident behaviour as contributing to damage and maintenance problems.

The Registered Accommodation Association of Victoria highlighted in particular that costs associated with any changes to existing standards would be passed on to residents through increased rents or could make continued operation of some premises financially unviable.

5.2 Recommendations – Standards Framework

In relation to minimum standards, the Chairperson recommends that:

1. State Government immediately establish additional legislated minimum standards for rooming houses, including:
 - Locks on toilet and bathroom doors
 - Fire-safe locks on bedroom doors
 - Provision of a working double power outlet in each bedroom
 - Window coverings in each bedroom
 - Fire evacuation plan
 - Power overload protection.
2. In conjunction with other recommended reforms, State Government phase in the introduction of other additional standards after a new regulatory system is in place, with consideration given to including as minimum standards:
 - Periodic gas and electrical safety checks
 - Appliance upgrades to higher levels of water and energy efficiency
 - Installation of hard wired smoke detectors in each habitable room
 - Minimum common areas – living area and kitchen/meals area.
3. State Government establish a targeted program for registered rooming house operators to improve the thermal efficiency of premises and upgrade with more energy and water efficient fixtures and appliances (eg shower heads, insulation, draft-proofing).
4. State Government include references into the RTA to identify other relevant legislation regarding rooming house standards with which compliance is required (eg *Health Act 1958*, Building Code of Australia), with a view to providing rooming house operators access to all necessary standards in one identifiable piece of legislation.
5. State Government require rooming house operators to secure a compliance certificate for *Health Act 1958* and Regulations as well as Building Regulations to evidence that premises meet legislated standards prior to being able to lawfully operate a rooming house in Victoria.
6. State Government initiate an information campaign targeted at operators, owners and real estate agents of premises used as private rooming houses so that all parties are aware of their responsibilities regarding existing standards and their liabilities and penalties where standards are not met.

5.3 Compliance and Enforcement

Significant overlap exists between the issue of standards and issues of compliance and enforcement. Many of the instances of poor standards brought to the Taskforce’s attention were examples of breaches of existing rooming house regulation. The Taskforce identified however that the current regulatory regime is difficult for operators, clients, advocates and enforcement agencies to navigate.

5.3.1. Existing Compliance and Enforcement Models

Currently, there are three separate inspection processes for rooming houses. These inspections are conducted by different government agencies, and powers of entry and enforcement tools available to inspectors under each process vary.

Local council health inspectors have responsibility for inspecting rooming houses under the *Health Act 1958* for health-related issues and local council building inspectors have responsibility for inspecting rooming houses under the *Building Act 1993*, which prescribes various fire and safety requirements. However, the health and building areas within local councils often reside in different units and may not work together in their approach to rooming house compliance.

Consumer Affairs Victoria has regulatory responsibilities for the *Residential Tenancies Act 1997*, which outlines the rights and responsibilities of a rooming house owner and operator, and a rooming house resident. It is only able to respond if it receives a complaint.

The table below summarises the enforcement model prescribed by:

- *Health Act 1958*
- Building Regulations
- *Residential Tenancies Act 1997*.

Enforcement Framework

Compliance & Enforcement

HEALTH ACT 1958

Address concerns that relate to public health such as noise, refuse provision of ablution facilities, nuisance

Requires in Rooming Houses:

- at least 1 toilet, 1 bath/shower and 1 washbasin for every 10 people;
- continuous and adequate supply of hot and cold water
- rooms and communal areas in a clean condition and a good state of repair

LOCAL GOVERNMENT (Health)

Right of entry

RESIDENTIAL TENANCIES ACT 1997

Urgent Repairs

- Blocked or broken toilets
- Roof leaks
- Electrical faults
- Flood, storm, fire damage
- Water services

Non-Urgent Repairs

Premises must be in good repair

CONSUMER AFFAIRS VICTORIA

Complaints based
No right of entry
Information & educational material & activities

BUILDING REGULATIONS

Fire Safety

- Requirements depending on class of building
- Working smoke alarms

Building Code of Australia

Extensive technical requirements covering every aspect of buildings

LOCAL GOVERNMENT (Building)

No right of entry (2 days notice)

5.3.2. Issues with Existing Enforcement Models

Stakeholders have raised concerns about challenges in ensuring compliance with and enforcement of existing legislation. Issues identified include:

- The level of resources available to local councils to ensure appropriate monitoring of the sector
- The inconsistency in the approach and priority placed on enforcement by individual local councils – particularly those previously unfamiliar with rooming houses in general and the new smaller rooming house model in particular
- Considerable difficulties experienced by enforcement agencies in pursuing enforcement action against rogue operators with the current legislative powers and enforcement tools available.

Local councils believe the proliferation of new types of rooming house have placed them under considerable pressure. While proactive councils acknowledged that coordination of enforcement activity was required, they identified barriers which posed continued challenges. For example:

- Different legislation dealt with different entities (property owners versus rooming house proprietors)
- Officers held different powers of entry
- Compliance processes for some pieces of legislation were more complex, costly and time-consuming than others.

Enforcement is complicated by the vulnerable nature of the client group. Residents are often reluctant to complain about their accommodation for fear of being evicted into homelessness. This reluctance makes it difficult for enforcement agencies to establish sufficient evidence to secure prosecutions for breaches of regulations.

Enforcement agencies also highlighted that when prosecutions are successful, the penalties provided for in the legislation are not sufficient to act as a deterrent. Current penalties in the RTA for breaches of most rooming house provisions for example are set at a maximum of between five and 10 penalty units. By comparison Queensland’s *Residential Tenancies and Rooming Accommodation Act 2008* sets comparable penalties at between 10 to 20 penalty units.

As a result, advocates argued that in its current form the industry is attractive to amoral and opportunistic operators who wilfully ignore the regulatory regime and their obligations to residents. Evidence was presented to the Taskforce of operators making threats against council inspectors. It was highlighted that operators who engaged in these practices may also be motivated to engage in other sorts of criminal behaviour including standover tactics, inaccurate accounting and breaches of corporate or taxation law.

From a different perspective, cost and complexity makes pursuing tenancy rights through VCAT and other complaints processes very burdensome for rooming house residents. As this group of consumers is not sufficiently empowered to act as third-party regulators, stakeholders highlighted the need for the exploration of a model which would allow other agents to initiate action on residents’ behalf.

5.4 Recommendations – Compliance and Enforcement

In relation to compliance and enforcement, the Chairperson recommends that:

7. State Government increase penalties and fines within the RTA to at least that equivalent to other comparable legislation operating in the sector (eg the *Public Health and Wellbeing Act 2008*) to act as an appropriate deterrent.
8. State Government expand the powers of the Director of Consumer Affairs Victoria to initiate investigations and a range of legal actions including compliance action under the RTA in her own right. Where it can be established that it is in the public interest to address unlawful practices by particular operators, representative actions be available.
9. State Government consider legislative change to allow for third-party action to be taken under the RTA in relation to rooming house issues where a representative body can establish standing before VCAT.
10. State Government expand the powers of CAV inspectors in respect of rooming houses to include:
 - Providing inspectors with the power to enter non-residential rooms in rooming houses for the purposes of assessing compliance with the RTA
 - Delegating powers to investigate alleged breaches under the *Health Act 1958* and regulations with respect to rooming houses when working in conjunction with local government. Protocols would need to be developed between CAV, MAV and DHS to around the application of this power.
11. Enforcement agencies to work with homelessness services and tenant advocacy groups to develop appropriate communication strategies to assist residents to understand enforcement action and any impact it may have on their residency.
12. State Government initiate action in collaboration with the Australian Tax Office, Centrelink and the Australian Securities Investments Commission to investigate the operations of unscrupulous rooming house operators, eg misuse of resident Centrelink funds and failure to declare income.
13. State Government provide fire services (MFB and CFA) with legislative powers to require immediate rectification action when breaches of fire safety standards are identified in rooming houses.
14. State Government establish as part of the Estate Agents (Professional Conduct) Regulations 2008 a clear duty for real estate agents to notify Local Government where they reasonably believe that a property managed through their agency is being used as an unregistered rooming house. Real Estate Institute of Victoria (REIV) to incorporate information regarding rooming house standards and registration as part of the ethics and property management components of its continuing professional development training.

5.5 Registration

Registration of rooming houses is the first step in establishing a robust regulatory framework for the industry. Unregistered rooming houses operate outside the regulatory regime. Registration is crucial to bring rooming houses into the standards framework set by government.

5.5.1. Existing Registration System

Currently rooming houses are one of a number of forms of prescribed accommodation which are required to be registered with municipal councils under the Health (Prescribed Accommodations) Regulations.

The HPA Regulations were made under the *Health Act 1958* to assist in the prevention of infectious diseases being transmitted in communal accommodation. Types of accommodation prescribed for the purposes of the HPA Regulations include hotels, motels, hostels, student dormitories, holiday camps and residential accommodation.

Rooming houses became a class of prescribed accommodation in December 2008. Prior to this councils may have been unable to distinguish between rooming houses and other forms of residential accommodation on their register.

As explained earlier in this report, the *Public Health and Wellbeing Act*, which received Royal Assent in September 2008, will replace the previous *Health Act 1958* on 1 January 2010. New regulations, also effective from 1 January 2010, will replace the existing HPA regulations

There are no significant changes to the public health requirements for prescribed accommodation, including rooming houses, proposed in the new laws. However there are some provisions in the PHWA and draft PHW Regulations that are designed to expand or clarify powers exercised by councils in their role as regulators of rooming houses. These include:

- Increasing maximum penalties for failure to register rooming houses
- Expanded or clarified powers to:
 - Require further information, an inspection and/or alterations or improvements before they will consider the application for registration
 - Impose conditions on registration
 - Refuse, cancel or suspend registration for failure to comply with the Act and regulations, conditions of registration or because of a “risk to the health of persons”
 - Issue prohibition and improvement notices requiring a person to remedy or desist from a contravention of the Act or regulations (maximum penalties for failure to comply will be introduced at 120 penalty units for individuals and 600 penalty units for bodies corporate)
 - Issue infringement notices for breaches of the standards set out in the regulations.

In addition, not-for-profit housing providers who operate community-managed rooming houses are registered through the provisions of the *Housing Act 1983*. This regulatory framework holds them accountable to the government, tenants, investors and the community for their use of public and private funds to provide community housing. The regulation is overseen and enforced through the Victorian Housing Registrar.

5.5.2. Problems with the Existing System

Discussions among Taskforce members highlighted:

- The desire to strengthen registration provisions
- The need for simplicity to prevent an unreasonable burden on providers (especially those performing well)
- The need for compliance to accompany registration
- Access to information as to which premises are registered
- Consideration of issues regarding the registration of buildings versus registration of operators.

There is concern at the number of rooming houses which are operating unregistered and that regulatory agencies have been overwhelmed by the rapid growth in the number of rooming houses appearing in the market.

The proliferation of new rooming houses means that some councils are having rooming houses appear in their municipalities for the first time and do not have established processes in place to manage compliance.

Other councils reported to the Taskforce growth rates of 100 per cent to 200 per cent in the number of rooming houses in their municipalities and are facing challenges managing the increased workload.

There are shortages of both Environmental Health Officers and Municipal Building Surveyors staff who enforce Health and Building Regulations respectively, making it difficult for both new and experienced councils to respond.

Council practices in relation to registration may also vary considerably. The current HPA Regulations are silent on inspections. We know that to manage competing demands some councils take a risk analysis approach to registration and only conduct inspections of premises known or suspected of being more at risk of non-compliance.

Community agencies working with clients in accommodation crisis are seeking to refer wherever possible to rooming houses that meet the requisite amenity and management standards. They wish to know the registered rooming houses in their area to help clients to make informed choices among their limited options. Councils vary in practices in relation to the release of information from their register.

All Taskforce members highlighted the extent to which government funding – in the form of State Government emergency assistance through the Housing Establishment Fund and Commonwealth Rent Assistance – supported the operation of unregistered and sub-standard premises. Immediate withdrawal of such funding however was identified as problematic while residents had few alternative accommodation options.

Community agencies have also highlighted their concern that the vulnerable nature of the client group may warrant additional regulation of private operators above and beyond what is currently in place in Victoria to ensure that management standards also meet community expectations.

When dealing with disputes and breaches of regulation, councils, tenant advocates and Consumer Affairs Victoria all reported regularly experiencing problems identifying the parties responsible for the management of private rooming houses.

The Taskforce examined both Queensland and United Kingdom legislation, which consider the suitability of operators as part of their regulatory systems for rooming houses. In both of these instances, licensing of operators forms part of the regulatory response to raise standards and address poor management practices.

5.6 Recommendations – Registration

In relation to registration, the Chairperson recommends that:

15. State Government introduce a system of registration for rooming house operators in Victoria through the Business Licensing Authority. As a result, to operate a rooming house legally in Victoria premises must be registered with local government and operators must be registered with the State Government. This system will include sanctions against unregistered operators and reflect increased penalties for non-compliance with other applicable legislation operating in the sector (eg the *Public Health and Wellbeing Act 2008*).
16. State Government establish a state-wide register of registered rooming houses and provide this to agencies requiring this information to fulfil their accommodation and housing-related responsibilities.
17. State Government lead the development and implementation of a best-practice model for local government registration and compliance of rooming houses.
18. State Government amend the Housing Establishment Fund Guidelines to stipulate that funding for crisis housing can only be utilised in legally registered rooming houses. This will be phased in to coincide with new registration system.
19. State Government work with the Commonwealth to ensure that deductions from income support payments (or other forms of statutory assistance) are not directed to operators of unregistered rooming houses.

5.7 Supply

The failure of the private rental market to provide accommodation which is affordable for, and occupied by, people on low incomes is a crucial driver contributing to the growth of sub-standard rooming house accommodation.

The Taskforce identified that to be effective, measures to improve standards in the industry must be accompanied by supply responses which seek to provide low-income households alternative accommodation choices.

5.7.1. Trends in Housing Supply

The National Housing Supply Council has identified significant unmet housing need across Australia. The council has conservatively estimated that there was a gap between supply and demand of 85,000 dwellings in 2008 and anticipates that gap will grow to 431,000 nationally by 2028.¹⁷

Low- and moderate-income households often have no choice but to compete in the private rental market. This is due to rising house prices leading to falling home ownership rates among younger households and the decline in the supply of social housing relative to the growth in the number of low-income households.¹⁸ The council has identified that the existing supply arrangements are failing to adequately provide for lower-income households, with its analysis of 2006 Census data showing a need for an additional 251,000 rental dwellings that are affordable and available to satisfy unmet demand from lower income households.¹⁹

¹⁷ National Housing Supply Council *State of Supply Report 2008* p.xvi

¹⁸ *ibid* p.5

¹⁹ *ibid* pxvii

The council’s analysis is reflected in the dynamics of the Victorian market. The availability of affordable private rental accommodation has declined significantly over the past two years, especially in metropolitan Melbourne. Across Melbourne just 8.9 per cent of dwellings let in the March quarter 2009 were considered affordable. This figure represents a large reduction in the proportion of dwellings which were affordable during the same quarter a year ago (12.1 per cent) and two years ago (16.4 per cent).

Due to a limited supply of affordable one bedroom dwellings, low-income single person households face the most difficulties in accessing affordable rental accommodation. Across Melbourne just 0.7 per cent of one bedroom dwellings let in the March quarter 2009 were affordable to low-income singles.²⁰

When considering these figures it should be remembered that Yates et al have demonstrated that even when lettings are affordable, properties are often not occupied by low-income households.²¹ Owners and agents favouring higher income tenants who are perceived as presenting lower risk are among the reasons for this “misallocation” of stock. Some rooming house residents have poor rental histories which further limits their ability to enter the private sector rental market.

The Victorian Government has demonstrated its strong commitment to expanding the availability of affordable housing through a range of measures. The 2007–08 State Budget delivered a record \$510 million to improve and expand social housing and invest in homelessness assistance in Victoria. This included:

- \$200 million to improve and boost the supply of public housing by providing 800 new and redeveloped homes for the most disadvantaged in our community
- \$300 million to increase social housing supply and build the not-for-profit housing sector’s sustainability.

The Victorian Government’s Strategy for Growth in Housing Low Income Victorians has reformed the way that government works with community housing providers to increase the supply of affordable and appropriate housing through partnerships with local government, community organisations and the private sector. This sort of partnership approach enables the government to deliver more affordable housing units through leveraging than could otherwise be achieved using State Government investment alone.

More recently, through the NAHA Victoria will receive more than \$1.3 billion over five years for core housing and homelessness services. In addition, the Commonwealth allocated \$5.7 billion nationally for social housing as part of its Nation Building and Jobs Plan. This will translate into \$1.3 billion which Victoria will use to build more than 4500 homes for lower income households struggling to find housing and 5600 more to benefit from maintenance and improvements. Victoria will also receive additional funding of:

- About \$99 million to build nearly 500 new social housing over two years from the Social Housing National Partnership Agreement
- More than \$30 million for Indigenous housing over ten years
- More than \$75 million to reduce homelessness.

The Victorian Government also is committed to participating in the National Rental Affordability Scheme, which aims to build up to 100,000 new affordable rental properties nationally.

²⁰ DHS *Rental Report March Quarter 2009*

²¹ Yates, J et al, (2004) *Changes in the supply of and need for low rent dwellings in the private rental market*, AHURI p.13

5.7.2. Challenges in Increasing Supply

The Victorian Government has made significant investment in social housing in the past decade and the total supply of public and community housing in Victoria has increased to about 78,000 units. Yet social housing makes up less than 4 per cent of total housing stock in Victoria. This compares with an average of 5 per cent nationally.

Even with considerable investment in conjunction with the Commonwealth Government through the Nation Building and Jobs Economic Stimulus Plan it is anticipated that population increases will see levels of social and public housing, as a proportion of overall housing supply, continue to decline.

The segmented waiting list for public housing seeks to ensure that available housing is targeted to those with highest housing and support need. There is significant demand for public housing assistance from households with a range of needs.

As a consequence, any effort by government to respond to the poor outcomes experienced by residents in private rooming houses needs to include responses which assist households to access better quality rental options in the private market. In addition appropriate social housing responses are needed which consider peoples’ varying needs and capacities to maintain tenancies.

Stakeholders identified that the State Government’s investment in expanding the community managed housing sector was positive and the leverage policy in particular expanded the total stock of community housing provided by government investment. However the leverage policy as it currently is applied also made it more difficult for registered housing agencies to increase the overall numbers of properties in their portfolios which targeted those of very low incomes or with complex needs.

As long as the rental market remains tight, demand for low-cost accommodation will continue to drive clientele to rooming house premises where, in addition to problems with the physical standards in the premises, poor management practices and culture can often result in an unsafe and intimidating environment. As highlighted earlier in the report, this presents immediate problems for women and families with children forced to live in rooming houses.

None the less, the evidence presented to the Taskforce suggests that there may be particular groups of residents currently living in rooming houses who are capable of sustaining a tenancy in the private rental market if provided with some up-front assistance. Taskforce members noted that the practice of charging very high rents often made it difficult for residents to meet basic needs and impossible for them to save the money required to start a new tenancy, trapping residents in a cycle of unstable housing and homelessness.

Finding longer term solutions that respond to this market failure and which address both the private and the public sector role in the supply of affordable accommodation is critical to addressing the circumstances which precipitate unscrupulous behaviour by private rooming house operators.

5.8 Recommendations – Supply

In relation to the supply of affordable housing options for rooming house residents the Chairperson recommends:

20. State Government review the current policy position requiring leverage of 25 per cent from registered housing associations in relation to projects housing clients on very low incomes and/or with complex needs with a view to establishing a more nuanced policy approach which will facilitate the development of more community-managed housing stock targeting low-income singles.
21. State Government work with community housing providers and the REIV to establish a not-for-profit managed model of leased rooming houses as an alternative market option. Such a model would have community-based providers establishing small rooming houses in leased premises offering accommodation at reasonable rents.
22. State Government develop a package to respond to families with children in housing crisis which should include:
 - A priority allocation of 200 additional properties to community housing providers as part of a one-off, time-limited, families response
 - Assertive outreach to identify families in rooming houses and redirect them to more suitable housing responses, including the establishment of flexible, short and medium term accommodation for families that maintains their existing networks and supports
 - Targeted brokerage to assist families with low support needs access private rental market (see below).
23. State Government develop a targeted private rental assistance package to help rooming house residents who are unable to access social housing. The program would help this group to establish affordable tenancies in the private rental market. It would target rooming house residents who are identified as able to sustain a tenancy with limited assistance in the form of rental information, brokerage, start-up costs and time-limited assistance.
24. State Government create new accommodation options by expanding stock of not-for-profit rooming houses through a dedicated singles housing purchase program or new developments.
25. State Government work with the Commonwealth to prioritise private sector investment facilitation models which will encourage new approaches to low-income singles accommodation.

5.9 Managing Implementation and Dealing with Adverse Consequences

In considering reform of the rooming house industry the Taskforce grappled with the difficulties faced by rooming house residents in competing for accommodation in the private rental market. The Taskforce was also concerned about the limited options for rehousing any residents displaced as a result of changes to regulation or enforcement practices.

Taskforce members acknowledged that government faces a policy dilemma when contemplating action on rooming house standards. Any action seeking to improve outcomes for vulnerable residents by raising standards in rooming houses may contribute to the adverse outcome of a loss in the overall supply of affordable and accessible private rental accommodation.

Mindful of the detrimental impact which a rooming house closure can have on the lives of residents, the Taskforce considered a range of strategies to introduce reform in a manner which allowed the rooming house industry the best possible chance to respond and realign with community and government expectations. It was the intention of the Taskforce that the reform package be shaped so as to eliminate from the market the worst rooming houses and operators without closing down those premises and businesses which can be brought up to a better standard.

Providing support to the Registered Accommodation Association of Victoria to strengthen professional conduct among private rooming house operators was identified as one avenue to facilitate the introduction of reform. Continuing dialogue with industry stakeholders to ensure that the recommended reforms are implemented in a timely manner with an awareness of any challenges or unintended consequences as they arise was also identified as important.

The Taskforce is aware that should rooming houses close, homelessness services and community housing providers are likely to come under increased pressure to find housing for displaced residents. As a result it was identified as important to have in place processes and resources to deal with any closures which may occur and assist support agencies as they seek to identify alternative responses to housing people in crisis. In particular, the Taskforce considered a model of not-for-profit housing organisations providing basic hotel-style of accommodation that has onsite staffing and security which allows people to stay for short- and medium-term periods and is closely integrated with local support agencies – the “Community Hotel” – as worthy of further consideration by government.

In conclusion, it is the view of the Taskforce Chairperson, after serious consideration of the current state of the rooming house industry in Victoria, that intervention is necessary and some loss of stock will be an inevitable consequence of the reform agenda outlined through the preceding recommendations. Nonetheless, the Chairperson also believes that government must take action to prevent Victorians living in circumstances which do not meet community expectations of decency and amenity.

5.10 Recommendations – Managing Implementation

To allow for a response to any adverse consequences from the plan for action, the Chairperson recommends:

26. State Government deliver a clear policy framework and implementation timetable for the immediate and longer-term regulatory changes proposed in this report. The timetable should be framed to allow sufficient time for the rooming house industry to adjust to new regulatory requirements and for safeguards for residents to be put in place. It should, however, be no longer than strictly necessary given the unacceptable practices currently occurring in the market.
27. State Government develop protocols for local government to use with homelessness service providers, other community support services and DHS regions to manage rooming house closures.
28. State Government legislate protections for residents to prevent summary eviction by a property owner where the operator of a leased rooming house defaults on their lease. Such protections should allow residents to remain in situ until relocation or orderly closure process can be established by ensuring that the owner of the property is responsible for the continuing residency arrangements.
29. State Government explore a range of alternative accommodation responses with the community sector including:
 - Trial of a community hotel model in conjunction with community housing agencies
 - Identifying and encouraging opportunities for more innovative uses of Housing Establishment Funds to target solutions for private rooming house residents.
30. State Government continue a dedicated interdepartmental committee to implement the response to unregistered rooming houses. This committee should develop a strategy for ongoing engagement with the industry and sector stakeholders who have contributed to the formulation of this report which includes quarterly updates on progress towards implementation of these recommendations.
31. State Government provide support to the Registered Accommodation Association of Victoria to develop a revised code of conduct for members in light of the regulatory changes proposed in this report.
32. State Government establish a pilot community development project targeting residents in registered rooming house properties in conjunction with the Registered Accommodation Association of Victoria and relevant community services agencies.

Appendix 1 – Terms of Reference

Terms of Reference

Evidence suggests a growing number of vulnerable Victorians are residing in substandard accommodation let by private operators, which does not meet minimum community expectations of amenity and safety.

The need for minimum standards in rooming houses has been raised by stakeholders in recent years as changes in Melbourne’s rental market have reduced available alternatives and increased pressure on affordable accommodation. Particular concerns exist around inadequate standards for rooming house accommodation and services including: inappropriate practices such as not registering with local councils as required under the *Health Act 1958*; lack of enforcement of existing rooming house provisions; and inadequate supply of affordable, quality rooming house type accommodation.

At present there are a range of standards affecting residential dwellings used as rooming houses. These standards are drawn from various legislation including the *Residential Tenancies Act 1997*, Building Code of Australia, Victorian Building Regulations 2006, *Health Act 1958* and Health (Prescribed Accommodation) Regulations 2001. Responsibility for administering these standards rests with a number of agencies.

To address issues in the rooming house sector the Victorian Government has formed the Rooming House Standards Taskforce.

Taskforce Brief

The Taskforce has been briefed to report to the Minister for Housing and the Minister for Consumer Affairs on the development of solutions for problems associated with poor quality rooming house accommodation and services by 31 August 2009.

The taskforce will be chaired by the Hon Martin Foley MP and will examine and make recommendations for action on:

- The adequacy of existing enforcement and registration processes for rooming houses
- Options for increasing affordable accommodation to residents who would normally utilise rooming house accommodation
- Best practice approaches in other jurisdictions
- Appraisal of the need for any additional standards, and changes to the existing regulation and enforcement processes for rooming houses
- Consideration of the impact of any changes on the supply of affordable rooming houses.

The project will draw on the views and recommendations of key stakeholders from the community sector and industry.

Central Agency representation will ensure a whole of government approach is taken. Specialist input will be made available to the Taskforce from the Office of Housing and Consumer Affairs Victoria. The project will be supported by a secretarial group drawn from DHS and Consumer Affairs Victoria.

The work of the Taskforce will inform the development of the Victorian Homelessness Strategy and the cooperative Commonwealth- State approach to homelessness.

Appendix 2 – Taskforce Participants

This Taskforce was conducted from 17 July 2009–24 August 2009.

The members of the Rooming House Standards Taskforce were:

Hon Martin Foley MP (Chair), Member of the Legislative Assembly, Member for Albert Park

Mr Mark O’Brien, Tenants Union of Victoria

Mr David Wright-Howie, Council to Homeless Persons

Ms Kate Colvin, Victorian Council of Social Service

Mr Owen Harvey-Beavis, Municipal Association of Victoria

Mr Simon Roberts, Registered Accommodation Association of Victoria

Mr John Enticott, St Kilda Rooming House Issues Group

Mr Rob Leslie, Yarra Community Housing

Mr Brian Pound, Community Housing Federation of Victoria

Mr Robert Larocca, Real Estate Institute of Victoria

Government Observers

Ms Katy Haire, Director, Social Policy, Department of Premier and Cabinet

Ms Anne Congleton, Manager, Policy Review and Development, Housing and Community Building Division,
Department of Human Services

Dr Claire Noone, Executive Director, Consumer Affairs, Department of Justice

Mr Andrew Witchard, Assistant Director, Budget and Financial Management Division, Department of
Treasury and Finance

Secretariat

Mr Rocco Fonzi, A/Manager Housing Policy and Innovations Teams, Housing and Community Building Division,
Department of Human Services

Ms Anita Canals, Senior Policy Officer, Housing Innovations Unit, Housing and Community Building Division,
Department of Human Services

Ms Georgina Nixey, Assisting Officer, Consumer Affairs Victoria, Department of Justice

Dr Sevgi Kilic, Program Manager, Residential Accommodation, Consumer Affairs Victoria,
Department of Justice

Consultation and Submissions

Australian Institute of Building Surveyors
Council to Homeless Persons Peer Educators
Mr Stephen Nash, HomeGround Services
Mr Tony Keenan, Hanover Welfare Services
Mr Chris Chaplin, Community Housing Federation of Victoria
Ms Julia Canty-Waldron, HomeGround Services
Ms Rita Lawrence, SASHS Western
Mr Brett Bedson, Yarra-MetroWest Housing
Mr Grant McNeill, Community Housing Ltd
Metropolitan Fire and Emergency Services Board
Registered Accommodation Association of Victoria Members
Mr Richard Casely, Registered Accommodation Association of Victoria
Ms Sue White, Salvation Army Crisis Services
Bayside City Council
Banyule City Council
Casey City Council
Knox City Council
Maribyrnong City Council
Monash City Council
Moreland City Council
Port Phillip City Council
Stonnington City Council
Whitehorse City Council
Seaford North Action Group

Appendix 3 – Standards and Protections in Current Legislation

The Residential Tenancies Act 1997

The RTA sets out the rights and duties of both residents and owners or managers of rooming houses. The Act sets out the following as minimum standards:

- Rooming house owners must keep the rooming house, its rooms, any facilities, fixtures and any furniture or equipment provided by the owner in good repair (s120)
- Rooming house owners must provide 24 hour access for residents to their room and the toilet and bathroom facilities (s121)
- Rooming house owners must not unreasonably restrict or interfere with a resident’s privacy, peace and quiet or proper use and enjoyment of their room and any facilities available for residents’ use in the rooming house (s122)
- A rooming house owner must take all reasonable steps to ensure security for the property of a resident in their room (s123)
- Rooming house owners must display a copy of the *Statement of Rights and Duties*, as published by Consumer Affairs Victoria, in a prominent position in the resident’s room no later than the day on which the resident starts to occupy the room (s124)
- Rooming house owners must give written notice of their full name, an address for the service of documents and an emergency phone number to be used in the case of urgent repairs (s125). If an agent is acting on behalf of the rooming house owner, the contact details of the agent must be provided, as well as a written statement stating if the agent can authorise urgent repairs and the amount the agent can authorise (s125)
- Rooming house owners are permitted to make house rules (s126). However, the rooming house owner must give residents at least 7 days notice of any proposed change(s) to the house rules (s127). The RTA allows residents who think the house rules are unreasonable to apply for a hearing at VCAT to determine the matter (s218)
- If a rooming house owner fails to comply with any of the above obligations, residents can issue a Breach of Duty notice to the owner (s208). If this Breach of Duty notice is not complied with, the resident can seek compensation or a compliance order at VCAT (s209).

The RTA provisions for repairs and urgent repairs further outline intended standards.

Under the RTA, “urgent repairs” means:

- A burst water service
- A blocked or broken lavatory service
- A serious roof leak
- A gas leak
- A dangerous electrical fault
- Flooding or serious flood damage
- Serious storm or fire damage
- A failure or breakdown of any owner supplied essential service or appliance provided for hot water, water, cooking, heating or laundering
- A failure or breakdown of the gas, electricity or water supply

- An appliance, fitting or fixture provided by the rooming house owner that uses or supplies water and that is malfunctioning in a way that results or will result in a substantial amount of water being wasted
- Any fault or damage that makes the rooming house unsafe or insecure
- A serious fault in a lift or staircase.

The Act does not specify a minimum timeframe within which an urgent repair is to be carried out.

A resident is permitted to arrange for an urgent repair to be carried out, however, if they have taken reasonable steps to contact the rooming house owner or agent and the resident has been unable to get the rooming house owner to undertake the repairs. (s129).

If the resident undertakes the repairs, they must give notice to the rooming house owner within 14 days. The rooming house owner is liable for reimbursing the resident for the repairs (up to the value of \$1000). However, reimbursement is not required if there was no immediate danger to health or safety and the resident was able to use other facilities in the rooming house (s129).

If the resident cannot meet the cost of repairs, or the cost of repairs exceeds \$1000, the resident can apply to VCAT for an urgent hearing. The resident can also apply to VCAT if a rooming house owner refuses to pay the cost of urgent repairs (s130).

If a resident has given notice to request non-urgent repairs, it is expected that the rooming house owner undertake such repairs within 14 days. If the repair does not occur in this time, the resident can seek an investigation by the Director of Consumer Affairs to determine if failure to undertake the repair is a breach of the duty to maintain the rooming house in good repair (s131). The Director must provide the resident with a written report regarding his or her investigation.

If the resident believes that satisfactory arrangements have not been made to carry out the repairs, they may seek a hearing at VCAT within 60 days of receiving the Director’s report (s132). The resident can also apply to VCAT for an order authorising the payment of rent into the Rent Special Account (s134).

The non-urgent repair provisions do not apply to damage caused by misuse or negligence of the resident or the resident’s visitor (s135).

The RTA also includes provisions intended to protect resident privacy.

Rooming house owners must give at least 24 hours notice before entering a resident’s room (s136). There are, however, three exceptions to this rule:

- The resident grants permission, or
- The rooming house owner or their agent believes there is an emergency and immediate entry is required to save life or valuable property, or
- Services are provided that necessitate entry into the room during the hours specified by the house rules.

The rooming house owner or their agent must enter the resident’s room in a reasonable manner and must not stay in the room longer than is necessary to achieve the purpose of the entry without the resident’s permission (s138). If damage occurs during entry into the room by the rooming house owner or their agent, the resident can apply to VCAT to seek compensation (s141).

Health (Prescribed Accommodation) Regulations

The HPA Regulations provide for minimum standards under the specific provisions for rooming houses.

These cover issues relating to:

- The number of people that can be accommodated in one room
- Room size
- Maintenance
- Cleanliness
- Supply and quality of drinking water
- Discharge of sewage and waste water
- Refuse
- Ratio of toilet and shower facilities.

The requirements under these regulations are detailed below.

Provision	Requirements
Overcrowding	Single person room must have a floor area of at least 7.5 square metres. Two person room must have a floor area of at least 12 square metres. Three or more persons a further 4 square metres per bed.
Maintenance and Cleanliness	All rooms, bathrooms, kitchens and laundries must be in good repair and working order. Linen must be changed weekly and rooms and linen must be changed when the occupant in a room changes.
Water Supply	There must be a continuous supply of hot and cold water and safe drinking water in bathrooms, kitchens and laundries.
Waste Disposal	All sewerage and waste water must be discharged to a reticulated sewerage system or to a septic tank system authorised by the Environment Protection Authority.
Refuse Receptacles and Disposal	Proprietors must provide sufficient vermin-proof receptacles for the collection and storage of all putrescible rubbish and ensure that the receptacles are regularly cleaned and collected.
Toilet and Bathing Facilities	There must be at least one toilet, one bath or shower and one wash basin for every 10 persons or fraction of that number occupying the accommodation.

Building Standards

The *Building Act 1993*, Building Regulations 2006 and Building Code of Australia provide for minimum standards for all residential properties including private rental properties and rooming houses.

Rooming houses are covered under provisions for class 1b and class 3 buildings. A class 1b building is a boarding house, guest house, hostel or the like where the total area does not exceed 300m² or not more than 12 persons reside. A class 3 building is a residential building, other than a single dwelling or block of sole occupancy units (where each are single dwellings) which is a common place of long term or transient living for a number of unrelated persons (eg. a boarding house, hostel, backpackers, hotel etc.).

Private rental properties are covered under provisions for class 1a, class 2 and class 4 buildings. A class 1a building is a detached house, row house, town house, terrace house or villa unit. A class 2 building is a building containing sole-occupancy units (eg. apartments, block of flats). A class 4 building is a dwelling in a non-residential building (eg. a house attached to a shop).

The *Building Act 1993*, Building Regulations 2006 and BCA cover issues relating to:

- Emergency lighting
- Clear, functional and accessible pathways to exits
- The location and number of exits
- Installation of smoke hazard warnings
- Fire prevention and fire fighting equipment and building features
- Safe utilities and hygienic services
- Ventilation
- Requirements for reviews of fire and safety services and equipment
- Fire hazards.

However, with the exception of standards for smoke detectors, fire sprinklers and pool safety fencing, these standards are not retrospective. They apply to new buildings constructed or renovated after their introduction or where the building’s use was substantially changed.

Under the existing legislation any works undertaken to convert a building from a single occupancy dwelling or non-residential building to a rooming house would constitute a substantial change of use and require a building permit and a new occupancy certificate from a building surveyor.

The mandatory fire safety requirements for all rooming houses are that smoke alarms must be hard-wired as per Australian standards. From 14 June 2009, all Class 3 buildings with two or more storeys also had to install automatic sprinklers.

All rooming houses and apartment blocks must also maintain their essential safety measures (an item of equipment, form of construction or safety strategy required for the safety of persons using the building). In addition, all rooming houses and apartment blocks must ensure that all exits and any paths of travel to exits and any paths of travel on the allotment from exits to a road are kept readily accessible, functional and clear of obstruction so that egress from the building is maintained.

However, in addition to these standards, municipal building surveyors are able to make orders where there is an immediate danger to life or property.

The *Building Act 1993* empowers local councils to take enforcement action in relation to buildings to ensure compliance with these standards. This includes the power to make a building notice or order against a building that is unfit for occupation or is a danger to health, safety or life, regardless of time of construction.

Penalties apply for breaches of building standards. These range from on-the-spot fines, fixed fines of between five and 50 penalty units for specified breaches, prosecutions and building closure orders. Enforcement can be carried out by a municipal building surveyor or the chief officer of the fire brigade (CFA or MFB). A municipal building surveyor also has the power to prosecute an owner for failure to comply with the *Building Act 1993*.

Appendix 4: The Rental and Rooming House Market

The Rental Market: Trends

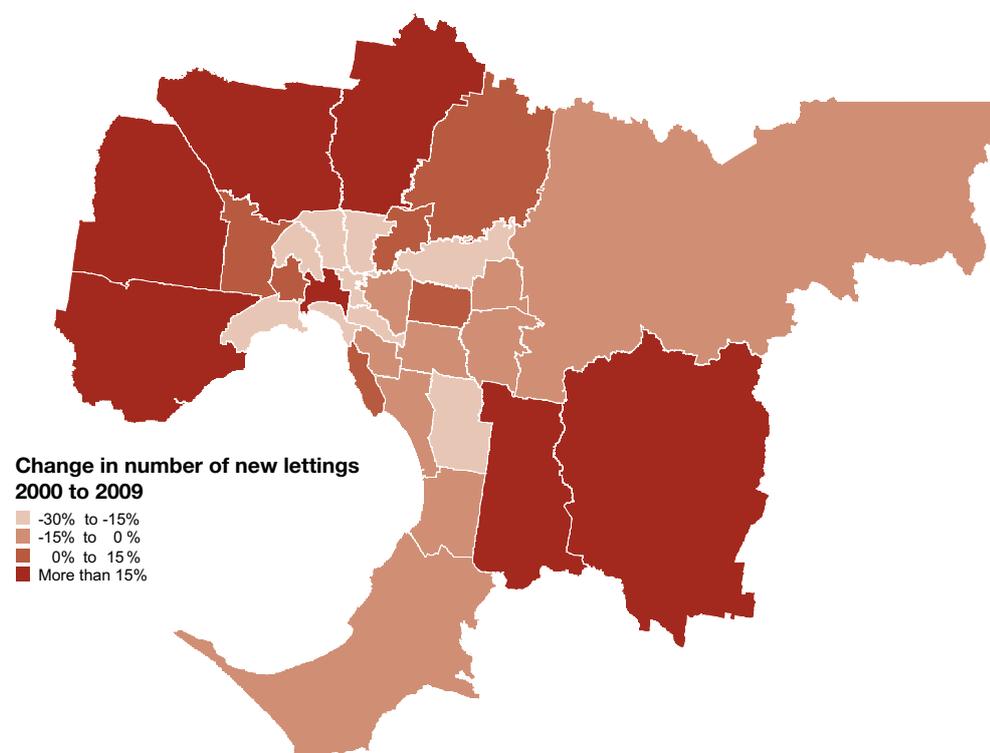
The Melbourne rental market is under significant pressure. With a large jump in rental prices over the 2006 to 2008 period, both vacancy levels and affordability levels are making it increasingly difficult for lower income earners to obtain private rentals.

Vacancy

Since 2005, vacancy rates are at “record lows” of below 2 per cent, in comparison to what the REIV suggests as a balanced benchmark of 3 per cent vacancy rate. With internal migration on the rise, along with an increasing number of overseas migrants and international students looking to enter the rental market, this growing population has resulted in a rental market increasing in price, but not in stock. Average turnovers of existing stock have decreased due to longer tenancies with people unwilling to leave existing rentals.

Changes in number of new lettings

(Source: DHS *Rental Report* March 2009)



Affordability Already Bad Getting Worse

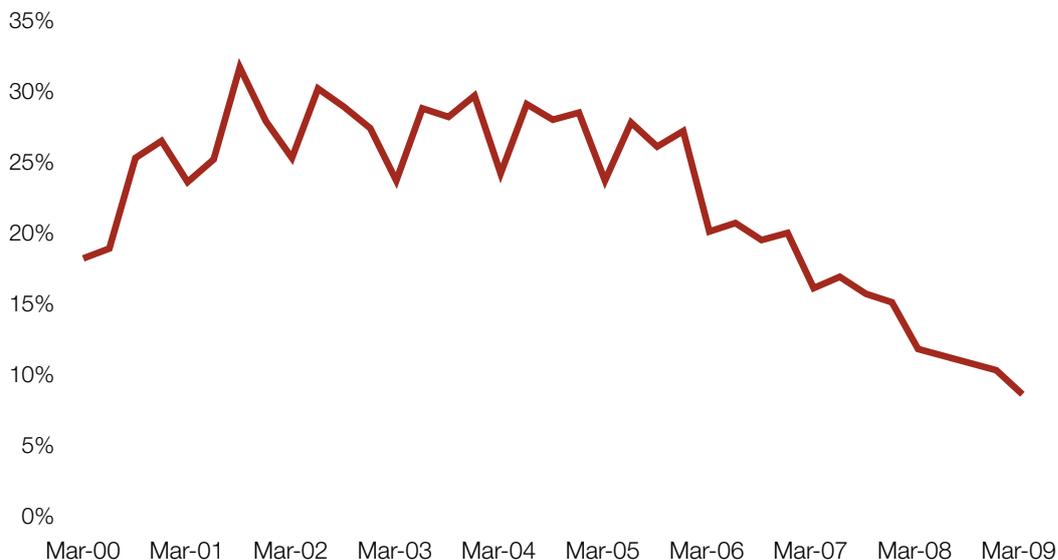
In such a tight marketplace, low-income households are particularly disadvantaged, both because of the lack of overall supply and also because of the tendency for the affordable supply that does exist to be rented to households on higher incomes. Singles on low incomes are at a significant disadvantage and low-income single workers cannot access rent assistance, unlike families with children.

The table below highlights that it is very difficult in the current market for households on statutory incomes to secure rental accommodation at a level that meets accepted definitions of affordability (i.e. rent less than or equal to 30 per cent of income).

Low Income Affordability

Percent of affordable new lettings – metropolitan Melbourne (for households on statutory incomes)

(Source: DHS Rental Report March 2009)



Rooming Houses – A Last Resort

At June 2009 there were 497 registered rooming houses in Victoria according to DHS data.

Estimating the number of unregistered rooming houses is problematic as figures rely on the anecdotal observations of service providers in differing regions. However, it has been suggested that there are as many unregistered rooming houses as there are registered ones.

What is undisputed, however, is the development and proliferation of the new model of for-profit rooming houses emerging largely as a result of the worsening rental crisis. This model is characterised by operators accommodating larger numbers of people in existing suburban homes, attracting those who cannot break into the private rental market. As a result, residents receive no rental history, continue to pay more than an “affordable” rental amount and have limited means breaking away from the model.

Appendix 5: Premier’s Media Release

New Blitz on Sub-Standard Rooming Houses – Wednesday, 15 July 2009

The Premier, John Brumby, today announced a blitz on rooming houses to improve the living conditions of many of Victoria’s most vulnerable community members.

Speaking at the launch of Sacred Heart Mission’s Journey to Social Inclusion project, Mr Brumby announced more than \$1 million would be spent rolling out 12 Consumer Affairs Victoria inspectors specifically trained and dedicated to rooming houses to step up enforcement efforts.

The Consumer Affairs Victoria inspectors will work with local council inspectors to:

- Undertake more inspections of rooming houses;
- Ensure rooming houses are properly registered; and
- Issue compliance notices to ensure rooming houses comply with minimum standards.

“Our Government is taking action on those predatory operators of intentionally sub-standard rooming houses who prey on some of the most vulnerable members of our community,” Mr Brumby said.

“Last year, our Government introduced tougher regulations to give local councils more powers to enforce standards in rooming houses.

“This new blitz – made possible by 12 new dedicated CAV inspectors – will ensure more rooming houses are scrutinised, more rooming houses are registered and more unscrupulous operators are made to comply with standards or face prosecution.

“There have also been allegations of criminal activity in some rooming houses. Our new inspectors will be on the look-out for this activity and will refer relevant matters to police.”

Mr Brumby also announced a new rooming house taskforce, which would meet for the first time this Friday and report back to Government within six weeks on a new set of minimum standards and enforcement of standards for rooming houses.

The taskforce includes representatives from peak groups such as the Victorian Council on Social Service, the Council for Homeless Persons, the Municipal Association of Victoria and the Real Estate Institute of Victoria, as well as housing providers.

In launching the Journey to Social Inclusion project, Mr Brumby praised Sacred Heart Mission for taking new action in tough global economic times to support homeless Victorians.

“Sacred Heart Mission’s Journey to Social Inclusion will support up to 40 chronically homeless people on the path to rebuilding their lives,” Mr Brumby said.

“Our Government is providing \$300,000 to support this pilot project, which will see homeless people given intensive intervention to tackle their housing, health and social issues so they can regain their feet and participate fully in their local community.”

The Minister for Housing, Richard Wynne, said the Brumby Labor Government was taking a range of actions to improve living standards for vulnerable Victorians, from enforcing better standards in rooming houses, to providing greater housing choice.

“The Brumby Labor Government and the Rudd Federal Government combined are investing more than \$2 billion to build 7000 new affordable homes,” Mr Wynne said.

“Our Government is working on a new long term homelessness strategy that sets the goal of halving homelessness and providing a place to stay for all rough sleepers by 2020, in line with targets set at the Council of Australian Governments.”

Mr Wynne said the Brumby Labor Government had also made available through the Victorian Property Fund \$13 million to purchase properties for quality rooming house accommodation where it is needed most.

He said a further \$17 million in maintenance funding from the Commonwealth Nation Building and Jobs Plan would also help to improve rooming house and singles accommodation across inner-Melbourne.

“The Brumby Labor Government is taking a no-tolerance approach to rogue operators of rooming houses,” Mr Wynne said.

“There is no room in Victoria for the kind of treatment some shonky landlords have practised.

“Not only will their unacceptable behaviour be more strongly policed, this government is opening up more housing options by increasing supply, forcing them to shape up or get out.”

Appendix 6: Summary of Recommendations

Standards

1. State Government immediately establish additional legislated minimum standards for rooming houses, including:
 - Locks on toilet and bathroom doors
 - Fire-safe locks on bedroom doors
 - Provision of a working double power outlet in each bedroom
 - Window coverings in each bedroom
 - Fire evacuation plan
 - Power overload protection.
2. In conjunction with other recommended reforms, State Government to phase in the introduction of other additional standards after a new regulatory system is in place, with consideration given to including as minimum standards:
 - Periodic gas and electrical safety checks
 - Appliance upgrades to higher levels of water and energy efficiency
 - Installation of hard wired smoke detectors in each habitable room
 - Minimum common areas – living area and kitchen/meals area.
3. State Government establish a targeted program for registered rooming house operators to improve the thermal efficiency of premises and upgrade with more energy and water efficient fixtures and appliances (eg shower heads, insulation, draft-proofing).
4. State Government include references into the RTA to identify other relevant legislation regarding rooming house standards with which compliance is required (eg *Health Act 1958*, Building Code of Australia), with a view to providing rooming house operators access to all necessary standards in one identifiable piece of legislation.
5. State Government require rooming house operators to secure a compliance certificate for *Health Act 1958* and Regulations as well as Building Regulations to evidence that premises meet legislated standards prior to being able to lawfully operate a rooming house in Victoria.
6. State Government initiate an information campaign targeted at operators, owners and real estate agents of premises used as private rooming houses so that all parties are aware of their responsibilities regarding existing standards and their liabilities and penalties where standards are not met.

Compliance and Enforcement

7. State Government increase penalties and fines within the RTA to at least that equivalent to other comparable legislation operating in the sector (eg the *Public Health and Wellbeing Act 2008*) to act as an appropriate deterrent.
8. State Government expand the powers of the Director of Consumer Affairs Victoria to initiate investigations and a range of legal actions including compliance action under the RTA in her own right. Where it can be established that it is in the public interest to address unlawful practices by particular operators, representative actions be available.
9. State Government consider legislative change to allow for third-party action to be taken under the RTA in relation to rooming house issues where a representative body can establish standing before VCAT.
10. State Government expand the powers of CAV inspectors in respect of rooming houses to include:
 - Providing inspectors with the power to enter non-residential rooms in rooming houses for the purposes of assessing compliance with the RTA
 - Delegating powers to investigate alleged breaches under the *Health Act 1958* and regulations with respect to rooming houses when working in conjunction with local government. Protocols would need to be developed between CAV, MAV and DHS to around the application of this power.
11. Enforcement agencies to work with homelessness services and tenant advocacy groups to develop appropriate communication strategies to assist residents to understand enforcement action and any impact it may have on their residency.
12. State Government initiate action in collaboration with the Australian Tax Office, Centrelink and the Australian Securities Investments Commission to investigate the operations of unscrupulous rooming house operators eg misuse of resident Centrelink funds and failure to declare income
13. State Government provide fire services (MFB and CFA) with legislative powers to require immediate rectification action when breaches of fire safety standards are identified in rooming houses.
14. State Government establish as part of the Estate Agents (Professional Conduct) Regulations 2008 a clear duty for real estate agents to notify Local Government where they reasonably believe that a property managed through their agency is being used as an unregistered rooming house. REIV to incorporate information regarding rooming house standards and registration as part of the ethics and property management components of its continuing professional development training.

Registration

15. State Government introduce a system of registration for rooming house operators in Victoria through the Business Licensing Authority. As a result, to operate a rooming house legally in Victoria premises must be registered with local government and operators must be registered with State Government. This system will include sanctions against unregistered operators and reflect increased penalties for non compliance with other applicable legislation operating in the sector (eg the *Public Health and Wellbeing Act 2008*).
16. State Government establish a state-wide register of registered rooming houses and provide this to agencies requiring this information to fulfil their accommodation and housing related responsibilities.
17. State Government lead the development and implementation of a best-practice model for local government registration and compliance of rooming houses.
18. State Government amend the Housing Establishment Fund Guidelines to require that funding for crisis housing can only be utilised in legally registered rooming houses. This will be phased in to coincide with new registration system.
19. State Government work with the Commonwealth to ensure that deductions from income support payments (or other forms of statutory assistance) are not directed to operators of unregistered rooming houses.

Supply

20. State Government review the current policy position requiring leverage of 25 per cent from registered housing associations in relation to projects housing clients on very low incomes and/or with complex needs with a view to establishing a more nuanced policy approach which will facilitate the development of more community-managed housing stock targeting low-income singles.
21. State Government work with community housing providers and the REIV to establish a not-for-profit managed model of leased rooming houses as an alternative market option. Such a model would have community based providers establishing small rooming houses in leased premises offering accommodation at reasonable rents.
22. State Government develop a package to respond to families with children in housing crisis which should include:
 - A priority allocation of 200 additional properties to community housing providers as part of a one off, time limited, families response
 - Assertive outreach to identify families in rooming houses and redirect them to more suitable housing responses
 - Targeted brokerage to assist families with low support needs access private rental market (see below).
23. State Government develop a targeted private rental assistance package to help rooming house residents who are unable to access social housing. The program would help this group to establish affordable tenancies in the private rental market. It would target rooming house residents who are identified as able to sustain a tenancy with limited assistance in the form of rental information, brokerage, start-up costs and time-limited assistance.

24. State Government create new accommodation options by expanding stock of not-for-profit rooming houses through a dedicated singles housing purchase program or new developments.
25. State Government work with the Commonwealth to prioritise private sector investment facilitation models which will encourage new approaches to low-income singles accommodation.

Managing Implementation

26. State Government deliver a clear policy framework and implementation timetable for the immediate and longer term regulatory changes proposed in this report. The timetable should be framed to allow sufficient time for the rooming house industry to adjust to new regulatory requirements and for safeguards for residents to be put in place. It should, however, be no longer than strictly necessary given the unacceptable practices currently occurring in the market.
27. State Government develop protocols for local government to use with homelessness service providers, other community support services and DHS regions to manage rooming house closures.
28. State Government legislate protections for residents to prevent summary eviction by a property owner where the operator of a leased rooming house defaults on their lease. Such protections should allow residents to remain in situ until relocation or orderly closure process can be established by ensuring that the owner of the property is responsible for the continuing residency arrangements.
29. State Government explore a range of alternative accommodation responses with the community sector including:
 - Trial of a community hotel model in conjunction with community housing agencies
 - Identifying and encouraging opportunities for more innovative uses of Housing Establishment Funds to target solutions for private rooming house residents.
30. State Government continue a dedicated interdepartmental committee to implement the response to unregistered rooming houses. This committee should develop a strategy for ongoing engagement with the industry and sector stakeholders who have contributed to the formulation of this report which includes quarterly updates on progress towards implementation of these recommendations.
31. State Government provide support to the Registered Accommodation Association of Victoria to develop a revised code of conduct for members in light of the regulatory changes proposed in this report.
32. State Government establish a pilot community development project targeting residents in registered rooming house properties in conjunction with the Registered Accommodation Association of Victoria and relevant community services agencies.

Glossary

BA	<i>Building Act 1993 (Vic)</i>
BCA	Building Code Australia
BLA	Business Licensing Authority
CAV	Consumer Affairs Victoria
CFA	Country Fire Authority
DHS	Department of Human Services
HEF	Housing Establishment Fund
HA	<i>Health Act 1958 (Vic)</i>
HPA	Health (Prescribed Accommodation) Regulations 2001
MFB	The Metropolitan Fire and Emergency Services Board
NAHA	National Affordable Housing Agreement
PHWA	<i>Public Health and Wellbeing Act 2008 (Vic)</i>
PHW	Public Health and Wellbeing Regulations
REIV	Real Estate Institute of Victoria
RTA	<i>Residential Tenancies Act 1997 (Vic)</i>
TUV	Tenants Union of Victoria
VCAT	Victorian Civil and Administrative Tribunal

