

REPORT ON PROCEEDINGS BEFORE

PORTFOLIO COMMITTEE NO. 2 - HEALTH

INQUIRY INTO CLEAN INDOOR AIR

CORRECTED

At Macquarie Room, Parliament House, Sydney, on Thursday 11 June 2026

The Committee met at 10:15.

PRESENT

Dr Amanda Cohn (Chair)
The Hon. Mark Buttigieg
The Hon. Susan Carter (Deputy Chair)
The Hon. Greg Donnelly
The Hon. Emily Suvaal

CORRECTED

The CHAIR: Welcome to the fourth hearing of the Committee's inquiry into clean indoor air. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today. My name is Amanda Cohn, and I am the Chair of the Committee.

I ask everyone in the room to please turn their mobile phones to silent. Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of these procedures.

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Ms LISA HARRINGTON, Deputy Secretary, School Infrastructure, NSW Department of Education, affirmed and examined

Ms MARY NOY, Executive Director, Health, Safety and Staff Wellbeing, NSW Department of Education, affirmed and examined

Mr DEAN SLATTERY, Executive Director, Asset Management, School Infrastructure, NSW Department of Education, affirmed and examined

The CHAIR: Thank you for making the time to give evidence today, especially for a second time. Would you like to start by making a short opening statement?

LISA HARRINGTON: I would also like to acknowledge that we're on the homelands of the Gadigal people of the Eora nation and pay my respects to Elders past and present. The Department of Education's infrastructure portfolio covers around 2,200 schools across New South Wales and we work proactively to ensure that they are safe places for our students, staff and the broader school communities. The department uses a risk management approach to identify hazards early and reduce the likelihood of injuries, accidents and illnesses in schools and workplaces. I am pleased to be joined today by my colleagues, Dean Slattery, who is responsible for asset management across our school sites, and Mary Noy, who leads our Health, Safety and Staff Wellbeing team.

I would like to make a few comments about our Clean Air Schools program, which we discussed when I appeared before you in April this year. I can confirm, and you will no doubt have seen, that this report has been published on the department's website. It is important that I put on record that the report found the surveyed classrooms remained largely within the relevant thresholds. This study did not find that public school classrooms are unsafe. Air quality in schools is one of a number of factors that contribute to a productive teaching and learning environment, which is why the department initiated this joint initiative with the University of New South Wales to monitor air quality in a random selection of New South Wales public schools during 2023 and 2024.

I will acknowledge that there were some limitations with the study and these are acknowledged in the report. These included the relatively small sample of 59 schools. The study also monitored only one classroom per school, meaning we cannot conclude that the study was representative of all classrooms across a school or indeed the State. And I note that, while this study was only conducted in public schools, the issue of air quality is not one confined to public schools.

Acknowledging these limitations, the study did present some interesting findings that we are now following up in targeted assessments at selected schools to determine what additional measures are needed. For example, we are currently working with schools where isolated or short-term exceedences of certain indicators were identified. We are undertaking further reviews and testing at these schools, including testing in other classrooms and during different times of the day. It is important to note that these assessments are being undertaken by independent environmental hygienists. They are experts in this field and we will follow their recommendations and implement any improvements where required.

There were a number of findings that I will take a moment to highlight and I will speak to some of the actions we are taking. As the report notes, some classrooms that had mechanical ventilation did experience CO₂ levels above the threshold. This indicates that any solution we look to implement will require a multifaceted approach. As per the report's recommendations, we are increasing awareness of the importance of air quality in schools and providing continued guidance to our school staff on the need for maintaining good ventilation and fresh airflow. During term 1 this year, we reissued ventilation advice to all New South Wales public schools, highlighting the need to prioritise natural fresh air and ventilation in classrooms.

In addition, our asset management teams that work closely with schools are continuing to proactively identify and implement improved ventilation measures where required. The report made a number of other medium-term and longer term recommendations. These are currently being reviewed and advice will be provided to government for consideration. For example, there was a recommendation to integrate air quality awareness into the curriculum. As you would be aware, the New South Wales Government has led significant curriculum reform in recent years. It has been done in close consultation with the profession, who are experts in this area.

Decisions around further changes would not be automatically implemented without further consideration and consultation with the profession. I can confirm we are reviewing the operation and settings of existing mechanical ventilation systems, and considering whether fresh air activation thresholds should be adjusted to improve ventilation. I note that the study found both indoor and outdoor measurements largely remained below air quality thresholds, and that school buildings provide a protective effect. I would like to conclude my opening statement with a few comments on our commitment to ensuring continued safe learning and working environments for students and school staff alike.

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The department has recently undertaken a review of all of its work health and safety policies and procedures. We are expanding the capacity and capability of our health and safety adviser roles. These staff provide vital on-the-ground support to schools to manage any hazards early and to reduce the risk of any harm. We are making these staff more accessible to our schools, having significantly reduced the average number of schools each adviser manages, from around 65 schools down to 25 schools. Thank you for allowing me to make this statement. We trust this information is helpful and we welcome any questions that you have.

The CHAIR: I have a number of questions about the *Clean Air Schools Program: Final Report*, but I did want to place on record at the outset my appreciation that the report has been made publicly available in full since our last hearing. There's obviously a lot of community interest in the report, and the Committee is significantly interested in it. I really appreciate that approach to transparency. Thank you. You've mentioned in your opening statement some of the seven recommendations, and it's pleasing to hear that the low-hanging fruit, those immediate actions, are already underway. You talked about some of the medium-term actions currently being reviewed. I'm specifically interested in the recommendation around acceleration of mechanical-filtered ventilation installation and what stage of consideration that's up to.

LISA HARRINGTON: Sure. Dean can talk to that in more detail. What we're doing now, as the report has indicated—there was some short-term exceedences in some schools, so our priority right now is just to understand that better. Mechanical ventilation has been implemented in other instances, particularly where it doesn't make sense for teachers to open the windows—so in very, very cold climates, aircraft noise, that sort of thing. It is something that we already do, case by case, when it makes sense. Our priority right now is to understand and do the extra testing.

We are doing 15 classrooms in those schools that only had one classroom before. If mechanical ventilation is the right thing there, we will implement it. As I said, we already did put mechanical ventilation in. I can check the number for you, but there were quite a few schools we assessed during COVID, and there were some instances where mechanical ventilation made sense. We have done that and we'll continue to do that case by case with these particular schools. In 2026 all AMUs are having a look at ventilation off the back of this report, understanding what current measures are in place, whether they're effective or not, and what additional action we need to take.

The CHAIR: The report found 17 schools with carbon dioxide above the 850 parts per million threshold, which isn't optimal for student learning most of the time. You noted the limitations in your opening statement that this was only a study of 59 schools. I understand there was an attempt at random sampling, but if there's no reason to believe that these 59 schools are particularly bad, this is obviously concerning. There may be a significant number of other schools with levels of carbon dioxide that aren't optimal for student learning. Is there any work now being done to assess or monitor the air quality at additional schools?

LISA HARRINGTON: Yes, through our asset services officers, who already have that close engagement with schools. Their job is to make sure the facilities are fit for purpose for great teaching and learning. It is a process that we are doing this year. Basically, there are several steps that they're taking. They need to understand from a fresh air perspective, because we do know that the fresh air is important. But in some classrooms it's not as easy to ensure the fresh air, so that needs to be assessed—also the type of heating and cooling. We have had schools that have, through P&C funds or through own school funds, installed their own heating and cooling that we're not aware of in the system, and that's part of what we're doing in terms of removing a lot of unflued gas heaters that actually aren't being used anymore because they've been replaced. Then also just to identify what additional measures are needed—that's a process that's happening this year. As I said, it's already something that is on the radar of the ASOs in their engagement with schools, but it's being ramped up off the back of these findings.

The CHAIR: I have a particular question about Georges River College Penshurst girls campus, which had a significant nitrogen dioxide pollution, and the report attributed that to a number of possible outdoor pollution sources. What is specifically being done to investigate that further or address it?

LISA HARRINGTON: I will ask Dean to talk to this specifically.

DEAN SLATTERY: We've engaged an independent hygienist. They were out there, actually, on 10 June and they've done a formal walk-around assessment of what they're physically seeing. Off the back of that, we're now engaging them to do actual internal nitrogen dioxide assessments of classrooms and also the external facility, to try to understand what those factors are that have caused those elevated temp readings and also to validate the data in the existing report.

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The Hon. SUSAN CARTER: Good morning and thank you all for being here. I am just wondering, when you're looking at air quality in schools, what mapping you've done against academic results in schools with poor air quality.

LISA HARRINGTON: When we initiated this study, it was because there wasn't a lot of good evidence. Obviously, ventilation was very topical during COVID, we knew, because of transmission of diseases, but that was part of the reason we initiated this study with the University of New South Wales: to get greater evidence. We know, whether it's classrooms or any buildings, that fresh air is good for you. But to actually understand the level of it was part of the reason we went into this partnership with the University of New South Wales.

The Hon. SUSAN CARTER: Sorry, I don't think you've answered the question. What mapping have you done with respect to academic outcomes and air quality?

LISA HARRINGTON: We haven't done mapping in relation to academic outcomes and air quality. We have sought to understand the evidence better in terms of the importance of the current levels of air quality in classrooms, which is why we did the University of New South Wales—but we have not mapped academic outcomes with learning, no.

The Hon. SUSAN CARTER: Do you work with Health to develop protocols in terms of how often HVAC and mechanical ventilation systems in schools should be cleaned?

LISA HARRINGTON: Whether it's health or other guidelines—National Construction Code—we follow the appropriate guidelines. We don't set them; we follow them. Our Education Facilities Standards and Guidelines, which is how we build our new schools and upgrade schools, follows and reflects the relevant guidelines.

The Hon. SUSAN CARTER: The question went to maintenance of existing systems.

LISA HARRINGTON: I can ask Dean to talk about the maintenance.

DEAN SLATTERY: I can probably answer that, Deputy Chair. We do what we term proactive servicing of all air-conditioning systems on an annual basis, and that includes HVAC or split systems. Once a year they are cleaned, inspected and, if filter cartridges require replacement, they are replaced.

The Hon. SUSAN CARTER: What's the basis for thinking that annual inspection and cleaning is sufficient?

DEAN SLATTERY: It was developed at the start of this contract based off the original guidance. That was three years ago. I can inspect and see if that requires further development.

The Hon. SUSAN CARTER: Sorry, guidance from whom?

DEAN SLATTERY: It would have come from the Department of Health at the time. I wasn't the author of the contract, but the previous ED who did manage this contract was seeking guidance on appropriate timings, whether it be air-conditioning servicing or back flow prevention, TMVs—whatever the statutory requirement was, we were following.

The Hon. SUSAN CARTER: I'm just reflecting on what we've seen in hospitals with respect to HVAC recently. Is there a procedure for reviewing these standards at certain intervals?

DEAN SLATTERY: We're currently in the end of life of this contract, so we are going through a new process of a new contract to come out and we're reviewing all those standards as we speak. There's a working group on that now.

The Hon. SUSAN CARTER: This is a contract for cleaning and servicing?

DEAN SLATTERY: For maintenance.

The Hon. SUSAN CARTER: It isn't a part of the regular school maintenance that the filters are cleaned and checked once a month?

DEAN SLATTERY: They are checked once a year.

The Hon. SUSAN CARTER: They are checked once a year by an external provider?

DEAN SLATTERY: By an external party. We engage an external service provider.

The Hon. SUSAN CARTER: In terms of the total budget for HVAC, what sort of percentage does that maintenance contract represent?

DEAN SLATTERY: I don't have that particular number. I'd have to take that on notice.

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The Hon. SUSAN CARTER: If you could provide that on notice, I would be very grateful.

DEAN SLATTERY: We can. If I could come back, we can drill that down for you.

The Hon. SUSAN CARTER: Is the energy cost of mechanical ventilation and air conditioning a separate item in school budgets or is it part of the general energy cost?

DEAN SLATTERY: Yes, it's part of the general energy. The energy bills were centralised a few years ago. Schools originally paid their own electricity bills, but that electricity consumption has now been centralised. It's paid centrally by the department. I don't know if they break that up.

The CHAIR: For the schools that demonstrated levels of carbon dioxide that weren't optimal, as well as the Georges River school with nitrogen dioxide, what communication has taken place with parents and staff?

LISA HARRINGTON: I'll ask Dean. He's had conversations with the school.

DEAN SLATTERY: We shared an email and the report with all 59 schools. The three in particular that we talk about, which is Hebersham, Mayfield East and Condell Park High School, were sent direct communications. I actually phoned the principals of those schools myself and we had conversations. Off the back of that, we are going off and doing validation of that data to try and understand what that looks like. As Lisa was saying, we've engaged again an independent hygienist for all three of those schools. During the previous April school holidays, we went in and we've done assessments of the classrooms, size of windows, type of windows, numbers of windows, any heating or cooling sources that are in the rooms—we've put in some CO2 monitors, and we've got some baseline data with no children in the rooms while they were vacated. We're now coming back this term and into the next term to do 15 classrooms in each of those schools while the children are there, so we can get a better reading and understand. I think that runs over five days over 15 classrooms on a rolling basis.

The CHAIR: It's good to hear about the additional monitoring. Just to bring you back to the specific part of the question that's about communication, for staff at those schools, for parents of kids at those schools, have they been directly communicated with about the findings of the report and what's happening?

DEAN SLATTERY: Not to my knowledge.

LISA HARRINGTON: We've communicated with the principal. We'd have to come back to you in terms of the communication that the principals have with staff or the school community.

The CHAIR: Mr Slattery, you mentioned earlier the question of the unflued gas heaters, which also came up at a previous hearing. In the answer to one of my questions that was taken on notice, I just wanted to clarify the answer because it was a bit confusing. The answer was that unflued gas heaters are being progressively removed from public schools in instances where the heater reaches the end of its useful life and where air conditioning is installed. Does that mean they're only being replaced if they're at the end of their useful life and air conditioning is being installed? As in, if there's no air conditioning, you're then adding in another gas heater, or have I misunderstood that?

LISA HARRINGTON: I'm happy to start with that and then Dean can jump in. If it says "and" then we don't need both of those things to be true. If it is at the end of its useful life—actually, importantly, a change that we've made recently is that if it is not working effectively, we will not try and find a part to fix it and keep it running. We will replace it. That's a recent change. What I was mentioning before is that if there's an alternative heating and cooling source and actually it is redundant, which is what we're finding at the moment when we're going into schools—we may not be aware that heating and cooling has been put in through the school or through P&C funds, and the gas heater is coming up in our numbers, but it's actually not being used. In those instances, we're taking them out. We don't need to pay for that to be maintained or checked on once a year. We'll get rid of it—also, if there's an alternative heating and cooling source. It may just be in some instances where that heater is still required, particularly where we're looking at mechanical ventilation in a very cold climate, that's where we would be looking to perhaps put in mechanical ventilation just to assist with the ventilation in that space.

The CHAIR: Coming back to the report, there was a very cute suggested education campaign with Fresh Air Friends. Is that something that's being considered?

LISA HARRINGTON: Yes, that's what I was referring to in the opening statement. I think it is cute, but we would really defer to our education colleagues on the best way to communicate messages to children. As I mentioned, we've tried really hard. There's always a tendency when something happens to add it to the curriculum and we're trying to be really conscious about that. We need to have more discussions with the teaching profession around what is the best way to ensure that teachers and kids understand the importance of air quality. We're not rushing to implement that immediately.

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The CHAIR: Understood. Have you made that request to the curriculum experts to consider the best way to communicate?

LISA HARRINGTON: No, not yet.

The Hon. EMILY SUVAAL: Thank you very much for appearing and for your opening statement, and also for the comprehensive report about the Clean Air Schools program. I wanted to ask a question around some of the limitations of that study, which found there were some issues with students or staff intentionally or accidentally interfering with some of the indoor sensors, such as power being turned off or sensors being moved. Has there been any work done to understand whether that has occurred in any of the schools where we saw any of the anomalies or different results?

LISA HARRINGTON: Yes. Obviously, it's mentioned in the report, but it is coming up in some of the conversations that we're having with the principals in terms of that observing behaviour. We are conscious of that limitation, which is why we are going into those schools that did have those short-term exceedences to do more testing, to make sure it's in multiple classrooms so we can get a better understanding. So yes, it is something that we're aware of from the report, but also from our engagement with schools.

The Hon. EMILY SUVAAL: In those schools that were identified as having exceedences, I think Mr Slattery mentioned there is more work being done now to go in and better interrogate some of the data around why that might be the case and, if needed, expand to further air quality testing. Is that right?

LISA HARRINGTON: That's right. It was just one classroom per school, so in those three schools that had some short-term exceedences we are doing 15 classrooms. That will help us understand. It will help validate the results basically.

DEAN SLATTERY: Yes, and probably guide us with next steps.

The Hon. EMILY SUVAAL: In terms of the immediate actions that were recommended in the report, obviously the first one was about implementing regular reminders, explaining why and how to ensure adequate ventilation, and I think you mentioned in your opening statement that there had been a communicate out to all teachers. Was that all teachers across the State or just the ones in the schools?

LISA HARRINGTON: We just communicate with our public schools. We don't communicate with schools across the State.

The Hon. EMILY SUVAAL: But all public schools across the State, not just the ones that were part of this survey?

LISA HARRINGTON: That's right. We have regularly issued that advice, particularly after COVID when it became very clear how important ventilation is for healthy learning but also for disease transmission. We've committed to do that every term. We are just now having a rhythm of making sure that every term we include it. We have a staff notice board, and that's one of the things that we'll be making sure of. But, importantly, there's a lot of information that comes at schools. The role of the asset services officer is really important. We want our teachers to be focused on teaching the kids rather than worrying about facilities, so the role of the ASO and Dean and his directors working with the asset management teams is to make sure that they understand what to look out for, what support to provide, what questions to ask, and then to come back so we can get the best controls in place.

The Hon. EMILY SUVAAL: When you mentioned the ASOs—the asset services officers—were they the additional staff that you mentioned or is that in addition to those other roles?

LISA HARRINGTON: The work health and safety advisers are different. Over the last couple of years we've increased the number of asset services officers. There is now one ASO for 10 schools. It used to be one to 16 or 20, I think it was.

DEAN SLATTERY: Yes, it was higher.

LISA HARRINGTON: For the work health and safety advisers, we're doing a similar thing. It used to be one work health and safety adviser for 65 schools and now it's about one to 25 schools. A lot of our schools are quite geographically dispersed, so it just allows them to have a closer relationship with the schools and provide more useful support.

The Hon. EMILY SUVAAL: Has air quality become—obviously there's a suite of things that you need to be mindful of as a health and safety adviser or an asset services officer. Was it previously embedded in their program of works they were required to do?

LISA HARRINGTON: I will ask Ms Noy to talk to that.

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MARY NOY: The role of the work health safety adviser is to support schools and/or workplaces to identify all work health safety hazards. There's obviously a myriad of those in the workplace. If, for example, in a school there might be a hazard identified for mould or something like that, they would work with that school to identify appropriate controls, which may be looking at things like ventilation and air quality. What our team would do, for example, with the messaging that is shared each term through the staff notice board, is they'd reinforce that messaging on the ground with the schools when they're visiting those schools, if those hazards were a concern or identified in their work health safety risk registers.

The Hon. EMILY SUVAAL: Given the reported exceedences in the schools versus the number of assets managed within the portfolio, what assurances can you provide parents sending their kids to public schools across the State about the air quality in the classrooms?

LISA HARRINGTON: As I said in the opening statement, we're very committed to making sure that we've got a really healthy, high-quality teaching and learning environment. We set a very high standard in public education. We have a very large asset management team. Dean oversees a very large team that works front line with schools every day, that tries to take the burden of responsibility off teachers and principals thinking about the facilities so we can manage it all centrally. As I said at the beginning, we initiated this study ourselves because we wanted to understand it better. It allows us to understand the behaviour. Certainly, at the time during COVID, the instructions were to open a window. We know that doesn't make sense in all classrooms for various reasons—either it's very cold, there's aircraft noise, there's traffic noise. We initiated this study to understand the behaviour and understand what controls work for each classroom and each school. That's the process we're going through now.

The CHAIR: Mrs Carter asked an earlier question about research comparing students' performance relating to ventilation. I understand there are some independent academics interested in that question as well, but they're also interested in sickness absences. I understand that the data for attendance is readily available, but not the sub-data for attendance based on whether it's sickness or not. Is there a reason that that's not readily available for the purposes of academic research?

LISA HARRINGTON: I'd have to come back to you on notice. That's not in my space, but I can come back to you on notice.

The CHAIR: I'd really appreciate that. I also have a question about the Cooler Classrooms Program—is that for Mr Slattery as well? It's my understanding that under that program, the outdoor air supply that's been nominated is six litres, which is half the minimum requirement of the Australian standard 1668.2. We had a significant amount of evidence two hearings ago about the potential value of that standard. I am interested to understand why Cooler Classrooms has got a different threshold?

DEAN SLATTERY: I wasn't around for the inception of Cooler Classrooms, but I can take it on notice and come back to you on it. If the industry or if the health standard is double that and that's correct, then we'd be looking at making measures to sort that out.

The CHAIR: Thank you. I'd appreciate that on notice. I have a number of similarly technical questions so perhaps in the interests of time, I'll submit those as supplementary questions in writing. They're probably also for your same colleague.

DEAN SLATTERY: Absolutely—happy to respond. Yes. He's not here anymore, unfortunately.

The CHAIR: For the questions that were taken on notice and the supplementary questions, the secretariat will be in contact with you about those. Thank you again for making the time to appear, especially twice before the same inquiry. It's really appreciated. It's very helpful for our work.

(The witnesses withdrew.)

CORRECTED

Mr TONY CHAPPEL, Chief Executive Officer, NSW Environment Protection Authority, sworn and examined

Mr ASELA ATAPATTU, Executive Director, Policy, Programs and Finance, NSW Environment Protection Authority, affirmed and examined

The CHAIR: Thank you so much for making the time to give evidence today. Would you like to start by making a short opening statement?

TONY CHAPPEL: I'll just open by acknowledging the traditional custodians and their ancestors of the land on which we meet today, the Gadigal people of the Eora nation, whose Elders have cared for Country here since Deep Time, and extend my respect to their Elders. The NSW Environment Protection Authority is the independent environmental regulator for New South Wales. We're responsible for protecting, restoring and enhancing the environment as well as helping the New South Wales community stay safe from pollution. We use a range of approaches to ensure this occurs, from licensing industry to implementing programs to better manage waste or pollution challenges, and education and compliance.

Air quality, be it indoor or outdoor, is linked with both environmental and human health outcomes. In New South Wales, we have multiple agencies, including the EPA, involved in managing specific elements of air quality. When it comes to ambient outdoor air quality, the EPA is the lead for the regulatory framework. EPA's role is to regulate sources of pollution in outdoor air that can enter indoor environments. This includes regulatory, communication and education measures to reduce emissions from industry, energy production, businesses, vehicles, fuels, non-road diesel combustion sources and household activities. The Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Clean Air) Regulation 2022 form the regulatory frameworks we use to minimise outdoor air pollution and emissions in New South Wales. The Act sets the legal and licensing frameworks, while the regulation sets specific enforceable technical limits and standards.

The Department of Climate Change, Energy, the Environment and Water leads monitoring research and forecasting for air emissions and air quality. Our clean air regulatory framework is supported by air quality monitoring across New South Wales with over 100 permanent air-monitoring stations. They produce daily air quality forecasts for the State, which enable vulnerable individuals to make informed decisions and reduce their exposure. For indoor air quality, which I know this inquiry is focused on, the EPA is not the lead. NSW Health provides health advice and guidance on indoor air quality issues and SafeWork manages indoor air quality in workplaces. I'm happy to take any questions.

The CHAIR: Noting that you're the lead agency for outdoor air and not indoor air, my question is about the regulatory framework for outdoor air in more detail. The context for that question is that this Committee is being asked to consider whether or not we need an enforceable regulatory framework for indoor air. I think it's helpful for the Committee to understand what the status quo is in New South Wales for outdoor air and potentially what elements of that are replicable or not replicable for the question of indoor air. In particular, in your opening statement you talked about the specific enforceable standards for outdoor air. Could you talk us through in more detail exactly how those are set, monitored and enforced?

TONY CHAPPEL: Absolutely. For point sources, we generally have a licensing regime which picks up the minimum standards that the clean air regulation sets for various activities. It is iterative in that licensing is not a licence to pollute up to a level. We work with each proponent and operator through time to improve those performance levels. Those are legally binding requirements and they're subject to monitoring, enforcement and, over time, improvement as practical or feasible technologies or approaches emerge or are available. The way to think about outdoor air quality generally is that there is a measurement level at the receptor or in the airshed that is part of the assessment, and then there are limits at the point source, or what you might consider the stack. If there is only one activity in a particular airshed, the stack limit is really the critical set of metrics. But in most airsheds where there are multiple activities, any assessment for an activity would involve technical standards that must be met at that point source and also any ambient air impact where any particulate or pollutant comes down and impacts the community. What would you add?

ASELA ATAPATTU: The national framework is probably the only thing that I'll add to that. Under the National Environment Protection Council Act, the Federal Government has a national environment protection policy which sets out a reporting framework for key pollutants. That's the national standard that is set across Australia. The regulatory activity of the EPA, through its regulatory mechanics that Mr Chappel outlined, is trying to get us towards those standards that the national Federal Government has set.

TONY CHAPPEL: There are obviously other metrics, like Australian standards and product standards, that come into play as well.

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The CHAIR: I'm interested if you have a view on, if enforceable standards were set for indoor air—for example, in public buildings—who the appropriate body would be to set those thresholds.

TONY CHAPPEL: I probably don't have a definitive view on that. If they're really about human health, it may be something Health should certainly be involved in. The regulator in a matter like that would just be something for government policy to determine. We would obviously implement whatever that policy was and support it.

The CHAIR: There has also been significant evidence and discussion around the question of air quality monitoring and the feasibility of doing that. Obviously, you're involved in significant air quality monitoring. You talked about point sources and ambient outdoor air. Do you have a view on the technical feasibility of widespread monitoring of indoor air—for example, for public buildings?

TONY CHAPPEL: Certainly for particular pollutants, I think it's very feasible. We use something called PurpleAir monitors, which are very cost-effective modular units that communities can have or individuals can have on their properties. They generally measure particulates, though. Some of the other contaminants for indoor air, such as fungi, mould or bacteria—I'm not really familiar with the technology there. I know carbon monoxide or other gases are relatively easy to monitor. I would probably have to take it on notice and get some technical advice about other options. Would you like to add anything?

ASELA ATAPATTU: Yes. Before you decide what technology is available, I think it's really important that we look at what it is that we should monitor for. You can't necessarily assume the pollutants we are looking at in the outdoor environment are relevant to the indoor, especially for pathogens, which we are not looking at in the outdoor environment because of the dilution effect. I think you had a submission from the Australian Academy of Science that is very useful in that they outline some of the very useful ways of thinking about how you would go about determining what those pollutants or pathogens are that you are going to look for. The second question would be looking at the technical feasibility of how cheaply or how accurately you could measure that.

The CHAIR: One of the particular pollutants of interest in an indoor context compared to outdoor is obviously carbon dioxide, because the source of the pollution is people in a room. Following up on your previous answer about the care needed to look at what we're measuring before we look at the technology, do you have a particular view on carbon dioxide monitoring—the feasibility and the utility?

ASELA ATAPATTU: Not necessarily. I'm aware of carbon dioxide use as a proxy for air circulation in indoor environments. I don't think the EPA has any particular views on the feasibility, because that's not an area that we work in.

TONY CHAPPEL: Perhaps just to add to that, air exchange or the volumetric metric around ventilation, particularly for sensitive receivers, is probably a pretty effective proxy for or alternative to direct measurement, if you can measure that. You've also obviously got opportunities to eliminate sources of other pollutants, not necessarily CO₂, but through removing sources of volatile organics and other indoor pollutants through the product standards and the building standards.

The CHAIR: I had a couple of questions about your engagement or otherwise with some Federal bodies and processes. Obviously the Federal Centre for Disease Control is very new. That's only just been legislated. Has there been any engagement with State and Territory regulators on air quality since the CDC was formed?

TONY CHAPPEL: I'm not sure about the timing around the CDC, but certainly through HEPA, which is the Heads of EPA's Australia and New Zealand, we engage regularly with enHealth, which is the environmental health forum for the public health agencies nationally. They've been progressing some integrated work on indoor air quality. I don't think it's been finalised and released yet, but it's imminent, and we've had some regular updates on that work. That's probably the main engagement that I'm aware of. I think our colleagues may have had some other officer-level engagement, either through NSW Health and then to the Centre for Disease Control. We're certainly aware of that report that they publish and we've engaged with that, but I don't think we have a regular dialogue.

The CHAIR: I have a similar question about the Australian Standards committee relating to wood heaters, which I understand an EPA representative is a part of.

TONY CHAPPEL: Yes.

The CHAIR: We've received evidence through this inquiry criticising the current standard, that it's not as stringent as those in other jurisdictions. Does the EPA support the current standard? What advocacy did you make through this process in terms of reducing particulate pollution?

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TONY CHAPPEL: I think, as you've mentioned, Chair, for a number of years the EPA has been active in the review of the Australian Standard and very supportive of improving that standard. I understand the new standard will come into effect in 2030, and that is something we've definitely been feeding into directly.

ASELA ATAPATTU: That's right. Yes, we are supportive of the standards that the new standard sets.

The CHAIR: While we're on wood heaters, I asked a number of questions at a budget estimates hearing last year about the ability of councils to enforce particulate pollution from wood heaters. I want to follow up on a couple of your answers. I think I was advised last year that the EPA had commissioned research to develop, test and recommend behaviour change communication concepts aimed at increasing the awareness of wood smoke health impacts and driving behaviour change. Can you provide an update of where that's up to?

TONY CHAPPEL: I don't think it's complete. It's certainly underway. We've provided some other guidance material for councils around how to use evidence in regulating excessive smoke.

ASELA ATAPATTU: Let me take exactly what the update since the budget estimates is. I know there is some behaviour change material on the website, but I just need to make sure that's updated since we were here at the last budget estimates. Let me take that on notice. The key element that Mr Chappel is referring to is that there was some guidance presented to the councils around how they can take video evidence, how to use that video evidence in helping doing compliance work on.

TONY CHAPPEL: There's a local government air quality toolkit that we've recently updated that aims to support environment officers in councils deal with air quality.

The CHAIR: You've accurately predicted my next question, which was about the local government toolkit. I'm interested in understanding the engagement you had with councils, or if there's any ongoing work to understand what their needs are in this space. The context for this is that I'm regularly contacted by constituents who haven't been able to have particulate pollution issues addressed successfully at a local level.

TONY CHAPPEL: It can be challenging to gather the evidence—particularly at night-time—of excessive smoke, but we do engage regularly with local government. I can get the particulars of the engagement around the air quality toolkit.

ASELA ATAPATTU: I don't have the particular information in front of me. We can take that on notice in terms of engagement.

The CHAIR: I'm really pleased that the toolkit exists. You've obviously done some important work in this space. I'm interested in understanding how that's been received, how it's being evaluated and what the next steps are in that space—is this going to be attrited?

The Hon. EMILY SUVAAL: Mr Chappel, you mentioned earlier the PurpleAir monitoring system. Could you explain a bit more about that for me and how one might go acquiring or getting a PurpleAir sensor to put on their house?

TONY CHAPPEL: Sure. We often provide them where there's a level of community concern about particulate impacts. There's some dust impact concerns around a goldmine in the Central West. We do a series of high volumetric air monitoring, but we also offer people the opportunity, if they want, in their own property to host one of these units. It provides data which we can then collate and interpret and provide in, basically, real time for the community, but they can see any dust in their own air. We've done that also in urban contexts around the Harbour Tunnel project where the communities had some concern about dust production. We put them in local schools. They can often form an adjunct to some of the science education as well, but the data source then is giving the community confidence about the air impact where the sensitive receivers are, in this case, children. They're very cost effective. If people have a concern about particulate pollution, they should report that to the EPA through the environment line or the website. We'll then work with the community on what the right set of solutions is to provide the right—if necessary, addressing the pollution, but also the assurance so communities can see that and have confidence in it.

The Hon. EMILY SUVAAL: These monitoring systems, they're usually installed in parts of the State where there are community concerns that have been raised. Is that the correct characterisation?

TONY CHAPPEL: That's right.

The Hon. EMILY SUVAAL: Are they the sort of things that can be put in areas for a certain amount of time? To monitor when there's a project happening like, for example, the Harbour Tunnel?

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TONY CHAPPEL: Yes, exactly. I'll take on notice the school. Certainly one of the public schools around the Harbour Tunnel project, we've installed one there. That'll be there for the duration of the project and then it'll likely be able to be removed.

The Hon. EMILY SUVAAL: That's data that anyone in the community can access?

TONY CHAPPEL: Yes.

The Hon. EMILY SUVAAL: How do we do that?

TONY CHAPPEL: We generally publish this through our website. I can get you the specific links for any particulate—

The Hon. EMILY SUVAAL: I'm sure I could just google "PurpleAir monitoring system" and it would come up for me.

TONY CHAPPEL: It should.

The CHAIR: Thank you very much for making yourselves available to the Committee. It's much appreciated.

(The witnesses withdrew.)

(Short adjournment)

CORRECTED

Ms TRINA JONES, NSW Rental Commissioner, affirmed and examined

Mr LEO PATTERSON ROSS, Chief Executive Officer, Tenants' Union of NSW, affirmed and examined

Ms ELOISE PARRAB, Policy and Advocacy Manager, Tenants' Union of NSW, affirmed and examined

The CHAIR: Good morning. I welcome to this hearing students from Sydney Girls High School who are doing legal studies. Thank you for your interest in the very important process of upper House committees. Thank you very much to our witnesses for making the time to give evidence today. Would any of you like to start by making a short opening statement?

TRINA JONES: Good morning, Chair and Committee members. I acknowledge the traditional owners of the land on which we meet, the Gadigal people of the Eora nation, and pay my respects to Elders past, present and emerging. Thank you for the opportunity to appear today as a witness on behalf of NSW Fair Trading. I also acknowledge and thank the renters who have shared their experience with this inquiry. In particular, I wish to personally thank Ms Watson for bringing together and bringing forward her lived experience and advocacy for better protections and the improved quality and safety of rental homes. NSW Fair Trading exists to ensure fair and safe marketplaces for goods, services and homes in New South Wales. As Rental Commissioner, I lead the regulation of Australia's largest rental market—more than one million rental properties, home to around one-third of the New South Wales population. Our responsibility is to deliver effective regulation of rental homes and to ensure they are safe, lawful and fit to live in.

Indoor air quality intersects with our work where conditions such as damp, mould, poor ventilation and inadequate maintenance affect whether a rental home is fit to live in. These issues are not isolated, and while they do not discriminate, they often impact the most vulnerable renters. They are matters we see regularly through complaints, inspections and compliance activity across the rental market. NSW Fair Trading receives around 290,000 customer contacts each year, many of which are handled through Service NSW. Of the approximately 160,000 contacts managed directly by Fair Trading, around 8,000 relate to complaints and inquiries about rental properties, with a significant portion concerning the standard and condition of rental homes.

Issues with property condition, being repairs and maintenance, are among the most common matters raised with us, constituting about 32 per cent of all matters in the past 12 months to April in terms of complaints and inquiries to Fair Trading. Under the Residential Tenancies Act, landlords must provide rental properties that are reasonably clean and fit to live in, including meeting minimum standards. These include requirements that properties be structurally sound, adequately ventilated, and not subject to significant dampness or water penetration. While tenancy law does not set explicit indoor air quality standards, property must also comply with other statutory health and safety requirements, including building legislation. As you would know, mould is one of the most prevalent concerns relating to the standard of rental homes. We hear from tenants, landlords, advocates and agents on this issue. It can be difficult to resolve quickly, as responsibility depends on cause. Where mould arises due to a failure to maintain or repair the property, the landlord is responsible.

Importantly, a landlord's obligation to ensure that a property is fit for habitation is an absolute one. While I acknowledge the complexity for landlords dealing with mould issues caused by building defects or common property issues, this does not displace their own responsibilities. It is also an offence to enter into a tenancy while deliberately concealing a significant health or safety risk, of which mould exposure could be one. In my time as Rental Commissioner, I have heard from renters about the difficulties they have faced in raising complaints with their landlord or agent. We know that renters have fears of having their tenancy ended as a result of complaining or raising issues too frequently or strongly about fundamental quality and safety issues. This has changed through the recent reforms brought in by the New South Wales Government that commenced in May 2025, which limit the reason a tenancy can be ended, improving stability and security for renters and reducing the fear of retaliation when reporting quality or safety issues.

From a regulatory perspective, we're already starting to see the benefits of this. In fact, our inquiries are down and our complaints are up, demonstrating to us that people are more confident to come forward. We set clear expectations for landlords and agents about their obligations and also make sure that they know they must retain a property in a reasonable state of repair, and we will act where those obligations are not met. Over the past year, NSW Fair Trading has undergone significant change to strengthen our focus and outcomes on improving the rental sector and the safety of rental homes. We've stood up the NSW Rental Taskforce, which has complemented this change with an investment of \$8.4 million from the Government to prevent an act on breaches of rental laws. In the past year from 1 July 25 to 4 June, the taskforce has issued about 400 penalty infringement notices and 300 warnings across the rental market.

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Alongside the enforcement, we're also getting the message out to the community. Our website visits have gone from 35,000 visits a month to over 350,000 visits a month, and when we've gone out and surveyed the community about whether they understand their rights and responsibilities, we've seen an 85 per cent response rate and a strong support for rental reforms in New South Wales. There's more legislative reform underway, including how we can increase protections and considerations for shared accommodation occupants, and also an investigation into minimum energy standards in New South Wales. Through compliance, enforcement, education and reform, our objective is very clear: to improve the safety, quality and liveability of rental homes in New South Wales. Thank you, Chair. I welcome the Committee's questions.

LEO PATTERSON ROSS: Thank you to the Committee for the opportunity to present today. I also acknowledge that we're on the lands of the Gadigal, the Eora nation, and recognise the ongoing disadvantage experienced by Aboriginal and Torres Strait Islander peoples, particularly in accessing healthy, safe and affordable homes. Indoor air quality in rental homes can be impacted by many factors, including gas appliances, ingress from smoke or other pollutants, and limited ability to filter or ventilate. But in this statement, we are going to focus on renters' experiences with mould, as it highlights the urgent need for reform, and many of the actions we can take address the core issues that cut across other problems.

We also thank Amanda, a New South Wales renter who presented to this inquiry, for highlighting the devastating impact of mould and the failure of our laws to protect tenants. Her story is sadly typical. Mould accounts for up to 8 per cent of the 40,000 advices given across the 19 local Tenants Advice and Advocacy Services each year, but we've also seen this double to 6,000 cases during El Niño cycles. One in three Australian homes are affected by mould, and research consistently links poor housing conditions to poor physical and mental health. That evidence has already been presented to this inquiry, but current New South Wales tenancy legislation is silent on mould.

When renters raise the issue, landlords and agents routinely deflect, telling tenants to open a window or clean it themselves. In public housing, the maintenance line explicitly told renters mould was their responsibility in the first instance, though we acknowledge that this changed in late 2025 in response to ongoing advocacy. In our experience, recurring mould is usually caused by structural failures. Whether it's water ingress, poor insulation, inadequate ventilation or low thermal protection, these factors create the humidity that supports mould growth and lets it embed into the structure.

We shared some stories from renters who have spoken to Tenants Advice and Advocacy Services in the lead-up to our appearance here. Jane moved into a social housing property and she described it as being in "a terrible state". It was unclean with rotting fixtures and extensive mould throughout. With existing lung disease and cancer, she was no longer able to work. She needed housing security, but she did not feel safe until the issues were fixed. Her provider was very slow to respond, citing a lack of funds available. Jane eventually had to apply to NCAT, despite her health making that process extremely difficult for me. For May, who was a private renter, water began pooling under her home and rising damp made the carpets noticeably wet. Black mould spread throughout the property. When she reported it, the agent said the mould was her responsibility. Her landlord refused to address the structural drainage issues, forcing May to leave rather than risk her health. Another renter told us, "We didn't invite friends over as the smell of mould was so strong we were embarrassed. We felt powerless and bullied."

Renters facing recurring mould must choose between risking a negative reaction from their agent while enduring months of health harms waiting for an NCAT hearing, or ending their tenancy and potentially losing thousands in contaminated belongings. Many simply accept mould as a part of renting in New South Wales because it's a system that places this burden squarely on the tenant. Currently, the New South Wales minimum standards in the Residential Tenancies Act do require rental homes to meet habitability standards, including adequate ventilation and no water ingress or dampness through particular elements of the structure. However, these habitability standards only apply at the moment of the beginning of the tenancy. They do not apply before a tenancy begins, and if a problem emerges during a tenancy, they are not explicitly part of maintaining a property. Some issues will be clearly repairs, but others may sit in a grey area and be disputed.

In any event, these are all contractual terms rather than statutory responsibilities, meaning a tenant needs to address this issue as a contract dispute. Whether that's raising that with Fair Trading, going to the tribunal or attempting to negotiate, the burden of acting begins with the tenant. There aren't penalty terms on noncompliance with habitability standards themselves, although there may be related terms. We don't believe Fair Trading and the Rental Commissioner have been given the powers necessary to hold agents and landlords accountable for providing properties that do not meet the standards or the Act other than, really, by request of tenants, who often put their housing, whether it's current or future housing, at risk as a result.

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We can contrast this with Victoria, which requires every property to be free from mould and damp caused by or related to the building structure, and it's unlawful in Victoria to advertise a property that doesn't meet the standards. New South Wales also has no requirement for landlords to disclose historic mould or water ingress, or other repair issues. It's very common for us to hear from renters that a home was freshly painted at the time of move in, with mould only reappearing shortly after. To ensure every renter in New South Wales has a safe and healthy home, we urge the Committee to recommend three legislative reforms.

The first is explicit minimum standards and amending the tenancy Act to require all rental homes to be free from mould and damp caused by or related to the building structure and applying from the point of advertising. We recommend mandatory disclosure for landlords to disclose any history of water penetration or mould remediation to incoming tenants before a tenancy agreement is signed, and for NCAT to consider creating an expedited hearing pathway for urgent health and safety repair matters so renters aren't stranded in potentially toxic and harmful environments for potentially months.

The CHAIR: Thank you for your opening statements. They have already been very helpful. I might start with a question for the commissioner, particularly about the current habitability standards relating to dampness and ventilation. The Committee has already heard expert evidence that addressing the dampness is really key to addressing mould. We've just heard the recommendation from the Tenants' Union that those standards be improved. Could you clarify for the Committee how is that actually defined, in particular, significant to dampness?

TRINA JONES: As others have given evidence today, minimum standards set out the minimum requirements that a residential tenancy home must meet. In terms of "must not have dampness", that's determined by the landlord or the tenant depending on the standard of that home. That could be then reported to Fair Trading, who could support inspection or review of the level of dampness in that home, consider who is responsible for that dampness, and support dispute resolution or compliance and enforcement action. In terms of compliance action, one of the powers available to support renters in situations where there is a repair required could be for them to apply for what's called a rectification order. This isn't widely used, and it's an area that we want to see more broadly taken up. We are planning to have repairs and maintenance as what we call a regulatory priority next financial year so that we do lots more education around that.

But, essentially, to answer your question, if a person raises an issue, then they can also submit a particular type of complaint that enables us to issue the landlord with an order if that complaint is substantiated that they haven't repaired. In the case of dampness, we could issue an order to rectify the dampness. Again, it depends on the type of property. If that property is in a strata complex and it's from external water ingress, then it might be a matter for the strata committee. If the matter is raised with the strata committee and they don't take action, that can also be dispute resolved through Fair Trading, and if that's not adhered to, Fair Trading has the powers to enter into what's called an enforceable undertaking to require the strata committee to fix. I appreciate that there is a lot of complexity around that, so we recognise that we want to get clear education and simple information out to tenants and landlords so that they understand their rights and responsibilities.

The CHAIR: Just to clarify my understanding, it sounds like the onus is really on the tenant to raise the question or to raise the issues.

TRINA JONES: Homes must be provided in a fit-for-habitation standard. If they weren't provided in that standard, then they shouldn't be on the rental market. However, we know that it does happen, but we rely on reports from renters. We also go out and do inspections. In fact, we did over 300 inspections, in the last financial year, of rental homes as a mystery-shopper-type inspection to identify where properties are not meeting the minimum standards and to respond to that.

The CHAIR: I also wanted to come back to the question of Victorian standards. We've had earlier evidence recommending that New South Wales align itself with the Victorian approach. Could you speak to the key differences between the Victorian habitability standards and New South Wales?

LEO PATTERSON ROSS: There are distinctions in the various lists of minimum standards. Really, the fundamental difference, and the relevant one here, is about at what point does it apply. The minimum habitability standards here are a contract term. It's that the landlord is in breach of their contract by failing to provide the property in the appropriate standard at the beginning of the tenancy. In Victoria, a recent reform began in, I think, October last year. It moved the site of responsibility to the listing. So once you make a property available for rent, you have to ensure that you're complying with the habitability standards at that point. That makes a big difference because it moves it from a contractual dispute into something that is a statutory obligation. Many of the instances will still arise from a complaint, but they are complaints from potential tenants who may have visited during an inspection, not people who are at risk of retaliation within their tenancy. If there were secret

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shopper programs, it gives more options to the regulator to act on a property that isn't compliant because they are already breaching the law, rather than potentially might if that property is leased and a tenant moves in.

The CHAIR: I also wanted to follow up. In your opening statement, you made a recommendation around an expedited pathway to NCAT for health and safety matters. In your experience, from the tenants you're assisting, how long are those matters currently taking?

LEO PATTERSON ROSS: The tribunal has a number of KPIs around from the moment of application to hearing. Eviction matters are expedited to a degree before all others. That's a three-week notice. Other hearing types, regardless of the circumstances, start at a four-week notice. That gets you to an initial conciliation session, rather than necessarily a hearing that resolves the issue. The focus of the conciliation session is to try to negotiate an outcome. That may or may not be possible for people. Particularly if there is an underlying dispute about the facts of the case, there may not be a resolution that can be reached. If that's not met, it can be another four to six weeks before a hearing, if it goes smoothly. We've seen cases that go for many months afterwards before a determination is made about the particular facts of the case.

There isn't one answer. Certainly, we've seen issues resolved at the conciliation four weeks after the application is made, but it is not guaranteed. There is a lot of uncertainty. If either party isn't negotiating in good faith and listening to the other side, it can extend on and need that arbitration from the tribunal member. You can also apply for an urgent hearing by writing to the tribunal registry, but that's a discretion. It's not guaranteed to be given. Particularly in instances of issues like mould, there may not be agreement from the tribunal that it is an urgent or a health issue, so you may be rejected from your urgent request because the evidence of harm hasn't been presented. You haven't moved through the process sufficiently to demonstrate that. A more clear and explicit understanding of the potential impact of these issues on people is missing in that consideration.

TRINA JONES: I would just add to that as well. As important as it is for NCAT to be efficient and effective to resolve matters, our preference as the regulator is for matters to not have to go to NCAT and for them to be resolved upstream. In response, as I said, since my commencing in NSW Fair Trading as Rental Commissioner, a number of things have changed—one of which has happened in the last 12 months, which is a restructure of the organisation to have a dedicated rental branch. What that means is we've now got an end-to-end response on rental regulation in a way that we haven't had—at least not for many, many years. That enables the customer to contact Fair Trading and for that matter to be held all the way through by subject matter experts, who are regularly sharing information, learning more about the rental market, coming up with creative ways to respond to difficult issues like mould, but also like repairs and maintenance, and working together to reach an outcome.

When it comes to mould, the team have been tasked with designing a new triage function, so we're working very closely with Service NSW. We've embedded this for something called illegal lockouts, when people are locked out of their homes. We're working on the same approach for mould, and that will enable us to respond quickly where there is risk and also ask more questions. One of the things that was not done well in the past, and when I reviewed Ms Watson's case, was the questions and the curiosity at the beginning to say, "Tell us about the experience that you're having. What has been the impact? What has been the harm? Help us understand the severity of this circumstance." All of those learnings are absolutely being applied and the team are in a much better position to respond to these issues.

We have seen more complaints, as I've said, following the reforms, and we welcome them. That's a good thing. We're also positioning ourselves to be able to respond to prevent and act on breaches of rental laws. I would try to encourage people to come to Fair Trading, because we are positioned now in a way that we haven't been before to respond to these issues. While there are widespread issues across the sector—I don't want to underestimate the challenge—I would say we want to be on the front foot and trying to respond to those matters as quickly as possible so people aren't waiting weeks to go to a tribunal.

The CHAIR: Commissioner, you mentioned in your opening statement that when issues are a question of adequate maintenance, that's always the responsibility of the landlord. Are there any specific requirements where a property is mechanically ventilated, for example, of air-conditioning systems in terms of inspection or cleaning of those systems?

TRINA JONES: No, no current requirements under the legislative framework.

The Hon. SUSAN CARTER: Thank you all for being here. I wonder if I could ask a follow-up question from Dr Cohn's question in relation to the Victorian approach. Is what they've done to effectively follow the way that the Australian Consumer Law was restructured away from contractual requirements to a statutory obligation? Is that the model that's been followed?

TRINA JONES: I'm happy to comment. I think what's interesting about the Victorian legislation is they have a specific provision for mould. So they say—

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The Hon. SUSAN CARTER: I was thinking more in terms of the remedy. We're moving away from implied terms in a contract to statutory remedies. What's the difference in the remedies that are now available under that regime?

TRINA JONES: I suppose I would say, in the New South Wales context, the remedies are limited for responding to minimum standards.

The Hon. SUSAN CARTER: But do we operate on an implied term of a contract? So the remedy is on the contract and there are remedies for breach of contract. Is that what we're looking at?

TRINA JONES: I would have a different view on that. You have requirements under the Residential Tenancies Act, and if you don't meet those requirements under legislation—whether that's in a written contract or not—you're in breach of the law.

The Hon. SUSAN CARTER: So what's the advantage of the Victorian approach if we already have statutory remedies?

TRINA JONES: They have a more specific outline of requirements in their legislation. I'm not suggesting that's a better framework; I'm just giving the description.

The Hon. SUSAN CARTER: More specific in what way?

TRINA JONES: They say each room in a rented premises must be free from mould and damp caused or related to a building structure. For example, we don't have a specific detailed features model in our current standards. However, we do have standards that protect people to live in a safe and decent home.

The Hon. SUSAN CARTER: Are you suggesting that because we don't have that specific standard that you're unable, or a tenant is unable, to take action in cases of mould?

TRINA JONES: No, I'm not suggesting that. I'm pointing out the differences between the New South Wales legislation and the Victorian legislation.

The Hon. SUSAN CARTER: Do you believe the Victorian approach is superior to the New South Wales approach?

TRINA JONES: That's not a matter I can comment on. My opinion is not—

The Hon. SUSAN CARTER: Can somebody comment on that?

LEO PATTERSON ROSS: I'm happy to. I appreciate we're talking as different kinds of organisations. To just take a step back, the habitability of the property is an explicit contract term in the tenancy agreement so you have the remedies that that gives.

The Hon. SUSAN CARTER: And that is, what, damages?

LEO PATTERSON ROSS: You can apply for compensation. You can potentially apply—

The Hon. SUSAN CARTER: Can you get compensation for breach of a contract or are we talking damages?

LEO PATTERSON ROSS: We call it compensation.

The Hon. SUSAN CARTER: Okay but legally it's damages isn't it? Because compensation is a statutory concept and damages is a contractual—

LEO PATTERSON ROSS: Yes. It's a failure to perform the contract and the loss resulting from that.

The Hon. SUSAN CARTER: Yes. What's the obligation of the tenant to mitigate under the contract?

LEO PATTERSON ROSS: They have the obligation to mitigate. That will be very circumstantial. For instance, if you know the mould is there, you would have an active obligation to move clothes away from the mould to prevent them from being contaminated. Your ability to mitigate may be limited, so there may not be other places to put it, but that obligation is there.

The Hon. SUSAN CARTER: Under a statutory regime, does the obligation to mitigate remain?

LEO PATTERSON ROSS: Not in that sense. When we're talking about the difference to the Victorian model, there isn't yet a loss from a consumer so that person can't be mitigating their loss or their damages in the same way. We're talking about a proactive regime that acts before any harm has been—

The Hon. SUSAN CARTER: How can you be compensated if no loss has occurred?

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LEO PATTERSON ROSS: That's not the benefit of the Victorian model—you wouldn't open up further compensation.

The Hon. SUSAN CARTER: What are the remedies, then, if we're not talking compensation?

LEO PATTERSON ROSS: For the regulator to instruct or penalise the provider who is breaching the law by listing a property that is not safe.

The Hon. SUSAN CARTER: We already have an obligation in New South Wales that you cannot provide a property that is not habitable.

LEO PATTERSON ROSS: You cannot enter into a tenancy contract that is not habitable. That is not the same thing as listing a property, making it available.

The Hon. SUSAN CARTER: You're arguing that the Victorian approach gives a wider pool of people who have the ability to enforce standards of habitation?

LEO PATTERSON ROSS: And specifically the regulator. The difference and the distinction that I think we're making between ourselves—it is correct that the agent and landlord have obligations not to mislead the person into a contract by hiding a significant health impact.

The Hon. SUSAN CARTER: Because that would be a breach of section 18 of Australian Consumer Law, for example?

LEO PATTERSON ROSS: It would be disputed territory whether any particular issue gave rise to that clause, to the clarity—

The Hon. SUSAN CARTER: Sorry, which clause?

LEO PATTERSON ROSS: Clause 18. Of saying have you—

The Hon. SUSAN CARTER: Why would it be disputed?

LEO PATTERSON ROSS: Because they might not accept that it's a significant health risk.

The Hon. SUSAN CARTER: No, but I think you could say if you misled somebody that there was no mould—well, 18 doesn't talk about health risks does it? It's the misleading element of the agent's conduct that would be addressed by 18.

LEO PATTERSON ROSS: It's clarified that then it has to be a significant health risk. If mould is not accepted as a significant health risk—

The Hon. SUSAN CARTER: Sorry, is there case law that says 18 only applies to significant risks?

LEO PATTERSON ROSS: I'd have to check the clause.

The Hon. SUSAN CARTER: You can take that on notice. I'd be keen to know that.

LEO PATTERSON ROSS: There is very limited case law in tenancy. The tribunal does not publish the vast majority of cases.

The Hon. SUSAN CARTER: Is that something that should be addressed?

LEO PATTERSON ROSS: Yes. The Consumer Commercial Division hears tens of thousands of cases a year and publish maybe tens of cases and their policy is not to publish in general. The appeal panel publishes a limited number of cases and their default is publishing, but they don't hear as many cases. There's a few reasons behind that. They're not bound by their own precedent in the tribunal, so they're bound by superior precedent and it's workload, but essentially it's efficiency.

The Hon. SUSAN CARTER: In relation to tenancy matters that proceed to the tribunal, is mitigation an active matter in those matters that are heard in the tribunal?

LEO PATTERSON ROSS: Tenants bear the onus of proof of showing the damages and they will always be asked to demonstrate that they have mitigated as routine—maybe not in every single instance, but that is the assumption.

The Hon. SUSAN CARTER: Why would they not be asked in every single instance?

LEO PATTERSON ROSS: Because the tribunal member didn't ask.

The Hon. SUSAN CARTER: Why would the tribunal member not ask that?

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LEO PATTERSON ROSS: Tribunal members aren't bound to deliver every case in exactly the same way. There isn't a set standard.

The Hon. SUSAN CARTER: But aren't there set legal principles that have to be applied by the tribunal?

LEO PATTERSON ROSS: Yes.

The Hon. SUSAN CARTER: That should mandate the same approach. Where the legal issue is the same, the approach should be identical.

LEO PATTERSON ROSS: Yes, I agree. But that is not the experience in the tribunal.

The Hon. EMILY SUVAAL: Thank you all for appearing today. I might start off with a question to Ms Jones. You mentioned in your earlier remarks the use of rectification orders and how you'd like to see that increase as a mechanism. Could you just explain to the Committee a bit more about what that involves and why that would be a useful avenue?

TRINA JONES: Rectification orders provide power to the regulator—us—to take action to issue a requirement for someone to repair or maintain the property if that repair and maintain hasn't been actioned following a request and it's warranted. It has been underutilised and there's an opportunity for us to support the community to access this protection available to them. The way that we plan to do that is by rolling out what we call a regulatory priority and essentially the regulatory priority becomes the most communicated enforcement activity that you're doing in a financial year period. We'll focus on repairs and maintenance, and some of the remedies—one of them can be a rectification order—and the way for people to engage with Fair Trading to seek a rectification order. Also, that will change not only in the public communication, but in the processes and procedures we use internally and the information that's given to people all along the way.

We have seen, as I've said, from our customer sentiment surveys, a strong support for rental reforms with strong knowledge in the community about that. We know that our campaigns can be effective agents of change and we'll direct resources to promoting people's rights and responsibilities as they relate to the standard of their home. A focus of repairs and maintenance, of course, is mould and the habitability of a person's home. I would just advise the Committee that that is work that we are focused on rolling out soon.

The Hon. EMILY SUVAAL: Do you have any comments to make on that as an avenue or thoughts on that process?

LEO PATTERSON ROSS: We've encouraged people to utilise the rectification orders process. We do note that it's not a binding order in the same way that a tribunal order is and so that is part of the limitation on it. We have seen that real estate agents engage more productively with the rectification order process, probably not because of the rectification orders themselves but because of Fair Trading's role as the regulator of real estate agent licences. There is a clear incentive for an agent to engage, which doesn't exist for privately managed landlords who aren't regulated in any way. There is a gap there. But as a step to help people resolve disputes more quickly, use NSW Fair Trading as a tool in this. We've certainly been supporting people and recommending people utilise the rectification orders, but we would say that it's underutilised, probably because of the confidence in the overall system and the confidence in bringing any dispute forward, regardless of the avenue.

The Hon. EMILY SUVAAL: Understood, thank you. I think both of you also mentioned the secret shopper programs or the mystery shopper programs. I wonder if you could just advise the Committee a bit more about that work and why—or why not—that's been an effective approach.

TRINA JONES: We engaged the Consumer Policy Research Centre to work with our team to take a sample review of rental homes that were advertised and listed for rent across New South Wales. We visited about 300 properties, did inspections of those properties across minimum standards—habitability, age and conduct, and information about things like water-saving devices in rental homes—and engaged in discussions to ensure there was no unlawful solicited rent bidding. The findings of those inspections will be reported to the Minister. Also the actions that we will take include following up with the properties. We identified a number of properties that didn't meet standards or had aspects that wouldn't meet standards.

We contacted those providers and said, "Make right before your lease", to ensure that those properties were at the right standard, and cross-referenced that evidence against what we had concerns about in those premises. That's actively underway. That related to about 46 properties. We were able to take action on those properties before they were rented. It adds value insofar as we can understand what is the available stock like and understand what kinds of homes are being presented for people to live in, but also to start to have conversations with agents and landlords about the standard of rental properties. It is something that we certainly talk to agents about a lot, making sure they're aware our expectations are that they're also pushing back on listing properties that don't meet standards.

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The Hon. EMILY SUVAAL: In terms of the secret shopper, are they Fair Trading staff or are they engaged by an external agency?

TRINA JONES: We can do both. But, given that this was the first time we did this at scale, we wanted the role of independent experts to help us get a measure of the consistency of standards across New South Wales.

The Hon. EMILY SUVAAL: Do you have any comments to make on the program?

LEO PATTERSON ROSS: Not on that program. The Consumer Policy Research Centre did a similar program in Victoria. As a general principle, though, we would like to see that kind of inspection process rolled out in a more formal way, such as thinking about other areas where a consumer does not have all the information available to them, like the food safety standards in the kitchen. We don't expect people to know all of the information that's relevant before utilising a service provider. We use inspectors to check. Those inspectors are better equipped to assess a property. They know what they're looking for—they might know how to identify a freshly painted wall that's covering mould—and don't have the same pressures. They're not desperate for a home. They're not accepting places that are not suitable for them because the alternatives are much worse. An inspection program moving that site of regulation, again, away from the consumer to a party that has the appropriate powers, and is distinct from the transaction, is a really healthy move. As a testing of the principle, of showing there is need for closer examination of properties, it's a really good program.

The Hon. EMILY SUVAAL: Does it send a message as well to the industry about expected standards of rentals, do you think?

LEO PATTERSON ROSS: Yes. Putting aside any of the specific rules, one of the big missing areas in this sector has been an active and visible regulator. The industry generally has been kind of coached or has been comfortable that breaches of the law are not going to come with consequences, are not going to come with accountability. Having a regulator, knowing that somebody is watching and looking for "how is this behaviour going to be held to the standard", we need the industry to know that there is a real and significant risk that they would be caught in any noncompliance. That is the path that we should be looking to support Fair Trading and the Rental Commissioner to move down. We have seen positive progress there; obviously, there's much more to do. But, yes, a very important element of any safe and healthy housing system is that the people who are most at risk of harm aren't the people doing the heavy lifting.

The Hon. EMILY SUVAAL: Ms Jones, you mentioned in your earlier remarks the dedicated rental branch that now exists and having this new triage function. I think you mentioned that also being in place for illegal lockouts. Could you let the Committee know how or why that's been effective and what that involves?

TRINA JONES: The Rental Taskforce was stood up to prevent and act on breaches of rental laws. Since 1 July 2025 the team have had over 8,620 cases. The majority of those cases are proactive. To Leo's point, the importance of the proactive regulator means that it reduces the burden solely on renters to come forward with issues. Some of the proactive work that the team have been able to do includes understanding whether a property has been unlawfully re-let. When a home tenancy has been ended, we have to make sure that that tenancy has been ended for a lawful reason. Following the end of no-grounds evictions, this is critical to the success of the reform. What we do is we get data from listing data, rental bonds data and also the data that we collect on whether a person has applied for a re-letting change-of-circumstance exclusion.

Essentially, we don't expect to see a property back on the rental market if you said it wasn't going to be on the rental market within a certain period of time. We're making sure to check that people aren't breaching that. What we do is we review all of those listings, and the team are literally on the phones every day, saying, "Why is a property that was set to be demolished or that you were moving back into being listed for rent in the period when we don't expect to see that property on the rental market?" Sometimes there are very legitimate reasons around that. The lease won't commence until a certain date. We'll remind people of their obligations, and we'll intervene to make sure that the right things are happening and the laws are followed appropriately. We'll investigate, too, where we think that somebody has been terminated unlawfully, and we'll respond to that.

What that has actually resulted in is almost 400 penalty notices issued, seven major investigations across a range of issues, almost 230,000 penalties in value applied, and we also have supported over almost \$130,000 refunds in this financial year for tenants who have been illegally charged fees, for example. We've also secured a \$10,000 investment in the consumer law fund and also enacted some other types of undertakings, like an enforceable undertaking, two licence suspensions and a prosecution relating to rental bond fraud. Just as recent as yesterday, we've issued a reprimand to an agent who illegally locked someone out of their home and issued a penalty of \$22,000.

We are absolutely stepping up our regulatory action in a way that the regulator hasn't been able to do before. What we are now starting to see is people have the confidence to come forward and report repairs and

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maintenance issues. We've seen mould complaints, for example, increase from 17 per cent to 20 per cent of repair complaints in the last 12 months. People are coming forward. We're making sure the team are equipped to respond to that by having clear pathways to triage high-risk and high-harm initiatives, respond to them in a consistent and appropriate way and make sure that we're making contact with those renters, and trying to resolve matters and trying to fix things between parties and, if we can't do that, making sure that we're taking enforcement action where we can.

LEO PATTERSON ROSS: That's the kind of positive progress that I was referring to, and a lot of it is very welcome. I just want to make one comment, particularly in relation to this mould issue and the experience of mould. One of the reasonable grounds introduced was that the property would not be able to be inhabitable for a period because of significant renovation or repair. It is entirely possible that a person raises mould and that the remediation of that mould requires the property to be vacant, potentially for a very short time. The re-letting exclusion period is only four weeks, and so a landlord could issue a termination notice, evict the tenant, have the property sit vacant for four weeks while they're advertising for a new tenant, and they would have done nothing wrong under that scheme. That's one of the barriers that still faces people in raising particularly significant repairs issues.

It is a requirement that that repair can't be a result of the breach of the landlord. But, because of the complexity and the grey area around where mould might have arisen from, it is entirely feasible that a landlord would say, "Look, it's a problem. I'm fixing it. It's not caused by my breach, and you'll have to move out." There are still concerns that people are losing their property because they're raising repairs issues, and mould is an example of one that could happen. Now, another positive thing that the Government has been doing since 1 July is receiving from landlords the reasons why the tenancy has ended. This is a requirement—and Trina might speak to it. There has been some discussion of that in some media release from government about the progress of that survey, but we haven't been able to see the data for it yet. We don't know exactly the scale and how many of these cases come through. We can talk to our experience. We'd really like to have access to that level of data to understand the impact but also to really recognise that the renovation and repair ground remains an issue that is open to abuse.

TRINA JONES: I would just say that, as per the legislation, the report will come out at the end of the financial year. We're seeing about 11 per cent of matters resulting in ending a tenancy because of significant repair.

The CHAIR: We're out of time for this session. Thank you so much for making the time to give evidence today. This has been very helpful. If there are any supplementary questions from the Committee, the secretariat will be in touch about those.

(The witnesses withdrew.)

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Ms NICKY SEABY, Acting Executive Director, Capital and Commercial Advisory, Health Infrastructure, NSW Health, affirmed and examined

Dr KATHY DEMPSEY AM, NSW Chief Infection Control Practitioner and Healthcare Associated Infection Adviser, Clinical Excellence Commission, NSW Health, sworn and examined

The CHAIR: Thank you so much for making the time to give evidence today, particularly Dr Dempsey for the second time. Do either of you have an opening statement today?

KATHY DEMPSEY: No. But I just reaffirm the opening statement that we provided last time. Whilst we acknowledge that there are definitely gaps in this area, Health is not starting from ground zero. We do have a number of guidelines, standards and requirements around indoor air requirements and flow, particularly in relation to infection prevention and control. Also, a note of caution is that often standards are written and Health are just simply overlaid on top of those standards without truly understanding the nuances and the impact for Health.

The CHAIR: I've got a significant number of questions about the pre-budget announcement that happened to have been made today. Ms Seaby, are you in a position to be able to answer questions about this initiative?

NICKY SEABY: I think I'd probably need to take them on notice.

The CHAIR: The timing is notable for this Committee. The media release from the Minister's office says that there has been \$400 million allocated in the upcoming budget for modernising hospital equipment and facilities. It doesn't have a breakdown of what funding is allocated to what, but one of the items on the list is delivering rectification works to mitigate and minimise moisture-related risks, including roof or facade replacements. This is obviously relevant to the air quality issues that this Committee has been looking at. Are you aware of which hospitals this funding is being allocated to, or what works are proposed to be done?

NICKY SEABY: No, I think it would be looking at the broader priority list across the State, but I'm happy to take any particular questions on notice and come back to the Committee.

The CHAIR: The first question for notice is which hospitals are having rectification works funded under this program.

NICKY SEABY: Sure.

The CHAIR: You mentioned the priority list just then. What work is already being done to assess and identify those hospitals that require those upgrades?

NICKY SEABY: When I mentioned the priority list, that's more around just the normal process that a local health district would go through to identify any maintenance issues or any assets that need replacement. That's just something that is done continually by local health districts across the State and then, at certain times, they would present requests for funding to the Ministry of Health.

The CHAIR: Particularly to the question of HVAC systems and ventilation, just one example that's been very relevant to the Committee's work is the Calvary Mater Hospital in Newcastle where there was an engineering report two years ago that—I can't remember the exact wording—the HVAC system wasn't fit for purpose or wasn't doing its job. Is there any kind of centralised database of those issues in terms of working through where there are known ventilation issues that need addressing?

NICKY SEABY: There are centralised asset registers across NSW Health. I think that's what you're referring to. But Calvary would be treated separately to that in terms of public health assets.

The CHAIR: If Calvary had not been an affiliated health organisation, if that was a public hospital managed in the standard way, would an issue like that—a two-year-old engineering report showing that the HVAC system wasn't fit for purpose—be on your list for attention?

NICKY SEABY: I wouldn't like to speculate, but I think there's a process for local health districts to be across the state of their own assets and consolidate that information.

The CHAIR: I had some questions in a previous hearing that were outside the scope of Dr Dempsey's expertise because it was all to do with infrastructure and buildings. In particular, we had some evidence from I think the doctors' union around poor ventilation in non-clinical spaces in hospitals—for example, crowded meeting rooms and that sort of thing. What are the relevant standards that apply in that case when you're building or upgrading or maintaining a hospital?

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NICKY SEABY: I don't know the exact name, which standards apply to which rooms. We can get that for you. But that would be very similar. It would be very standard for all non-clinical spaces. I'm sorry, I'm not sure of the exact question, though.

KATHY DEMPSEY: I think I can add probably a little bit to that. Certainly since COVID there are some additional design considerations that improve the air exchange rates in non-clinical areas as well as clinical areas. There's an attempt now to look at how those areas are being utilised and the total number of staff that may be frequenting those areas to try to improve the ventilation based on those considerations. But that would be, I guess, the last five years, or three, four years of consideration for building and upgrades from then.

The CHAIR: I think this is getting to what I'm interested in. I appreciate it may need to be taken on notice, but those specific policies or standards or guidelines—could you point the Committee in the direction of that work you've said has just happened in the last five years?

KATHY DEMPSEY: Yes. There are some national guidelines around the Australasian Health Facility Guidelines and then there's improving ventilation considerations around COVID that are appendices to those guidelines, but I'm happy to provide those for you.

The CHAIR: Thank you, that would be very helpful. I also want to follow up something that you provided on notice to us, Dr Dempsey, after the last hearing, which was the work being led by the Australian CDC that I think you had either fed into or been a part of. Can you provide us an update on what that work is and what NSW Health is contributing?

KATHY DEMPSEY: Yes. I'm not entirely sure where the Australian CDC is currently up to. There's some work that they've done and they've posted some information that is fairly generic on indoor air quality, but it's around community. There's currently work being done between the Australian CDC and the Australian Commission on Safety and Quality, which has the lead responsibility for infection prevention and control and sorting through whose responsibility it is to do what, particularly for health care versus community. In New South Wales we have just published a guideline on reducing aspergillosis in health care. As of this morning, it was published, but it's been worked on for the last couple of months. That kind of supports existing guidelines but really strengthens the requirements of facilities when they identify issues, what their responsibilities are and what the escalation processes are to remediate those issues.

The CHAIR: We obviously have an interest in the policy regarding reducing aspergillosis, and I'll just note for the record, the very interesting timing of that coming out as well. Could you talk us through what the work was that went into developing that and what changes that's actually recommending?

KATHY DEMPSEY: We pulled together a panel of clinicians that had expertise in health infrastructure, HVAC, infectious diseases, infection prevention and control, and some leading fungal experts who actually reside in New South Wales. We pulled together the existing evidence around what the treatment and identification was for invasive fungal disease, what the ramifications were, what the causative factors might be and what the remediation requirements would be—trying not to overshadow what was existing, particularly around construction and renovation. We put some information around air sampling, because currently what seems to be the trigger response is going straight to air sampling, which does not necessarily remediate the issue—then the focus becomes monitoring and not actually remediation. We've put some information around that, put some minimal information around surveillance, noting that there's some additional work to be conducted around what that would look like. Some of the problems around invasive fungal disease is that there's so much variability. There's very limited national or international standards around how we approach this. Some of it has been evidence based, and some of it has been based on expert opinion.

The CHAIR: Is that document publicly available?

KATHY DEMPSEY: It is publicly available. It's been a long time—we've been working on it probably for about the last 2½ to three months, which is quite short considering the US CDC is working on a similar document and has given themselves 18 months to write it.

The CHAIR: The Committee's previously asked some questions around HVAC, cleaning and maintenance particularly. Is that something that this piece of work has looked at?

KATHY DEMPSEY: It certainly mentions the requirement to ensure that there are the annual inspections and remediations around that. I suspect what will tend to happen is what we normally do with some of these documents that are a little bit more contentious and lack some of the evidence is that we socialise it, basically see how it actually is implemented, work out whether there are any gaps, and then we'll look at revising and adding and strengthening some of those points. It does talk about looking at those things and making sure that there's a plan in place and ensuring there's at least annual inspections and immediate remediation of any issues.

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The Hon. SUSAN CARTER: Just a follow-up from my colleagues, because it's really been asked and answered. The new guidelines were announced this morning. From what I heard from you, they seem to focus on what the chain of responsibility is post-detection. Is there any work done on proactively seeking to detect the presence of mould or other contaminants that might cause, for example, aspergillosis?

KATHY DEMPSEY: Yes, it does strengthen the requirement to make sure that there's ongoing monitoring. We also have an environmental cleaning policy directive that supports that. We have mandatory auditing processes. That requires remediation based on risk stratification. If you're working in an extreme risk area and there's any identification of poor compliance to cleaning, then you have basically 24 hours to remediate that. As the risk goes down, we give a little bit longer to remediate, but have definitely highlighted the need to make sure that there's ongoing monitoring. We're also looking at strengthening some of the SOPs in the environmental cleaning policy directive around how we actually identify mould and basically clean it.

The Hon. SUSAN CARTER: Has any work been done or is there any intention to do work on changing cleaning protocols or methods?

KATHY DEMPSEY: Our cleaning protocols and methods are fairly stringent. It's really just the application and interpretation, and making sure that they're being implemented. We've been doing a lot of work around the SOPs. We're really now focusing on some of the education and training.

The Hon. SUSAN CARTER: I don't have the evidence in front of me, so I'm pulling it out of my memory, but I believe we've heard some evidence about the fact that, especially when we're talking about the cleaning of HVAC systems, the air handlers aren't always cleaned and there can be moisture that accumulates in—I apologise; I don't know the technical word for it—the big, rectangular, metal box that sits around it and that that is a risk for mould. Those things aren't routinely dried, checked for moisture and cleaned. I'm wondering if there's any work being done on changing protocols so that those things might be addressed as part of regular maintenance as well.

KATHY DEMPSEY: We've highlighted that in the existing guide—around making sure that those things are checked, maintained and kept clean. We've also focused on the requirement to ensure that basically any dust and dirt anywhere within the facility and any moisture needs to be immediately rectified.

The Hon. SUSAN CARTER: We've had some evidence about different types of methods that could be used—using techniques such as ultraviolet light and things like that. Have you given any thought to whether protocols should be changed to include those sorts of methods?

KATHY DEMPSEY: We're always considering some of the newer and novel technologies. Some of them come with some additional considerations, like with UV light. You need to make sure they have adequate coverage and things like that. They're definitely on the table. There are certainly some other things that you can put centrally in HVAC systems that operate on four layers of different filters. They're also things, from an infection control perspective, we would put out to the LHDs to say, "If you're having issues, these are some of the additional controls that you could look at investing in." We've also done some work with a specific product. Whilst it was looking at reducing smoke into the environment, it actually has had some research done, particularly in Queensland, around humidity and mould. There are definitely things that we continue to consider, particularly when we're looking at rebuilds and new builds.

The Hon. SUSAN CARTER: So it's up to each LHD to decide whether they have the budget or want to use the budget to invest in any measures.

KATHY DEMPSEY: Where we're able to implement statewide initiatives, we'll basically change the guidelines around that. Whilst the AusHFG, or Australasian Health Facility Guidelines, provide principles based around building, there are sometimes additional guidelines, for example, that New South Wales may have written that provide some granular detail for those things. With some of those standardised, statewide approaches, some of the technology is still relatively new, so it's trying to understand where we're best to actually invest. Do we upgrade the HVAC systems completely? Do we add additional cleaning and maintenance and then potentially look at some of those novel technologies?

The Hon. SUSAN CARTER: You said that a number of things were on the table. Is there a time—like every six months or every five years—that there is a review? Is it an ongoing process?

KATHY DEMPSEY: The way it normally works is there's often an ongoing process. The industry comes to Health through various avenues to say that they've got additional controls or enhanced processes, and then they would go through the normal procurement process where we can invest with research or rely on existing research that has been done. Then it sort of comes down to looking at finances and how we implement and apply. There are some technologies that some LHDs will implement based on local intervention. What we've done from

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a State perspective is provide the principles that allow the ability for the LHDs to actually invest and look at those newer technologies.

The Hon. SUSAN CARTER: So you wait for industry to come to you; you don't proactively go out to research solutions to problems?

KATHY DEMPSEY: We're constantly looking at what's out there, and I think there are lots of novel technologies that New South Wales has invested in from a State perspective around increasing decontamination of our environments. But also, for example, for infection control, I don't have a research team that can concentrate specifically on research. It's a bit of both.

The Hon. SUSAN CARTER: Is it possible to set up a research collaboration with a university or there's nobody working in infection control at universities?

KATHY DEMPSEY: We do partner a lot with a number of the universities, and there are a number of trials ongoing. I think in the future there's possibility. There have been some submissions for grants around a consortium, particularly for infection control. There will be some greater opportunities for that. I think currently the research probably more sits with randomised control trials more so than some of the infection control.

The Hon. SUSAN CARTER: But there's no sort of "1 January every year we go, 'We should just do a sweep and have a look and think if we need to update things'." You're waiting for technology to change rather than an annual update or something like that.

KATHY DEMPSEY: It depends what we have. Based on our exposure and the things that we attend—and that might be conferences or international meetings and things like that—we often don't wait just because something's not due for five years. We often circle back and re-look at our guidelines to see if there's anything that we need to update. We don't always just sit and wait.

The Hon. SUSAN CARTER: When was the last time the guidelines were updated?

KATHY DEMPSEY: I have a number of guidelines for infection control. The policy directive was last updated in 2023. The handbook, which is basically the State bible, was released in 2024. COVID, which has now been morphed into acute respiratory infection, we're updating currently. We continue to provide—

The Hon. SUSAN CARTER: I was thinking specifically in relation to cleaning guidelines for HVAC.

KATHY DEMPSEY: The cleaning guidelines generally were last updated in—I'm going to say 2023, but I'm not exactly sure.

The CHAIR: Just coming back to you quickly, Dr Dempsey. You indicated that the new aspergillosis document was public, which is excellent. I am struggling to find it, and I would obviously like to read it today. Where is it?

KATHY DEMPSEY: If you go on to the Clinical Excellence Commission website, and then under "Patient safety for infection control" and then "Policies and resources"—

The Hon. EMILY SUVAAL: Sounds like a government website.

KATHY DEMPSEY: This is actually our improved approach. Then it's under "Clinical tools". But if you actually search "Clinical Excellence Commission reducing aspergillosis"—I googled that this morning and it came up.

The CHAIR: I appreciate that. If the Government didn't put out policies on the days of our hearing, we wouldn't have so much trouble finding them.

KATHY DEMPSEY: I do apologise. I did try to get our department to put it out Tuesday.

The CHAIR: Thank you, that's much appreciated. I imagine, given the two announcements today, that we'll end up having supplementary questions, unfortunately. If there are any, the secretariat will be in contact with you about those. We appreciate the time you've made to give evidence, especially for a second time. Thank you very much.

(The witnesses withdrew.)

The Committee adjourned at 12:55.