



Villamanta
DISABILITY RIGHTS LEGAL SERVICE

Submissions to the

Inquiry into the administration of the National Disability Insurance Scheme

Joint Committee of Public Accounts and Audit

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Executive Summary

There has been much recent attention to sustainability of the National Disability Insurance Scheme, and efforts to prevent fraud and other losses.

While we recognise the importance of preventing fraud, managing sustainability and ensuring public confidence in the scheme, our service has received significant reports of disabled Australians experiencing deep distress, anxiety, harm, and even death because of recent changes to the administration of the scheme. In focusing on cost savings, the National Disability Insurance Agency have significantly increased the pressure on scheme participants and made considerable procedural changes without risk mitigation to prevent harm.

We urge the Committee to maintain a focus on the purpose of the scheme while considering the balance between delivering on human rights commitments and the economic considerations of this and any future government.

In real terms, this is a question of how many deaths of disabled Australians is an acceptable number to achieve scheme sustainability?

The past year saw 6,131 participants die, with a higher number of deaths than expected at the higher end of support needs.¹ Rather than enquire as to why that is, and whether recent changes to legislation, policy and practice have contributed to this, the Australian Government Actuary agrees with an increase in the assumptions about mortality for this cohort.² That is the role of an actuary, to make predictions of the future based on the data from the past and present.

It is not the role of the Agency to simply accept an increase in mortality without understanding whether changes to legislation, policy and practice are causing people to die.

An inquiry into the administration of the National Disability Insurance Scheme must include both elements – safe and responsible delivery of the scheme and prevention of fraud and loss.

¹ <https://www.ndis.gov.au/media/8187/download?attachment>, page 8

² *ibid*

Introduction

We thank the Joint Committee of Public Accounts and Audit for the opportunity to provide submissions about the administration of the National Disability Insurance Scheme (**NDIS**) by the National Disability Insurance Agency (**NDIA** or **Agency**).

Our submissions are based on our experience with the clients we represent, and the people to whom we have given advice. They are also based on the discussions our intake team have with the hundreds of callers we cannot assist. Our submissions are also based on the feedback from almost 500 people who have attended our community forums in the past 18 months, the majority of whom have had no support dealing with their NDIS issues.

We note the following topics which are included in the Terms of Reference of the Inquiry, and provide our submissions accordingly:

- Management of financial sustainability risks
- Claimant compliance with NDIS claim requirements
- Monitoring, measurement and reporting of NDIA performance

Management of financial sustainability risks

The focus on financial sustainability risks by the NDIA in the past 12-18 months has been deeply felt by the disability community.

There is strong evidence that risk assessments are occurring in relation to risk for the Agency and the scheme itself, but not nearly as clear is whether there is risk assessment occurring in relation to participants and the impacts on them.

In this period, we have seen:

- Participants having their access to the scheme revoked in a process which the Administrative Review Tribunal found “troubling”; and
- An unprecedented number of appeals of NDIS decisions at the Tribunal; and
- Demonstrable issues with the participant data held by the Agency;³ and
- Funding cuts applied to participants with very high needs;⁴ and
- Changes to funding periods and claim payments impacting access to funding.

We have also seen deaths resulting from funding cuts.⁵

While the Committee considers the management of financial sustainability risks, we urge the Committee to also consider the risks to participants and how these can be more effectively mitigated and managed.

³ We note our previous submissions to the Joint Standing Committee on the NDIS in relation to these issues: [Performance of the NDIS - submissions to Joint Standing Committee](#)
[Performance of the NDIS - additional material 22.10.25](#)
[Performance of the NDIS - additional material 23.10.25](#)

⁴ It is understood that within the Agency, an increase in plan funding above a certain percent requires escalation for approval. We would ask why it is that a plan can be reduced by 82% and not require escalation for approval. The risk to the participant is significant and immediate, some kind of oversight is called for when these types of decisions are being made.

⁵ <https://www.dailytelegraph.com.au/health/guides/ndis/sydney-mother-kylie-johnstons-legal-fight-for-her-son-noah-with-the-ndia-before-he-died/news-story/7973848c8af475071a012f144059f69d>;
https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=committees/commjnt/28977/&sid=0003; <https://www.heraldsun.com.au/health/guides/ndis/ndis-participants-facing-perfect-storm-of-harm-committee-hears/news-story/d09e8489ff10802e96bae217488716d5>

Claimant compliance with NDIS claim requirements

We acknowledge the work undertaken by the Agency to improve its management of claim compliance and to prevent fraud. The implementation of various procedural changes has however created significant risk to participants without corresponding measures to ensure continuity of supports and rapid resolution of unexpected issues arising.

PAYMENT LOCKS

We have had multiple reports of the difficulties participants experience when a payment lock is applied, including that:

- No information is provided as to the reason for the rejection of the claim, and the burden is placed on the participant to find out what has occurred.
- No information is provided as to what the participant can do to resolve the matter.
- Even when these barriers are overcome and the participant identifies the information required and provided it, there is no way to ensure the payment is then made.
- There is no clear mechanism to have the lock removed, resulting in ongoing issues even after the original concern has been resolved.
- Participants are at risk of losing staff if they cannot pay them or incurring personal debts.
- Participants are fearful of incurring further expenses until the situation is resolved but need access to the supports to be safe.
- The resolution process is slow and communication is poor.

This process creates significant risk for participants in its current form. While we acknowledge the importance of checking claims and ensuring they are correct and compliant, it is reckless for a government agency to place an NDIS participant's supports in jeopardy while they do so.

FUNDING PERIODS

We note that these payment locks have occurred in the context of the implementation of funding periods, enabled by section 33(2A) of the *National Disability Insurance Scheme Act 2013 (NDIS Act)*.

The purpose of this provision was outlined in the Explanatory Memorandum at the time the Bill was introduced to Parliament. The Explanatory Memorandum explains that the purpose for shorter funding periods is to 'safeguard participants where others may seek to exploit or coerce the participant to use their package in a way that is not consistent with their best interest'.⁶ Funding periods are also described as 'discretionary and will add to the safeguards available where there are concerns around a participant's safety and wellbeing'.⁷ These restrictions were to only occur in set circumstances, with flexibility being the standard approach 'wherever possible'.⁸

From 15 May 2025 the NDIA started imposing funding periods on **all** new plans, creating considerable risk to participants:

⁶ Explanatory Memorandum, National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024, page 2.

⁷ Explanatory Memorandum, National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024, Schedule 1 – Amendment, page 18.

⁸ Explanatory Memorandum, National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024, Schedule 1 - Amendments, page 19.

- For individuals requiring 24/7 support, one month funding periods will be immediately problematic if commenced in a month with multiple public holidays. The spread of the cost of supports is not as simple as dividing annual cost by 12.
- Funding periods for things like assistive technology and complex assessments prevent participants accessing the funding. If they must wait for 9 or 11 months to have the full amount released, the price will have increased by then.
- Funding periods can prevent meaningful work from taking place. Some supports such as Behaviour Support and Support Coordination are generally more intensive at the commencement of a plan and then taper off. Releasing funding in smaller increments over time prevents this front loading which is often crucial to ensuring safe and coordinated provision of supports in complex cases.
- Funding periods are resulting in crisis for those with underfunded plans at the ART. Where previously they would use their funding at a higher rate than anticipated while the matter works its way through the ART, now they will hit a funding cliff when the gradual release runs out.

The combination of these two changes has created great uncertainty and stress for NDIS participants.

Monitoring, measurement and reporting of NDIA performance

PERFORMANCE MEASURES

We note the most recent performance reporting for the NDIA,⁹ summarised below.

Measure	Target	Outcome	Achieved?
Participant employment rate	26%	22.4%	No
Participant social and community engagement rate	46%	38.6%	No
Participant satisfaction	76%	62.2%	No
Participant satisfaction with progress toward their goals	70%	62.8%	No
Participants with community and/or mainstream supports in their plans ¹⁰	>90%	96.5%	Yes
Average payment per participant	\$67,200	\$65,800	Yes
Annualised Scheme growth rate	12.0%	10.8%	Yes
Staff with disability	20%	23.4%	Yes
Payments made within agreed timeframes	>90%	99.0%	Yes
Participant Service Guarantee timeframes met 95% of the time (%)	80%	10.0%	No
Resolution on first call to National Contact Centre	80%	84.8%	Yes
Disclosure of NDIS Quarterly Reports to Disability Ministers within prescribed timeframes	All quarterly reports provided to the Ministerial Council within legislative timeframes	4 of 4 reports delivered on time	Yes

⁹ Sourced from [Transparency Portal](#) on 28/01/2026

¹⁰ Given that this section of the NDIS plan can include a general practitioner or pharmacist, this is not a particularly meaningful measure

Notably the NDIA achieved its performance measures in relation to reducing overall cost and growth rate, reporting to Ministers and other measures, but demonstrated appalling and unacceptable performance on the Participant Service Guarantee.

More succinctly, the Agency delivered on its promises to the government and failed to deliver to participants.

Before going into specific issues with performance in relation to participants, we raise concerns about the data underlying some of these statistics.

PARTICIPANT AND FAMILY DATA

A significant amount of this data is collected and recorded by NDIA personnel in discussion with NDIS participants, and not by an independent, secure, and anonymised process.

Data collected in this way will be strongly affected by

- The context of the discussion
- Concerns for privacy
- Inaccurate recording and reporting
- Absence of validation

Context of the Discussion

Where questions are asked in the context of a planning or plan reassessment discussion, it is not necessarily clear to the participant what the purpose of the question is. Even if this is explained clearly, and in a manner which the participant can understand, there is a likelihood that there will still be an understanding that the response is relevant to the planning process.

The first measure states that participants are asked “do you have a paid job?” Our experience speaking to participants is that this is likely to be understood in several ways:

- As a first step towards exclusion based on income. In many contexts, having paid work makes people ineligible; or
- As a means of excluding supports because they should be provided by the employer; or
- As an introduction to the planner wanting to discuss an employment goal;¹¹ or
- As an input into the estimation of level of impairment.

Concerns for Privacy

We are aware of many questions asked by planners which participants find intrusive or irrelevant. The planning process itself can be intrusive enough without seeking further information verbally during this process. We are aware of additional questions such as income level and personal life which are stated as being “optional” and for “stats”. In this context, people are more likely to give inaccurate answers out of a desire for privacy.

¹¹ This is reinforced by the descriptor in the relevant performance section which states “If a participant has employment goals, NDIA staff will consider reasonable and necessary employment supports to help them achieve this. For example, participants leaving school are encouraged to consider School Leaver Employment Support where that is appropriate and aligns with their goals. Other supports available to participants include Employment Assistance and Employment Related Assessment and Counselling. The NDIA also provides a range of publicly available information on the NDIA website under [Our Guidelines](#) – for example, we have information on Work and Study support and Building skills and getting a job.”

Inaccurate Recording and Reporting

Most clients we have worked with have stated there is at least one inaccuracy in their plan, if not many. If the same person and process that creates the plan is responsible for recording and reporting this data it is highly unlikely to be accurate.

Absence of validation

The participant does not see the information recorded about them and cannot correct it if it is inaccurate.

If this data is to be relied upon to measure the performance of the NDIA, it must be collected through an independent, secure, and anonymised process.¹²

PARTICIPANT SERVICE GUARANTEE

Participants have reported that the Agency's account of these timeframes differs from that of the participant. The most likely explanation is that the participant starts counting the days from when the material is sent to the NDIA (most frequently by email or telephone), whereas the Agency starts the clock when they have formally entered it into their system as a request. The difference between these two timeframes can be days or weeks, or months.

Compounding this are the different layers of contact. For a participant (or applicant), a request made to the Contact Centre or a Local Area Co-ordinator is a request to the NDIA. They have called the phone number on the website; they have communicated with someone who has an NDIS email address. However, these staff generally are not the start of the process, and until the request is considered by a member of the appropriate team in the NDIA, the delay is not being recorded.

We have no evidence to prove this; we do not have access to the NDIA's internal systems and processes. However, we would encourage the Committee to make their own enquiries as to how these days are calculated and why the disability community has such a different perception to the Agency as to how long these steps are taking.

CALL CENTRE RESOLUTIONS

Similarly, the statistics about the resolution of enquiries by the Call Centre is not as simple as it appears. The Call Centre cannot action most of the requests participants make. All they can do is pass the message on. Asking the participant whether their enquiry was completed does not capture the disconnect between the goal of the contact and the outcome.

The participant has finished their conversation, the call centre has given them an answer, but if that answer is "I will email the team and ask them to contact you" that does not actually resolve the enquiry. It is completed from the perspective of the Call Centre operator, they have done what they can, but the participant still does not have an answer.

We refer the Committee to recent media coverage¹³ of the issues with Call Centre staff being unable to action anything, but for all intents and purposes being representatives of the NDIA to participants.

Data is important and using it to test the impact of legislative and policy changes is crucial. We provide the following example for the purpose of illustrating our concerns about the ability of the Agency to use available data to understand where unexpected outcomes are occurring and identify where processes can be adjusted to reduce risk.

¹² While we note that the measure of participant satisfaction comes from surveys from an independent provider, it is not clear how these surveys are conducted or who is invited to participate.

¹³ [Outsourced call centre staff at NDIS have to pretend to work for government, workers say | Australia news | The Guardian](#)

Gender Inequity within the NDIS

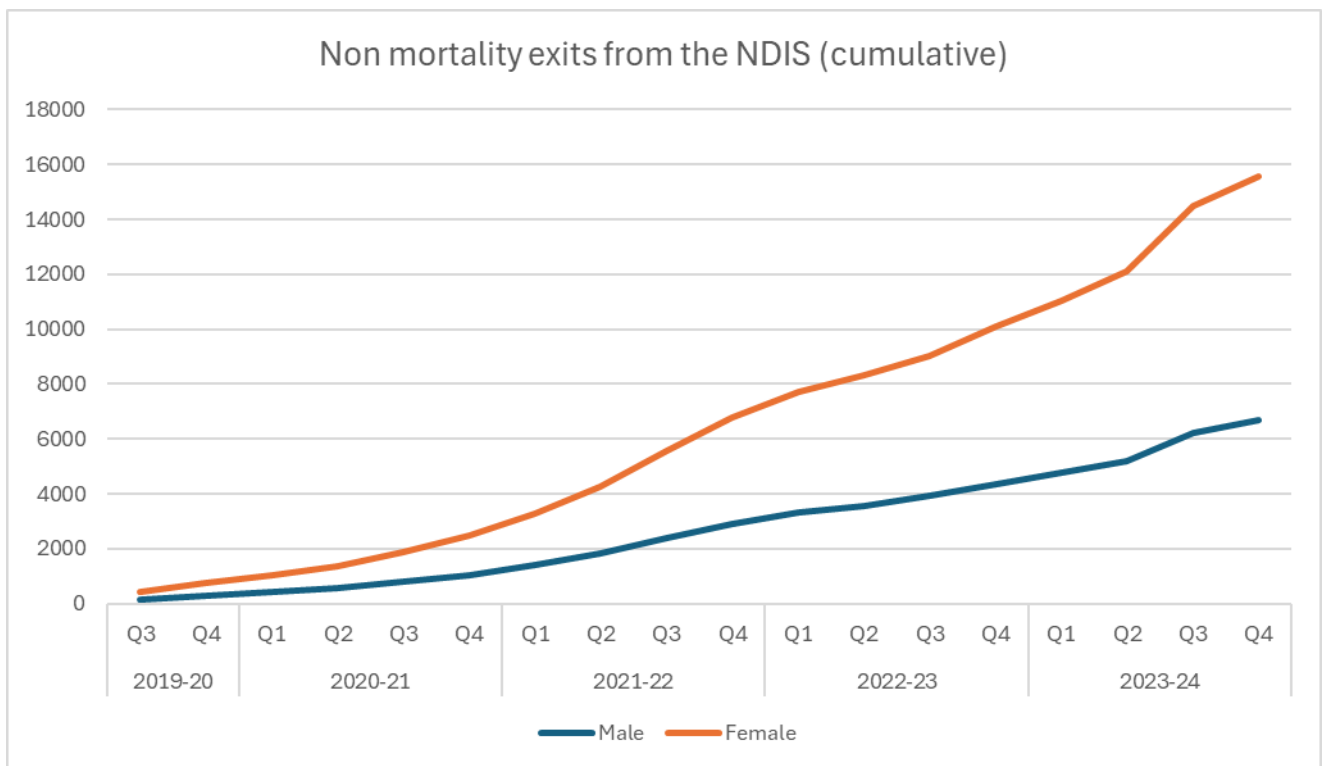
There have always been more males than females on the NDIS.

A previous [quarterly report](#)¹⁴ stated:

*In 2025, the NDIA will continue to explore gender inequality in the NDIS. This involves considering how we understand and respond to the support needs of women, girls and female-identifying and non-binary people with disability across different life stages. We will also consider what positive outcomes might be and how to measure success.*¹⁵

However, the data demonstrates that the issue is not only one of responding to support needs, but of actively removing access from female participants. A [freedom of information request](#) in late 2024 gave the public access to data about people who left the NDIS over time, including separate tables for mortality and non-mortality.

The graph below illustrates a specific subset of that data.



In every single period, female exits were higher than male. Over time the disparity between the two populations increased.

The most recent [quarterly report](#) makes no comment about the gender disparity.

We have seen no mention of the disparity in exit rates, nor investigation as to why this is occurring. We suggest this is at odds with the government’s Strategy for Gender Equality.

The significant changes that have occurred legislatively and practically in the past 12-18 months within the NDIS require rigorous monitoring for unexpected consequences, and potential for harm to participants as a result.

Considering the significant changes which have taken place to the Scheme over the past year, we recommend the performance reporting of the NDIA should include:

¹⁴ Q4 2024-5

¹⁵ Page 20

- Mortality rates of NDIS participants, broken down by age, gender, state, First Nations status/cultural group and disability type
- Non mortality exits from the NDIS, broken down by age, gender, state, First Nations status/cultural group and disability type
- How they determine whether NDIS performance played a role in the death of a participant and what actions are taken as a result
- The reasons why any demographic is experiencing higher rates of exit than others (or why mortality for groups is higher than the actuary predicted, such as those with high supports needs)¹⁶

INCIDENT REPORTING

We note the reliance on incident reporting and internal escalation to the Senior Leadership Team and the Audit and Risk Committee.

However, in the case of the CEO revoking access of our client after their public advocacy,¹⁷ involving many members of the Senior Leadership Team, none of whom apparently raised concerns about the breach of procedural fairness, it is not clear how the Board has access to sufficient information to ensure the Agency is acting in a proper manner.

INCORRECT DATA

The tight nexus between “approved” disability and funding for supports has exposed significant issues with the participant records held by the NDIA. We have had **multiple reports of impairments being “switched off” or “end dated”**, resulting in an incorrect descriptor of the individual in question.

The impairments held on record by the NDIA are invisible to participants, and in our experience participants and their nominees are unaware of the issue until they are provided with a Statement of Issues at the ART. Where internal advice is sought it is demonstrably based on incorrect foundational information.

We see no evidence that risk assessment is occurring in this process; it seems clear that the push to only fund for shared supports is the primary driver, and even internal reviewers are not raising concerns that the materials on file do not match the technical advice being received. The most vulnerable individuals are being affected by this and those that support them are undergoing extremely stressful appeals while fearing for the safety of their loved ones. This is a waste of the time and resources of the participant and their supporters, the Agency, the Tribunal and any advocacy or legal assistance that has been accessed.

INCREASING THE NEED FOR ADVOCACY

The poor performance of the Agency in relation to decisions under appeal is creating more work for advocacy organisations and reducing even further the access to advocacy for participants. As an example, the following is the level of advocacy required to have the funding that the NDIA **had agreed to** into the plan of our client while the matter was at the Tribunal.

1. We emailed the NDIA on 17 October 2024 requesting this be progressed
2. We emailed the NDIA on 6 December requesting an update on why this had not occurred
3. We emailed the NDIA on 12 December to ask why this was not yet actioned and stressing the challenges for client if this did not occur before Christmas. We were told the case manager still did not have authorisation.

¹⁶ <https://www.ndis.gov.au/media/8187/download?attachment>, page 8

¹⁷ <https://www.thesaturdaypaper.com.au/news/health/2025/07/05/exclusive-ndia-chief-intervened-throw-advocate-scheme>

4. We escalated the issue within the NDIA legal team on 12 December.
5. We received contact on 16 December apologising for the delay but not confirming the status of the promised support.
6. We followed up again on 18 December and were told the relevant materials were sitting with the NDIA's external lawyers.
7. When they did not reply to our enquiry, we escalated within the NDIA's legal team again on 20 December.
8. On 23 December the external lawyer stated they would respond on or before 15 January 2025. When we replied to this email, we received an out of office notification that the lawyer was already on leave.
9. We escalated within the NDIA's legal team again on 23 December. We were advised the funding had been added to her plan. It was not.
10. On 15 January 2025 the NDIA's external lawyers sent some questions about the breakdown of the funding.
11. On 20 January 2025 we answered those questions and sought clarification of status.
12. On 29 January 2025 the Respondent's lawyers provide some clarification but no update on status.
13. On 3 February 2025 we requested an update on the status.
14. On 7 February 2025 the NDIA's lawyers stated they would respond shortly.
15. On 5 February 2025 we were told the funding had been added to the plan. It was not.
16. On 10 February 2025 we were told that ART orders would be required to add the funding to the plan.
17. On 11 February 2025 we requested the NDIA take whatever steps were needed to implement the funding.
18. On 11 February 2025 the NDIA's lawyers provided a Statement of Issues in which they confirmed in writing the supports from the 10 October case conference, which still had not been implemented.
19. On 18 February 2025 we made a formal complaint to the Deputy Chief Counsel in relation to the failure to fund these supports, and noting the following.¹⁸

[Client] is extremely unwell, and spending more than half of her time in emergency admissions that are completely avoidable, and could have been avoided if she wasn't rationing her funding. She is about to be evicted from her tenancy and is attempting to attend medical appointments to determine if there is any explanation for her blackouts and collapses. Uncertainty right now is a significant risk to her ability to cope and I have real concerns for her mental health and physical safety. This process, and the Agency's conduct, are literally putting [client's] life at risk. She blacked out during the conference today and could not be roused until it was over.

20. On 20 February 2025 we requested an update on the terms of agreement the NDIA's lawyer was to have been drafting, to implement the supports.
21. On 21 February 2025 draft terms were provided proposing a period of 6 months. This was over 4 months since the supports had been deemed reasonable and necessary. We resisted this due to the work taken to get to this point.
22. On 26 February 2025 we were told that funding could be replenished if the matter remained at the ART after six months. Again, we resisted, due to the extreme stress this was causing our client.
23. On 28 February 2025 we received draft terms with a 12-month duration.
24. On 4 March the NDIA's lawyer filed signed terms with the ART.
25. On 11 March 2025 the ART remitted the matter back to the NDIA.
26. On 19 March 2025 the NDIA's lawyers sent further queries in relation to the breakdown of the funded support.

¹⁸ We never did receive a reply to that complaint.

27. On 26 March 2025, a new plan dated 25 March 2025 was provided to the Applicant.

Five and a half months of follow up for a support that was deemed reasonable and necessary by the NDIA is a terrible stressor for the participant and complete waste of advocacy resources. That support was not even the substantive support in dispute.

These kinds of problems should be prevented by better decision making in the initial decision, or even more rigorous internal reviews.

Once a matter is at the external appeal stage, the level of resource wastage for the many people involved invokes an even higher responsibility for the Agency to uphold the highest standards of conduct.

NDIS APPEALS AT THE ADMINISTRATIVE REVIEW TRIBUNAL

In January 2026 the situation at the Tribunal is worse than it has ever been, with record numbers of appeals and demand for advocacy and legal assistance which cannot be met by the organisations funded to do this work.

We are seeing matters where the Agency's **own expert witness** agrees with the supports the participant is seeking and yet the matter is progressing to hearing. We are hearing this across the country. Poor record keeping leads to bad decisions, these are not properly reviewed at the internal review stage, and the participant has no option but to progress to an appeal.

This is highly stressful and most participants are required to proceed without any assistance due to static funding levels causing capacity issues within the advocacy sector. Meanwhile the Agency instructs corporate lawyers at every step of the proceeding, including Counsel when it goes to hearing.

The distress and fear in the disability community are significant and real. We urge the Committee to consider the effectiveness of management of risk to participants as an equally important role for the Agency alongside management of financial sustainability risks.

About Villamanta Disability Rights Legal Service Inc.

Villamanta Disability Rights Legal Service Inc. (**Villamanta**) has been providing advocacy and legal services to people with disability since 1990.

We want an equal Victorian community for people with disability. We promote laws and systems that protect human rights. We work alongside people with disability to advocate on legal problems.

We want to see these outcomes.

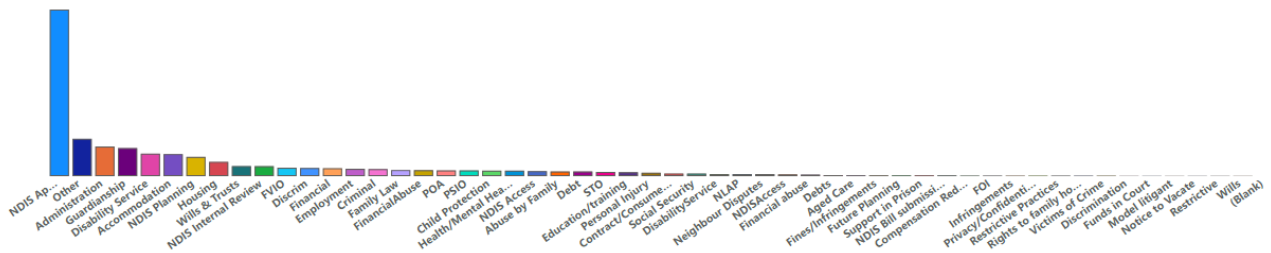
- More people with disability, especially those with cognitive impairment, get legal advocacy.
- People with disability feel more confident to self-advocate.
- Legal services get better at being easy to use.
- Laws and systems do a better job at making the community equal for people with disability.

We are funded to provide advocacy under the National Disability Advocacy Program; NDIS Appeals and the National Legal Assistance Partnership Agreement.

Our NDIS Engagement

Since the commencement of the National Disability Insurance Scheme (NDIS) the number and type of requests for assistance we receive has changed significantly. The chart below, from our reporting dashboard, shows all matters opened in the calendar year 2025, which includes all requests for assistance including unmet demand.

Matter Topic



The blue column on the left is NDIS Appeals. If we also include NDIS planning, internal review, access and assistance with submissions, that is 911 individual engagements out of a total of 2191, or about 42%.

The engagement we have had with the disability community around the NDIS and their experiences informs the submissions we make in this document.