



“ I would have given up without it.

## AN EVALUATION OF THE NDIS APPEALS PROGRAM LEGAL SERVICES

### About the evaluation

**This project evaluated the implementation and impact of the National Disability Insurance Scheme (NDIS) Appeals Program Legal Services.**

Legal Aid Commissions in each state and territory are funded by the Department of Social Services to provide legal support to eligible people who are appealing to the Administrative Review Tribunal (the Tribunal) about a National Disability Insurance Agency (NDIA) decision.

### Methods

The evaluation drew on data collected via a series of interviews with 45 people from across Australia, service data, various agency reports, policy documents, and public submissions to NDIS inquiries.

### Findings

**Legal support to people appealing an NDIA decision is crucial to a fair and efficient appeals process.**

The legal support provided by Legal Aid Commissions benefits appeals applicants, the NDIA, and the legal system. The NDIS Appeals Program Legal Services has evolved into a unique specialist program that:

- helps the legal system function better,
- promotes transparent and fair NDIA decisions, and
- gives people with disability better access to justice and necessary supports that can change lives.

In 2021-22 the NDIA spent about \$41.4 million on legal costs related to NDIS funding decisions, compared to a commitment of \$5.1 million for Legal Aid Commissions to deliver the NDIS Appeals Program.

### HOW THE PROGRAM IS DELIVERED

Two types of legal services are provided:



#### ADVICE

The number of advice services has **increased** over time as the provision of advice clinics has expanded and the number of cases lodged with the Tribunal has increased.



#### REPRESENTATION

The number of representation services provided has **remained consistent** because Legal Aid Commissions have constrained resources to provide these intensive services and criteria limit the eligibility of clients.

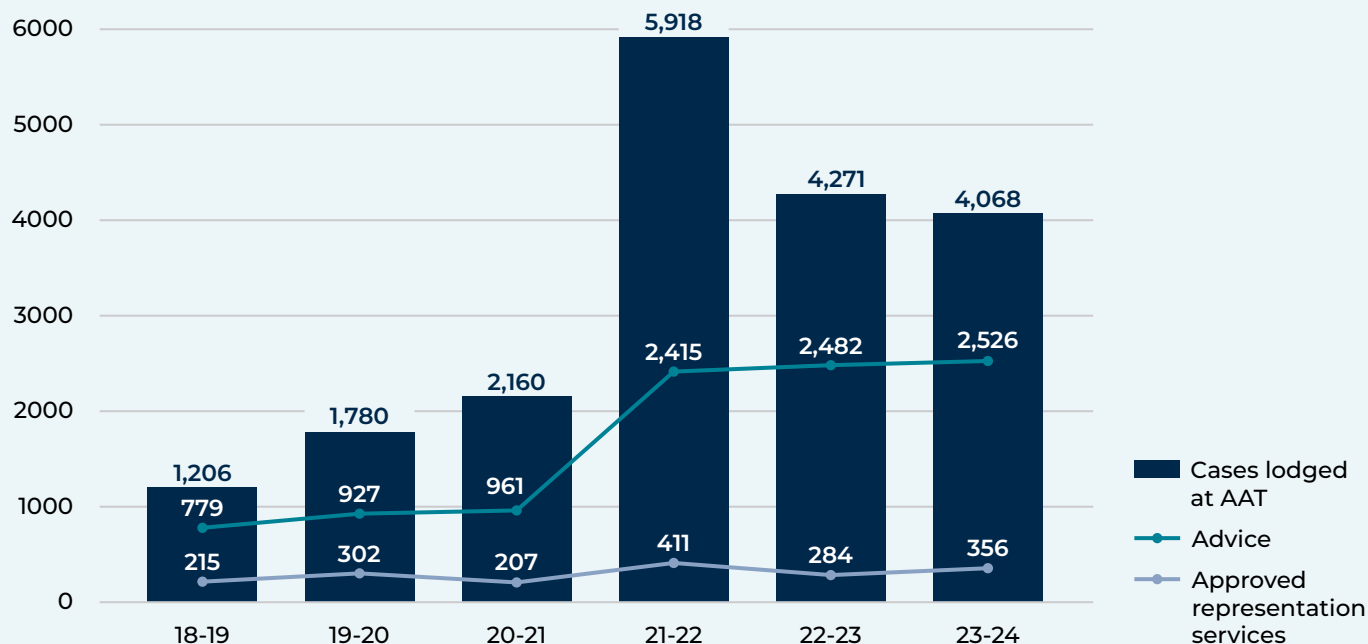


Figure 1: NDIS Appeals Program Legal Services vs. Cases lodged in AAT NDIS Division 2018-19 to 2023-2024

#### The program is needed because:

- the NDIS appeals process is complicated, daunting and very difficult for people with a disability and carers to navigate without support.
- it is a specialised area of legislation that requires specialist legal support.
- the evidence requirements and the amount of documentation can be overwhelming.
- the NDIA is extensively represented by lawyers, so applicants need legal support to 'level the playing field'.
- appropriate and fair appeals outcomes are critical for people with disability.

“Once NDIS knew I had Legal Aid on my side, all of a sudden they paid attention.

—Client

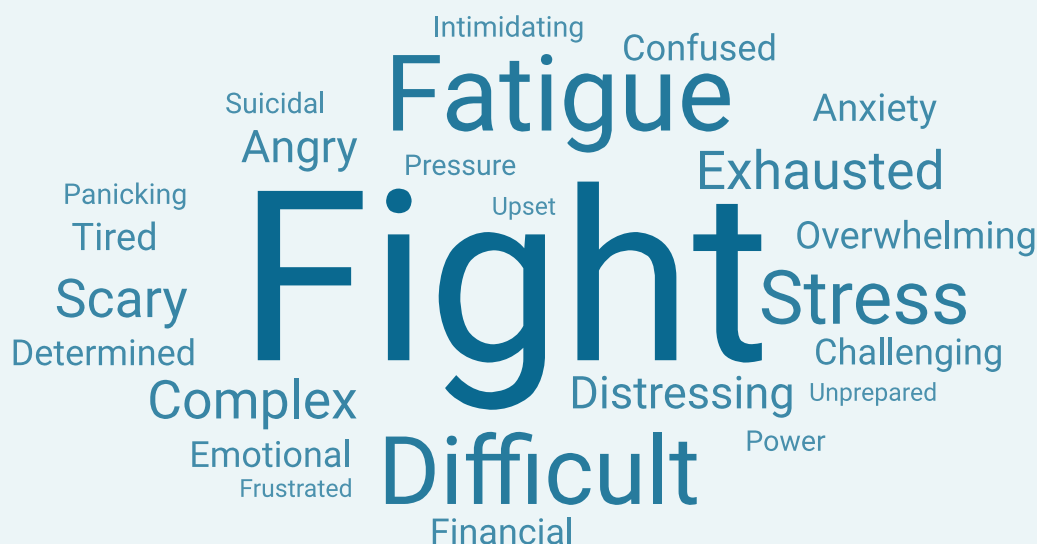


Figure 2: Words frequently used by program clients to describe the NDIS appeals process



## STRENGTHS

Identified strengths of the program were:

- its role in **addressing power imbalances** for people making appeals
- opportunities for appeals applicants to be **more informed and prepared**
- highly **specialised Legal Aid lawyers** with technical legal skills as well as skills in areas such as communication, collaboration and trauma-informed practice
- **complementary functions** between legal support and the support provided by disability advocates
- **active, respectful partnership** with people with disability and their support networks
- program design that allows for **local contextualisation**.



## CHALLENGES

Identified challenges for implementing the program included:

- the lack of secure and adequate **funding**
- difficulties **retaining skilled staff**, due to uncertain program funding
- the **complex and time-consuming** nature of the work.

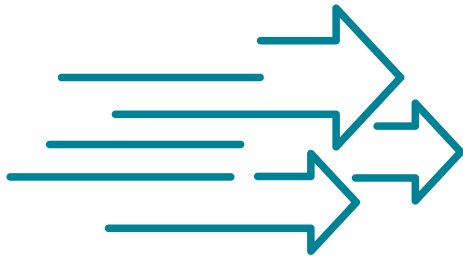


Figure 3: Words frequently used by program clients to describe the NDIS Appeals Program Legal Services



This work is sometimes... traumatising to do. But it's also some of the cases I'm proudest of in the 10 years I've been a lawyer. Yeah, there's some cases where I think I took on Goliath.

—Legal Aid Commission



## Ways forward

**The NDIS Appeals Program Legal Services is vital within an appeals process** that is often complicated, daunting, legalistic and very difficult for people with a disability to navigate without support.

**Secure, ongoing and increased funding for the program is required** to ensure that skilled staff can be offered permanent contracts, more people can be supported and efficiencies for the legal system can be harnessed.

**Ongoing developments** to the program should consider improvements to data collection systems and **tailoring services to engage under-represented communities.**

“

I said, ‘you’ve changed our lives and I couldn’t have done it without you’. Well, we wouldn’t have NDIS access. Simple as that.

—Client



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