Villamanta Disability Rights Legal Service Inc.

A Victorian Statewide Service

Villamanta advances the rights of people who have a disability related justice issue

4 June 2021

Ms Bonnie Allan
Committee Secretary
Joint Standing Committee on the NDIS
Via email: NDIS.Sen@aph.gov.au

Dear Ms Allan

Inquiry into the NDIS Quality and Safeguards Commission – Question on Notice

Villamanta Disability Rights Legal Service Inc thanks the Joint Standing Committee on the National Disability Insurance Scheme (NDIS) for the opportunity to appear before the Committee on 20 May 2021, and to respond to the following question from Senator Carol Brown taken on notice at the hearing:

> *"Do you have further data around your experience of individuals ringing and telling you that they've had negative experiences with the commission?"*

We have attached a document which provides a detailed response to this question.

We note that our sample size is small for both sources of data reported on.

We would encourage the NDIS Commission to consider the ongoing and direct collection of complainant feedback in order to gain a better understanding of user expectations and experiences.

Please do not hesitate to contact the undersigned if you have queries about any of these matters.

Yours sincerely

Naomi Anderson

Lawyer

Villamanta Disability Rights Legal Service Inc.
P O Box 3130
GROVEDALE VIC 3216
ABN 32 690988 235

☎ Legal Advice: 1800 014 111
☎ General Enquiries: 03 5227 3338
💻 Email: legal@villamanta.org.au
💻 Website: www.villamanta.org.au

Question on notice: "Do you have further data around your experience of individuals ringing and telling you that they've had negative experiences with the commission?"

We have used two sources of data below:

1. Information stored in our database; and
2. Survey results

The limitations of both sources of data are discussed below, as well as the findings of a review of the data and comments available within each.

1. INFORMATION STORED IN OUR DATABASE

Limitations

This data is gathered from inspection of records of calls to our Telephone Advice Service, based on a search for records referring to the NDIS Quality and Safeguards Commission (**NDIS Commission**) in full, or as a shorthand descriptor ("Q&S", "Q+S", "NDIS Comm", "Safeguards" and similar).[1]

People call the Telephone Advice Service because they have a problem they are trying to solve. By definition, the data we have recorded will exclude those individuals who have contacted the NDIS Commission and had a good outcome, because they no longer have a problem and do not need advice on how to resolve it. In recognition of this, we have also conducted a very quick and simple online survey, which was opened to a broader audience, and is discussed further below.

The numbers

We located a total of 85 relevant records. Their involvement with the NDIS Commission is identified as:

	2019	**2020**	**2021**	**TOTAL**
Had already contacted the NDIS Commission when the spoke to us	2	25	9	36
Had not contacted the NDIS Commission, and we recommended that they do	11	24	14	49
TOTAL	**13**	**49**	**23**	**85**

No further information is available for those callers in the second category. They called with an issue which we identified as being of the type that the NDIS Commission can assist with, and we recommended they contact the NDIS Commission directly. We have no further involvement beyond that point.

[1] While we anticipate that the relevant records have been found, we cannot be 100% certain, and do not have the resources to read every file note made since July 2019 when the NDIS Commission began operating in Victoria.

One exception is where we take the matter on and open a casework file, or where we are involved in relation to a separate matter. These records are discussed further below.

The feedback

In those cases where the individual had already contacted the NDIS Commission, we have summarised the feedback below.

We note that these are not the words of the caller, but the notes taken by the person taking the call. Their task was not creating a verbatim record for future use, but merely noting the main issues raised and the advice provided.

2019

- Waiting for response
- Reported to them, but nothing was done

2020

- Waiting for response
- Only listened to service provider, not participant
- Took providers side without any evidence they were telling the truth (they weren't)
- Told it was a consumer issue and should go elsewhere
- Has not heard anything back
- Complained, but it's not going anywhere
- Requesting assistance dealing with Commission
- Matter was resolved by mediation by Commission
- Commission was not acknowledging the risks and siding with provider
- Not happy with progress, ongoing delays, or outcome (but subsequently resolved)
- Never heard back from them
- Never heard back from them
- Commission sided with provider without proper investigation
- They didn't do anything
- Still waiting for something to happen
- Nothing happening
- Refused to help because no longer using the provider
- They got the information wrong and now I've been lost in the system
- Said they would look into it but didn’t
- Told they don't handle financial matters (overcharging by provider)
- Hasn’t heard back (recent complaint)
- Never got a response
- Didn’t achieve anything
- Told them to follow service provider policies

2021

- Never heard back from them
- Involved for a year, but made omissions and never resolved anything
- Still discussing with Commission
- Told participant to contact Consumer Affairs and/or Villamanta
- A meeting had been arranged, waiting to attend
- Don't know what happened after made complaint - nothing?

- Complained last year, heard nothing back
- Never heard back from them
- Commission said just move house, but no options available and participant has lived there for some time

Our experience

The last category are matters where we are acting for the client, either directly in relation to the NDIS Commission matter, or on an unrelated matter, but the client has queries or feedback regarding the NDIS Commission matter. Our notes in relation to this category are as follows.

2020

- Have to keep contacting to ask status, no outcome
- Unclear communication. Commission did not have a complaint lodged, suggested it may have been a call, which is not recorded unless it's considered a formal complaint
- Had to keep chasing for responses, no outcome
- Extremely slow process, inconsistencies in statements by provider glossed over, no satisfactory outcome

2021

- Initial acknowledgement, then nothing
- Initial acknowledgement, then nothing
- Initial acknowledgement, then nothing

It is acknowledged that the 2021 matters relate to complaints made within the past month.

2. SURVEY RESULTS

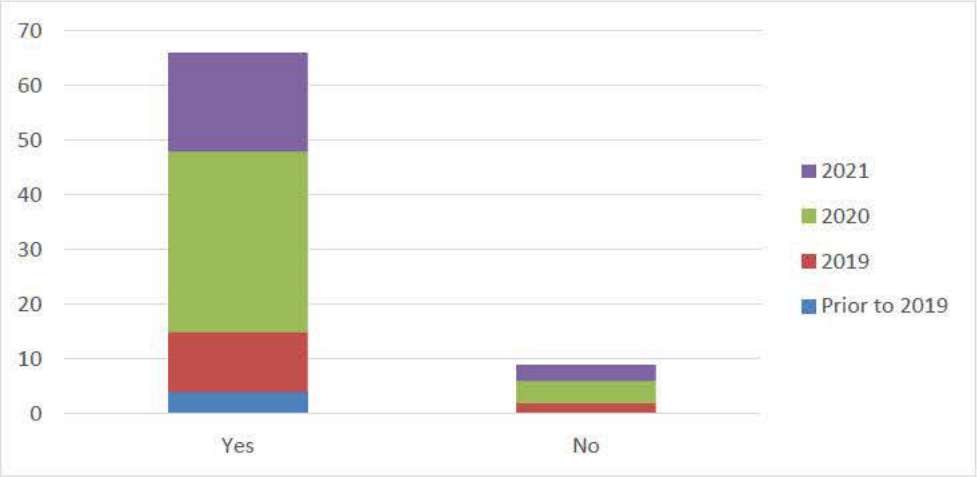
As noted above, we are aware that the callers to our Telephone Advice Service are people who still have a problem to be resolved, and therefore are not inclusive of those who have had a good experience with the NDIS Commission.

From 21 May 2021 to 31 May 2021 we hosted a short survey, which was shared on social media, and also emailed to disability advocates for completion. A total of 83 responses had been received at the time we closed the survey to analyse the data.

The questions asked, possible responses, and numbers of respondents is graphed below. Each question has two sets of comparative data: by year of complaint, and by which state the complainant was in.

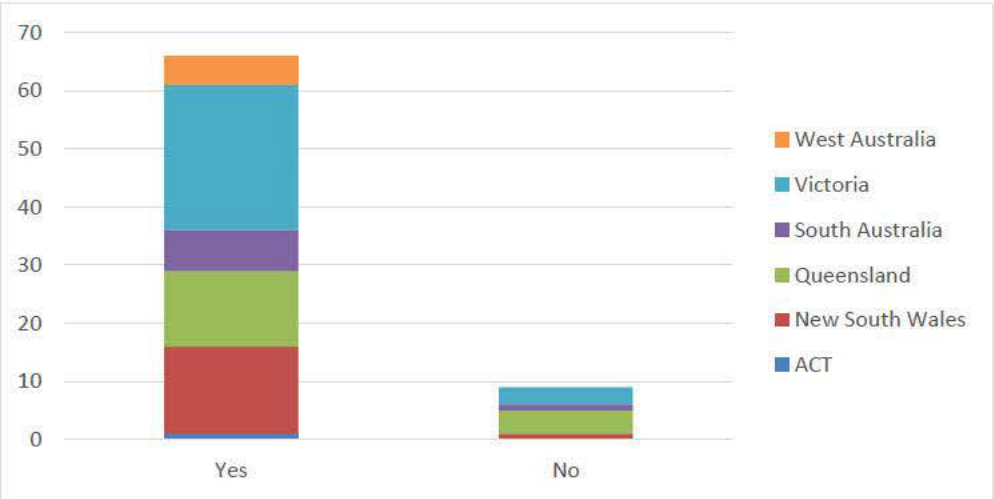
Did the NDIS Commission acknowledge receipt of your complaint?

Comparison by year complaint made



Eighty-eight percent of respondents said the Commission acknowledged receipt of their complaint, with minimal variation over time.

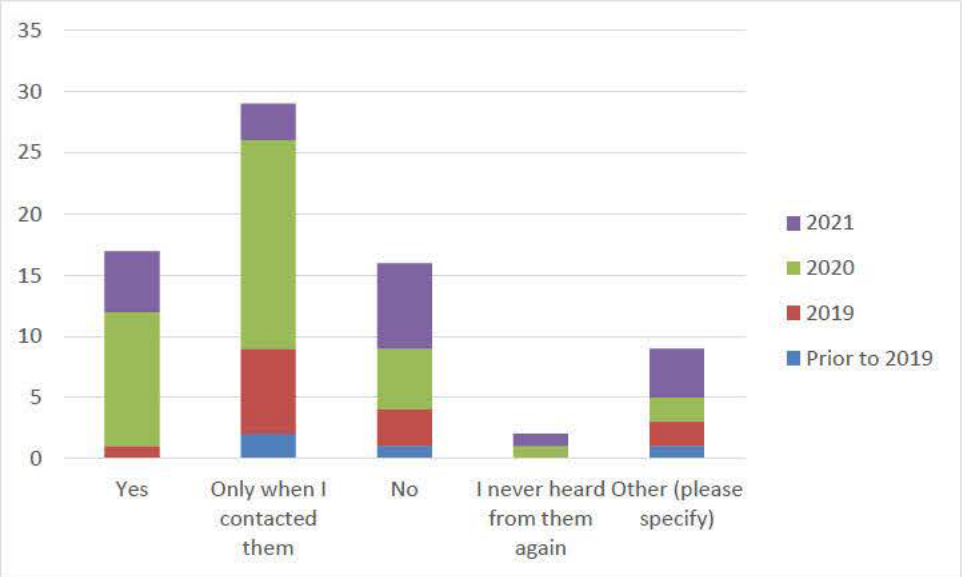
Comparison by location of Respondent



New South Wales had the highest reported acknowledgement of receipt (94%), and Queensland the lowest (76%).

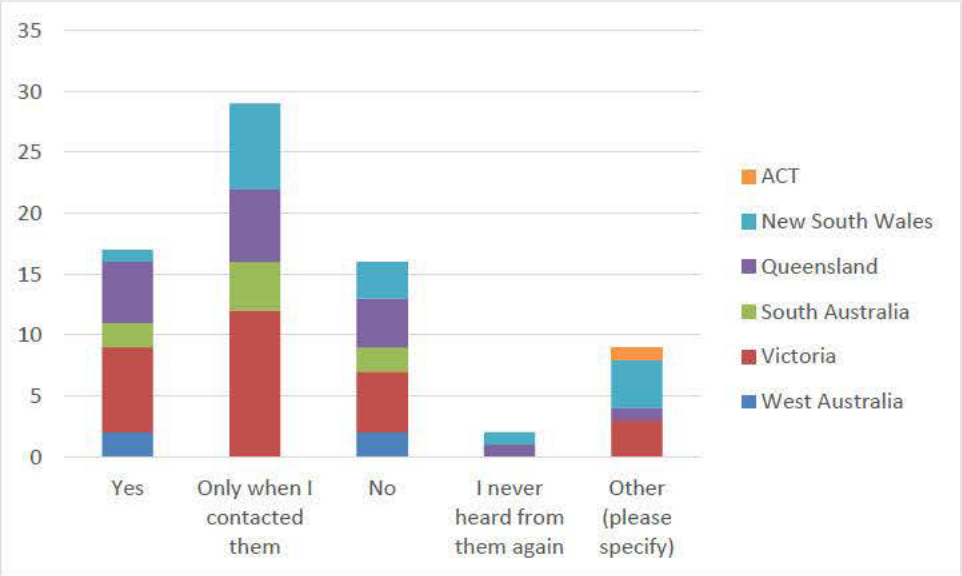
Did the NDIS Commission keep you informed of the progress of the complaint?

Comparison by year complaint made



Overall only 23% of respondents stated that the Commission had kept them informed of the progress of their complaint, with 2020 scoring the highest (31%).[2]

Comparison by location of Respondent



Respondents from Queensland were most likely to have been kept informed of progress (29%), and New South Wales the least (6%).[3]

[2] It is acknowledged that 2021 responses may relate to complaints that have only recently been made and it may not be appropriate to provide updates yet.

[3] Leaving aside WA and ACT due to small sample sizes.

"Other"

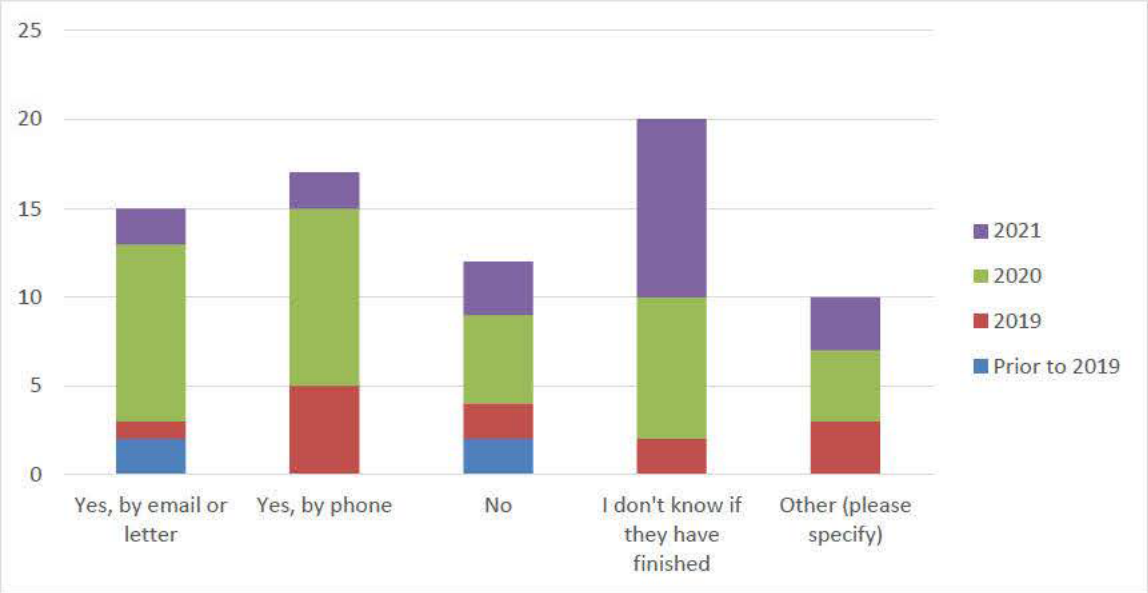
The following comments were made[4] by people selecting "other" as their response.

- I was told they called the service I made a complaint about, which told the commission there was no problem, even though I had support from a service provider a different one to document the complaint, so complaint ended, seriously!
- Ring me once to say they were investigating
- Several issues at different times. Commission never responded, had to chase them up. They are not interested in violence, abuse, neglect and exploitation of our vulnerable loved ones. Government and government funded are systemic habitual abuses. Happens throughout all government. All they say is 'nothing to see here'. Commission is all part of the evil corruption.
- Combination of yes and no. Initially in a timely manner. However; updates started to drop off and needed follow up.
- Minimal info provided
- Best outcome when local MP wrote to NDIS Minister, however, complaint when right back to the offices I complained about (the same local LAC and same local NDIA office) instead of a higher or other authority- I just gave up
- They told me that dealing with a provider who making themselves plan and communication nominee for people who can't read or write was 'just a conflict of interest' and they don't deal with that ... these people still at risk
- I've been contacted once for more information. I consider this to be not kept informed of progress.

[4] Where comments have been made, we have copied these directly from the survey and not edited in any way.

Did the NDIS Commission inform you when they had finished with your complaint?

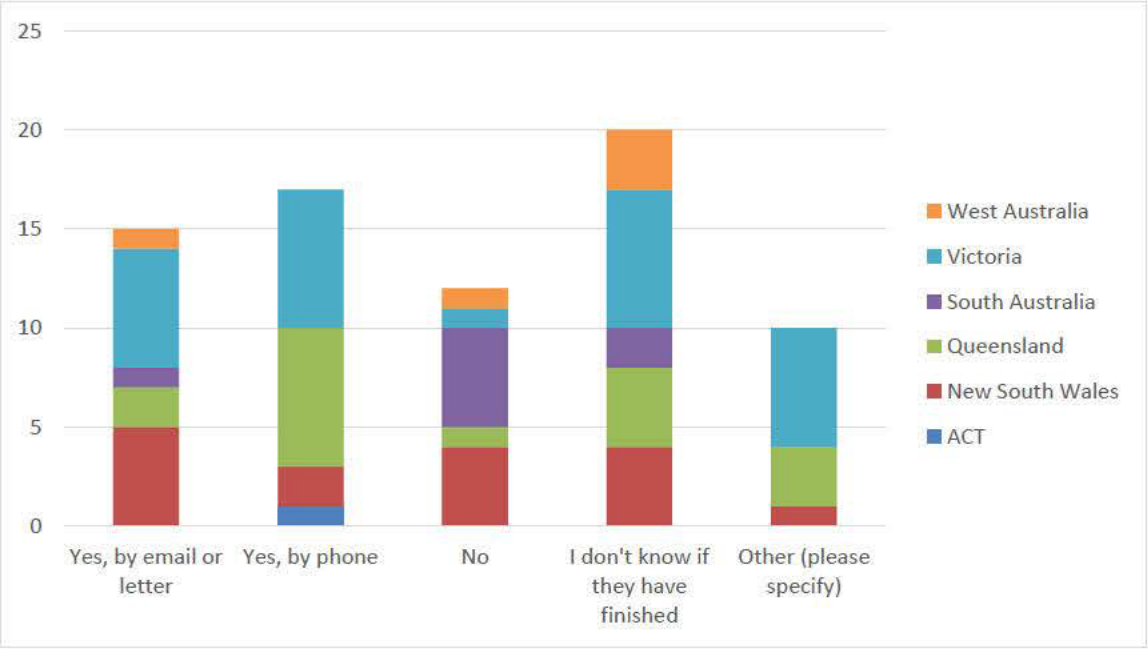
Comparison by year complaint made



Only 20% of all respondents received a written closure of their complaint, with complaints made in 2020 having the highest rate of written closure (27%).

While 27% of respondents didn't know if the NDIS Commission had finished with the complaint, the highest proportion of these (50%) are in the current year, and may well include very recent complaints.

Comparison by location of Respondent



Respondents from New South Wales were most likely to have had a written response (31%) and those from Queensland the least likely (12%).[5]

Respondents from Victoria were most likely not to know if the complaint had been finished (26%).

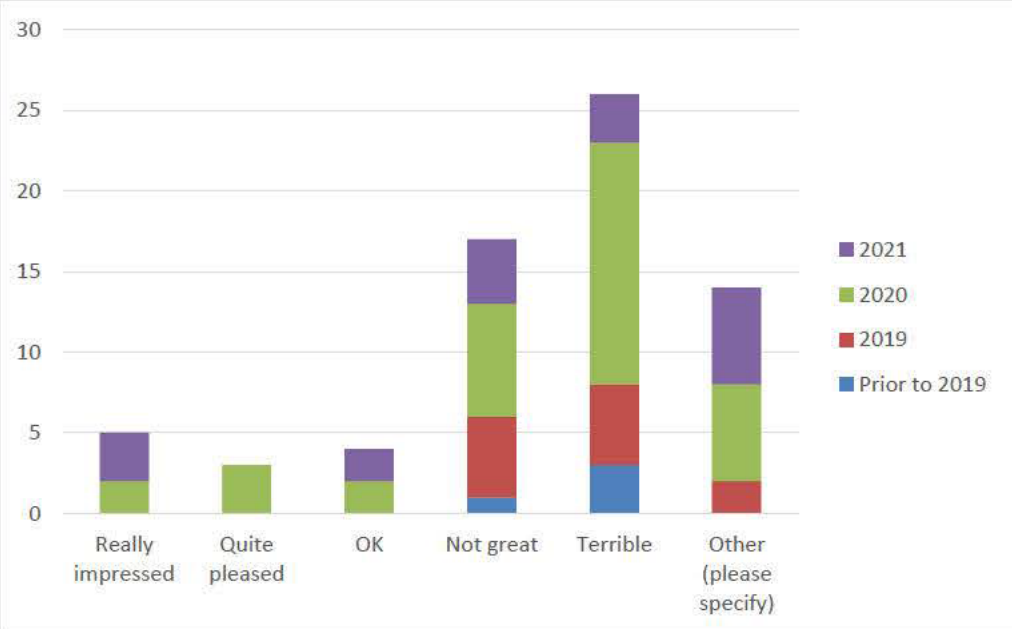
"Other"

The following comments were made by people selecting "other" as their response.

- Yes but only when I followed up
- Only when I contacted them. It was never thoroughly investigated. Severe incompetence. My life was put at severe risk, 21k fraud for reports needed for life saving AT device
- Abuse is abuse : fraud is fraud It is that simple. Nothing done by commission
- Only when I had followed up
- Still going they tried to close but i wouldn't let them as the issue wasn't resolved
- Yes by email, but I complained again and they reopened the file
- Still not finished
- They told me not their problem, this has been my experience every time I have tried to complain
- They said they will contact me again as there are many issues to cover. I am still waiting. About three months so far

How satisfied were you with the way your complaint was handled?

Comparison by year complaint made

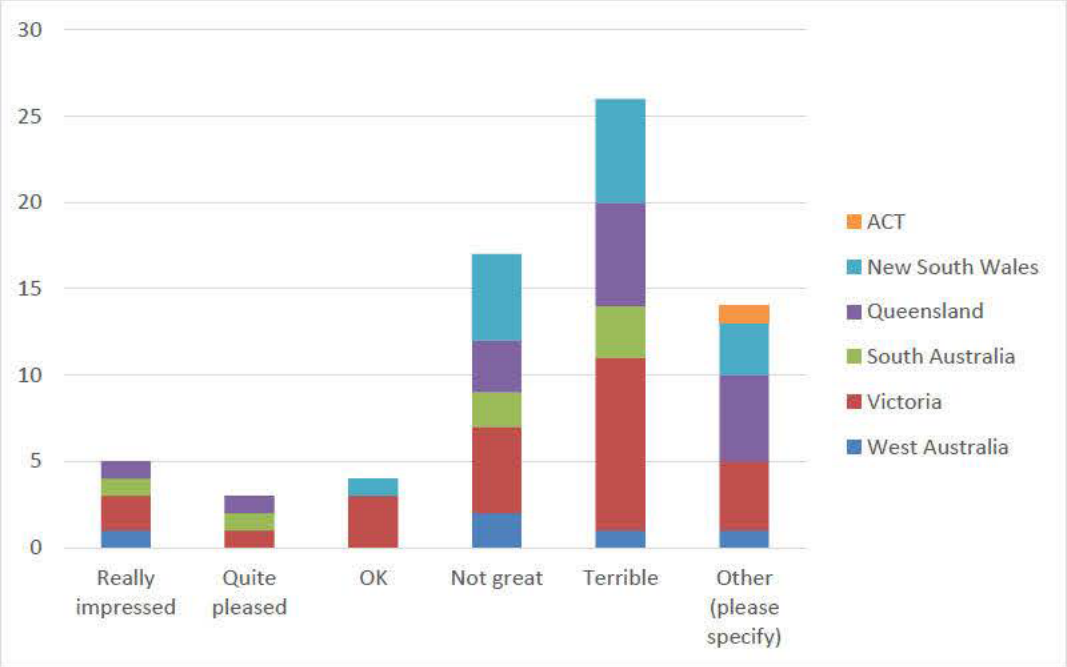


[5] Excluding ACT, SA and WA due to very small sample size.

There are two questions asking for feedback about the complaint – this question relates to the process of handling the complaint, whilst the next question relates to the outcome of the complaint itself.

While the responses about the way the complaint was handled were heavily weighted toward negative answers (17% positive responses overall), those Respondents who had made a complaint in 2021 were more positive than previous years (28% positive responses).

Comparison by location of Respondent



The highest levels of satisfaction with the process came from South Australian respondents[6] (29%) and the lowest from New South Wales (7%).[7]

"Other"

The following comments were made by people selecting "other" as their response.

- Left in the dark: don't know what is happening
- No, have had no outcome, or contact since first acknowledgement of complaint
- They called the service provider I complained about, the service said there's no problem so no complaints
- It was whittled down to a next to nothing complaint
- Abhorrent. Rude. Lazy : they are NOT interested : it has been shown people with disabilities are being killed by ndis service providers and commission NOT interested
- there wasn't an outcome, it was handballed

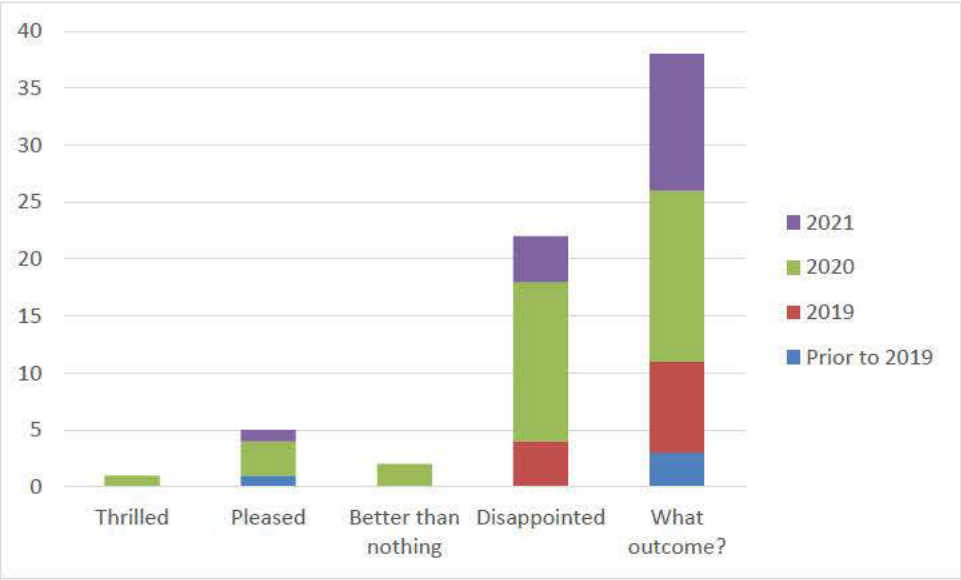
[6] Acknowledging the very small sample size in this instance

[7] Excluding ACT and WA due to very small sample sizes

- I felt the commission took on more of a mediation role rather than holding the service provider to account.
- Appalling. An absolute waste of money and resources
- I don't know if it has been handled
- I would assume the complaint is still being investigated. I only put it in a few weeks ago.
- The guy was helpful in getting me an advocate (they are difficult to get) , but I have no idea if he took the complaint about my Support Coordinator seriously
- Really angry, I am a provider who sees many many people in risky situations due to other providers breaching the code of conduct all the time. The commission is useless
- Appalling. I spent numerous hours talking to the person who was dealing with the complaint. In the end it was handballed to a lady who I spoke to briefly. Initially it appeared she was on top of the situation that had occurred. I was fairly hopeful it would be addressed. Several weeks later I received an email letting me know it had been dealt with and the case was now closed. The agency who removed my son from their books without consultation feels totally vindicated with this result. One of the things that kept coming up was the commission sees their role as one of assisting providers do better. I get that, but not at the expense of people with disabilities and their ageing parents.

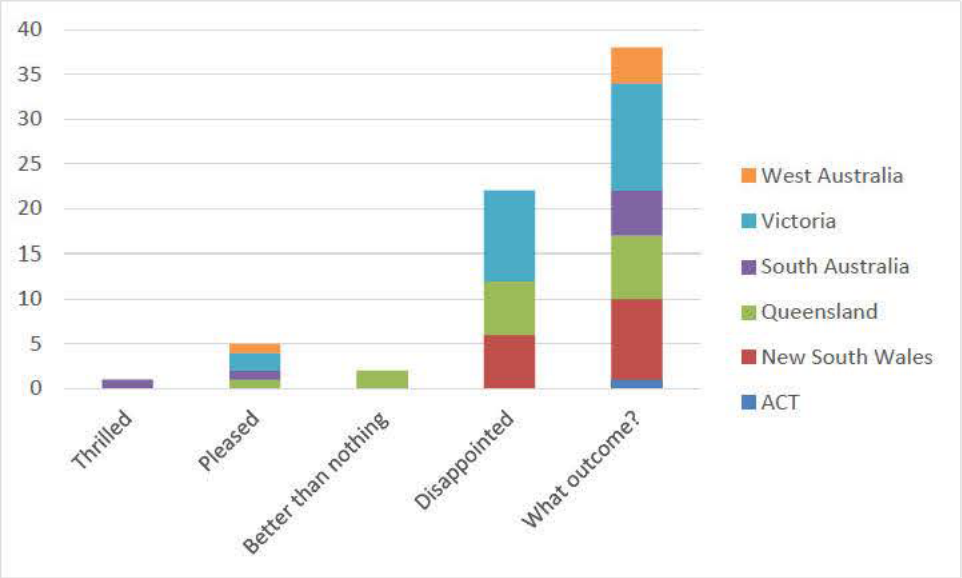
How satisfied were you with the outcome of your complaint?

Comparison by year complaint made



There is a strong level of dissatisfaction with outcomes across all years, with 2019 complaints having the highest level (100%).

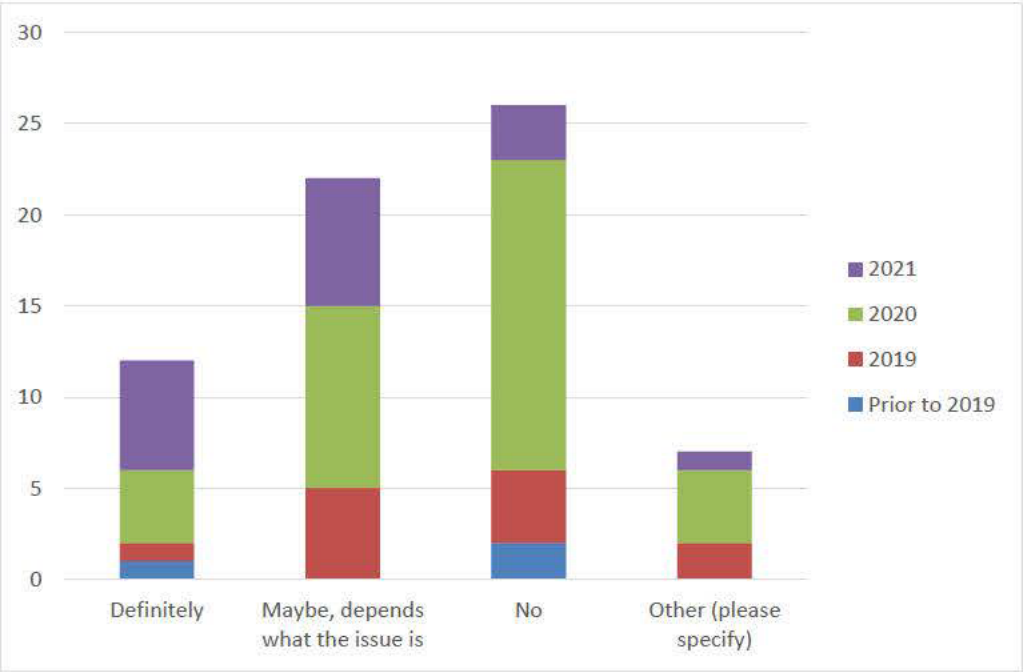
Comparison by location of Respondent



While all states had high levels of dissatisfaction with the outcome of complaints, New South Wales was the highest (100%) and South Australia the lowest (72%).

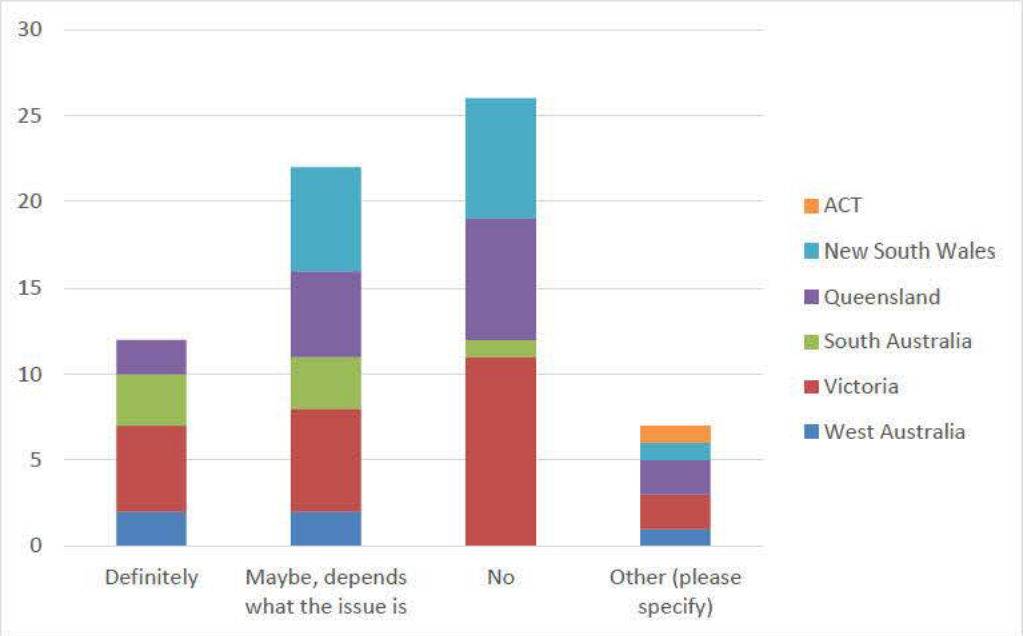
Would you recommend complaining to the NDIS Commission to others?

Comparison by year complaint made



The number of respondents who would "definitely" recommend making a complaint to the NDIS Commission is low overall (20%), but has risen over time and is highest in 2021 (35%). Those who would not recommend making a complaint are 39% overall, but 49% for 2020 complaints.

Comparison by location of Respondent



South Australian respondents were the most likely to recommend making a complaint to the NDIS Commission (43%), and New South Wales respondents were most likely not to recommend this (50%).

"Other"

The following comments were made by people selecting "other" as their response.

- Only so when others say next you have ticked that box !
- Am still waiting for support...
- Why bother, the NDIS process has increased my mental health diagnosis and worsening Symptoms and outcomes
- No…Yes. : need to document and that continues to show the systemic failures by government NDIS.
- I would rather repeatedly stab myself in the eyes with a rusty fork than their name should ever pass my lips
- It gets you no where, but yes, hopefully there will be statistics around complaints and the need for improvement, as it certainly needs it
- It is a paper tiger so have reservations about advising others to see them

Do you want to add anything else?

- Have made several and several attempts to make a complaint it is indescribable the nonsense.
- They appeared to be satisfied that the organisation would manage the complaint by reviewing their policies rather than addressing the issue and concerns about the worker
- Disgusting. I complained twice. Still nothing!

- The behaviour of the NDIS Commission staff in Qld was exceptional! They spoke to me as a fellow person, not down to me. They were respectful to my provider as well and we all worked together to get a resolution. It actually made the relationship with my provider better, and both my provider and myself shared how we were impressed by the conduct and consideration they gave to all parties.
- My disabled brother has been abused, neglected, had his life endangered on two occasions, all attempts to get justice for my brother have been disregarded. This time I was assured by the NDIA that they would see it to the end, but not a word. My brother was left sitting in a soiled aid in his chair for 23 hours, and not a word since I reported it
- How are the WA/SAT and WA/OPA allowed to Act against Legal Precedence?
- Why does the commission exist if they don't believe me, and I have evidence of my experiences and disability
- They need to respond quicker. Heavier punishment to providers
- My case is yet to be finalised
- They took a very serious complaint about a psychosocial recovery coach that did some serious psychological damage to my 20 yrs old daughter. By the time it was finished their wasn't anything they really could do.
- no
- Without any doubt NDIS was set up to entrap people with disabilities and their loved ones into a death traps. NDIS services providers are the ones who are reaping and raping the $multi million dollar$ benefits, not the vulnerable. STOP all systemic abuse (physical, emotional, sexual), neglect, exploitation (fraud) and violence… STOP NOW!
- No transperancy
- The whole thing is a joke. It is lip service to able bods and to fool the RC into thinking there is remedy for us when we have an issue. I would rather skip the whole process in future and test any case I have via judicial review in the federal circuit court.
- an utter waste of time
- I would recommend making a complaint if the Commission is going to do something about the issue. When a complaint comes to an advocate we have generally tried to resolve the issue ourselves. If we are coming to the Commission it is because there is a serious issue at play which requires not just the attention of the commission but action to be taken. If matters are only being addressed by way of utilising a mediation approach there is not point in raising the complaint with the Commission on behalf of the PWD. Our clients deserve better than this as do all PWD.
- it's a hand holding service that listens more to the service provider and ensures they educate them. They have no teeth and they make all excuses to not investigate the complaint face to face. This commission adds no protections to people with a disability who want action and want accountability to the service provider, that the service provider is not answerable and has not received any penalties for the damage and poor service they have caused my clients - just disgraceful and not worth having them.

- The complaints processes can be better advertised
- I have made a few complaints as an advocate, in some instances the Commission have not been able to adequately comprehend the issue I was complaining about.
- It would be nice if they were contactable and prepared to talk about your concerns instead of just gathering information and believing in what the organization who your complaining about states
- So many issues ... they just dismissed our complaint, too limited juridiction, ...
- This issue was quite simple and straightforward to be addressed by the Commission. The NDIS participant required an Advocate to support with making the complaint to the commission otherwise they would not have done this to get a positive outcome.
- There does not appear to be a large number of staff but were extremely helpful with my two complaints on behalf of clients
- Outcome was considered privileged but company both knew I had reported them and told me they had received no censure of any kind.
- Na
- My brother was physically assaulted and there was a police report. Nothing happened
- I believe my complaint is still being investigated. My concern is the provider being investigated can respond with what they think is needed to be said and there is no way of checking what is actually happening. More power needs to be given for a more comprehensive investigation, and not relying on what the complainant responds with. This can be confusing for the investigator and difficult to really get the facts.
- Complainants are not being delt with until it's too late
- Toothless tiger operating in a bizarre rule set that minimises accountability and let's abusers off with barely a smack on the wrist.
- the commission needs more powers to act and more staff to investigate. the comission also needs powers to act on the NDIS when it is clear the risks identified are comming from a lack of funds in a participants plan
- Nothing was done. No communication.
- The NDIS Commission is biased towards the Provider.The process is not transparent.The Commission needs Legislative change to have greater auditing and investigation powers. At the moment it is a toothless tiger.
- The only reason they responded was at my insistence months later and after I insisted that a Code of Conduct violation COULD be pursued while I was waiting for the police and court prosecution of the SW that did the assault. It took close to 9 months but I did get a banning order against the SW as I escalated repeatedly and documented everything. The Commission only really did any action after me constantly checking, calling, emailing and stating if nothing was done I would be happy to do a “mini series” of their inaction against a reported assault of a PWD under NDIS BY THEIR NDIS SUPPORT WORKER!!! What a nightmare dealing with the NDIS Safeguards Commission. Originally they were saying they could do nothing against the SW beating the PWD as it had to be a criminal prosecution and they had

to wait until the case was done in the courts. In fact the matter is STILL BEFORE THE COURTS so if I had taken the Commissions first answer, that SW would still have just been out working with other vulnerable people. She only got a 3 year banning order in the end. That was better than nothing but still she isn't a safe person to ever work with PWD because if she gets mad again she could just attack another PWD.

- What's the point
- These questions are biased and do not give an answer for those that have put a complaint in, but have not heard back because it is a new complaint that is still being investigated. Of course they haven't told me the outcome, they haven't got one yet. So my answers will come out looking like the commission do not follow through, when in fact, given time, they may do so.
- I got told by their FOI person that Q&S has two tiers of workers. Only the top tier workers can do anything about compliance. The bottom tier only do gatekeeping to stop people going to the top tier.
- The Q&S Commission in their current form are a toothless tiger that are woefully under resourced and usually either take the side of government / service providers as the government seems unwilling to 'rock the boat'. The whole process is adversarial and in practice the commission rarely actually achieves what it was set out to ensure, the rights and safety of people with disabilities under the NDIS.
- 2 abuse complaints and was told to contact my daughter's abuser to receive the outcome of the investigation, disgusting and disgraceful policy that needs to be amended to protect the victim.
- staff were nice but seemed like they were under intense pressure and expectations, seems like policy, more aps not contract staff would be benefical
- I felt they took the providers side
- Absolutely useless
- No
- No
- I am currently collating a whole bunch of things relevant to 4 different complaints and the Commssion. I will take this evidence to the Omubdsman (state and federal), human rights commission and discrimination commission. My complain there will be about the Commssion themselves. It is completely unreasonable for people to
- Complaining is the only option. If people don't complain, there's no chance for improvement.
- The person I spoke to was very supportive and understanding, but from the tasmanian office and just taking the call. He did advise it would take a while and he was very sorry. I did feelhe waslistening but I would appreciate the promised follow up
- They seem to have no knowledge of process and good practice. The CEO of the organisation that threw my son under a bus had apparently spoken about me to them. Covering her back and that of her organisation. I was effectively defamed by her

before I got to speak to them. I don't know for sure, but it's possible this was a reason why they did not take my complaint seriously.