

The Hon Michelle Rowland MP
Attorney-General
Suite 101C
130 Main Street
Blacktown, NSW, 2148

Dear The Hon Michelle Rowland MP (Attorney-General),

Subject: Complaint over ART recusal processes

I write to complain formally about the Administrative Review Tribunal's recusal processes. I write to you since writing to the Tribunal is pointless.

The ART website has no information about its recusal processes (see Annex A. Recusal in ART website below): the ART recusal process is invisible to Applicants. A4 obtained additional information via Freedom of Information – see

- https://www.righttoknow.org.au/request/art_recusal_policy_and_outcomes and
- https://www.righttoknow.org.au/request/art_recusal_practice_and_outcome

Basically, the Tribunal's handling of recusal issues is seriously dysfunctional.

Document 2, in the second FoI says:

1. Where a recusal request is made, the member who has been constituted for the review determines the request in the first instance.
2. It highlights the High Court's advice (typically ignored by this Tribunal), that says

... a judge is disqualified if a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial mind to the resolution of the question the judge is required to decide. That principle gives effect to the requirement that justice should both be done and be seen to be done, a requirement which reflects the fundamental importance of the principle that the tribunal be independent and impartial.

Regrettably, the Tribunal has a diminishing ability to achieve “justice ... be seen to be done”.

3. There is no requirement for a member to provide reasons for why they have decided to recuse themselves, or why they have decided not to, although they might choose to do so.

FoI Document 3 about [Managing recusals](#) says:

A recusal request may be made by a party alleging actual or apprehended bias by the presiding member against the individual. Any such request must be in writing and include reasons for the request.

However, the requirement that “any such request must be in writing” is not on the ART website and is not provided (properly available) to Applicants.

The Tribunal's process for handling requests for recusal initially accepts requests relating to “apprehended bias”, but it usually converts apprehended bias to “actual

bias” then dismisses the request. This conversion of apprehended to actual bias occurs when an Applicant makes a recusal request.

The process requires the Member involved to adjudicate whether or not

a fair-minded lay observer might reasonably apprehend that the tribunal member might not bring an impartial and unprejudiced mind to the application before the ART.

Whenever the Tribunal Member decides against recusal (and A4 has yet to observe a decision to recuse), that decision means the self-deciding Member concludes that the person who made the recusal is in effect not fair-minded. Thereby, the Member establish the existence of *actual* bias against that person who made the recusal application; the Member decides the person is not fair-minded thereby showing clear actual bias against that Applicant.

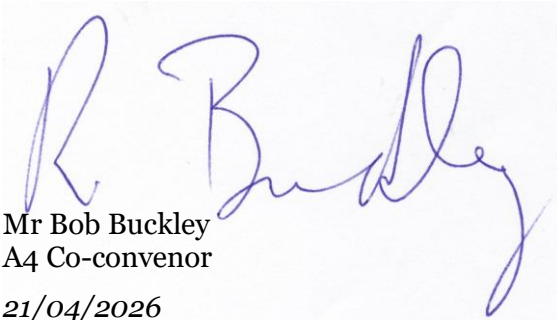
A4 has not found any review process for the ART’s already unsatisfactory recusal process. This means that Applicant’s simply cannot be confident that the Administrative Review Tribunal is “fair and just” s9(a) of the ART Act 2024 and it fails to “promotes public trust and confidence in the Tribunal” s9(e) of the same Act.

For example, the Member in *2024/8509 - RBTZ and National Disability Insurance Agency* was asked to recuse herself. She declined. Multiple issues were raised against this Member that she rejected. Subsequently, she has:

1. failed to identify the alleged “new evidence” that she used as grounds for deferring an early intervention matter for 5 months, and
2. in the separate matter of *DJVK and NDIA – AAT No. 2024/11127*, the same Member:
 - a. called the Applicant’s advocate (same advocate as in *2024/8509 - RBTZ and NDIA*) “foolish” and accused him of making “foolish arguments” – clearly, she is biased;
 - b. allowed and supported the Respondent’s character assassination of the Applicant’s mother at hearing (the mother was so upset she left the hearing and the Member was unsympathetic);
 - c. told the hearing that she read the transcript each night when FoI determined that no such transcripts exist – she is not truthful; and
 - d. is overdue for deciding that matter.

The process for recusal of this Member is unsatisfactory. We observe other examples of unsatisfactory recusal processes and failures of **s9 Objects** of the *ART Act 2024*.

Yours sincerely



Mr Bob Buckley
A4 Co-convenor
21/04/2026

Annex A. Recusal in ART website

The screenshot shows the top navigation bar of the Administrative Review Tribunal website. It includes links for Home, Daily listings, Language help, Contact us, and Search. The main header features the Administrative Review Tribunal logo and three buttons: Apply now, Manage your case, and Menu. Below the header is a large teal search bar with the word "Search" in white. Underneath the search bar is a breadcrumb trail: Home > Search. A search input field contains the text "recusal" and a search icon. Below the search field, it indicates "Page 1 of 1". The search results display a single entry titled "Freedom of information" in bold teal text. The description below the title reads: "How to request access to information under the Freedom of Information (FOI) Act 1982 and access the FOI disclosure log".