

NDIS APPEALS:

A guide to the Administrative Review Tribunal (ART).

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In October 2024, the Administrative Appeals Tribunal (AAT) was replaced by the Administrative Review Tribunal (ART). If you asked for an external review before October 14 2025 your case automatically transferred to the ART. This fact sheet does not provide legal advice and may not apply to your individual circumstances. This fact sheet provides general information and suggestions including some options of where to seek legal advice.

Result of my NDIS Internal review?

If you disagree with a decision made by the National Disability Insurance Agency (NDIA), you must first ask the Agency to review the decision. This is called an internal review (S100) . If you then disagree with the decision of the internal review, you can apply for an external review of the decision with the [Administrative Review Tribunal \(ART\)](#), an independent body. The decision you have been given by the Agency will say whether or not the ART can review it. For example, it could say

If you don't agree with our decision, you can apply to the Administrative Review Tribunal (ART) for an external review within 28 calendar days of receiving the internal review decision in writing. Information about how to apply is available on the [ART website](#), or by calling 1800 228 333.

New online form in use from 28 March 2025. The form should provide new applicants with a better online application experience such as:

- move easily between different sections of the form
- lodge an application even when no internal review decision has been made
- within the 90 days
- ease of submitting documents to the ART
- make a request for an extension of time to lodge
- all documents should be emailed to reviews@art.gov.au

For any documents larger than **10mb**, please contact us for details on how to submit.

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The ART can review most internal review decisions made by the NDIA under the [National Disability Insurance Scheme Act 2013](#) (NDIS Act).

Some of the decisions the ART can review are:

- a decision that a person does not meet the access criteria
- a decision to revoke a person's status as a participant
- a decision to approve the statement of participant supports in a participant's plan
- a decision not to conduct a reassessment of a participant's plan
- a decision to make, or not to make, a determination that a person has parental responsibility for a child.
- a decision to appoint a plan nominee
- a decision to appoint a correspondence nominee.



[2 minute video with AUSLAN interpreting:
Overview of the Administrative Review Tribunal](#)

When reviewing a decision, the ART has the power to:

- **Affirm** the decision (meaning the decision is not changed); or
- **Vary** the decision (meaning part of the decision is changed); or
- **Set aside** the decision and substitute a new decision: the decision is replaced with a new decision
- **Set aside and remit** the decision: the matter is sent back to the agency to make a new decision.



Hot Tip

This external review will look at everything afresh so wait until you have received the Statement of Issues before deciding what further evidence or information you need to provide. The Statement of Issues (SOI) is the document that will now be referred to throughout this process.

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How do I Apply?

First, read the 'Guide to Applying for Review' located at the back of the [ART application form](#). You can submit your application by post, email, fax or by requesting over the phone. The ART can help you complete an application if you need assistance. Remember to attach a copy of the decision letter or if you cannot, give a brief description of the decision in your letter/email.



To appeal an internal NDIS decision you must submit your ART application within the 28-day timeframe. You can always forward additional evidence during the process but the initial submission must be within that timeframe.

There is no application fee to apply for a review of an NDIS decision.

If you miss the 28 day cut-off, [you can apply for an extension of time](#), this link will take you to a form to print and email to the ART. If you change your mind, you can write at any time to withdraw your application without having to explain why, or the ART can send you a withdrawal form.

It is worth revising all the information that was submitted to the NDIA for your internal review (S100). You can access the information the NDIA used to make their decision on your Internal Review by submitting a [Participant Information Access request \(PIA\)](#). This can take 28 days to receive so as stated above, submit the initial ART application while you wait.

The Internal Review decision letter will identify the criteria the decision was based on, submit this with your application along with why you think the decision is wrong.

A Participant Information Request can be completed to obtain copies of your records held by the NDIA;

- Access Request Form (ARF)
- Evidence of Disability (EOD)
- Supporting Evidence Form (SEF)
- Access Decision
- reasons for your Access Decision.

Information about your NDIS plan or plan reassessment, NDIA can provide you with:

- your approved plan
- information collected at your planning meeting

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- assessments and other information collected in support of your plan or plan reassessment
- reasons for your plan or plan reassessment decision.

Your request may be about your first NDIS plan, or you may have had previous NDIS plans. If your request relates to a previous NDIS plan, you will need to tell NDIA which plan.

NDIA can also provide you with medical and other information that they have on file.

What happens after lodging your application?

- ART sends a letter to you confirming your application has been received.
- 3 days after ART receive your application – a Contact Officer will be assigned and contact you to discuss what will happen next via email.
- The ART will also inform the NDIA of your application and request them to provide a copy of the decision and all documents relevant to the decision to both the ART and to you. (these are called T documents)
- 2-4 weeks after ART receives the T documents the first case conference will usually be held either at an ART office or by telephone.



Hot Tip

The focus throughout the ART process will be on the statement of issues, so don't spend time explaining other aspects of your life or other issues outside of the SOI.

1st Case Conference: The respondent (NDIA's representative) typically will address the SOI, the Applicant (NDIS Participant & or nominee) who applied for the external review) should be prepared to ask questions to ensure they understand what is required of them when responding to the SOI's in writing following the Case Conference.

2 days prior the 1st case conference the respondent (NDIA) will send a 'Statement of Issues' ('SOI').

Your role as the applicant/participant is to attend, listen, take notes and ask questions!

If the Statement of Issues has not arrived 2 days prior to the case conference send an email to

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the respondent team and the ART Registrar to let them know this has not yet been received.

You are not expected to contest the issues, you will have time to consider and prepare your written response by the due date prior to the next case conference.



Hot Tip

It is really helpful to make your own dot points around each issue in the SOL in order to be able to answer any initial questions. This will help to clarify the persons needs without having to provide evidence, which you will have the opportunity to do by an agreed date.

2nd Case Conference: The applicant talks and the respondent listens.

Typically, there are a couple of months between 1st and 2nd case conferences giving the applicant time to gather evidence and information to address the arguments from the 1st case conference.

The applicant is required to provide an updated Statement of Issues, it can be as simple as preparing a word document addressing all the issues from the 1st case conference.

Daily impact functionality statement of lived experience and carers impact statement are only needed if they directly relate to the SOL's.

You have an hour to address all issues which is not very long so every minute counts, although having opportunity to tell your story and being heard might be important to you that time taken may mean that you are not able to address all the issues and therefore reduce your chances of succeeding with your appeal. So you need to:

- strongly address the key issues from the SOL's.
- be concise in how you present information
eg Support (a) is distinguished from Support (b) because of these 6 reasons
We have 4 reports to substantiate this, the evidence in OT report (xyz) page 3, paragraph 5
etc
- be specific with your evidence to directly address the issues in the SOL.



Hot Tip

You can be proactive and put forward settlement options.

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3rd case conference = Both the applicant and the respondent talks.

The respondent will usually send an updated SOI prior to the 3rd case conference responding to the arguments and evidence lodged by the applicant.

At this conference there can be discussion about a need for any further evidence.



Hot Tip

If you feel you are being asked for excessive evidence you can go back to the SOI and check that all issues have been addressed. Be empowered to push back on providing more information.

If all has gone well you or the NDIA can put forward a settlement option by emailing the ART, you can put forward the minimum you would accept and also communicate that all other parts of the plan not being contested will stay the same

Either you or the NDIA may come back with a counter offer

If you both agree they will write up a settlement offer listing all the terms of the plan which you will have to sign.

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Hot Tip

Be aware that the ART can look at the entire plan and you may get less than you got at the internal review - there is no guarantee you will get more. Everything is looked at fresh. When you agree to settle make sure the supports you did not appeal have not been impacted negatively. Request all supports in the new plan be acknowledged in writing before signing a settlement agreement.

If you do not reach an agreement, the ART representative will prepare a written case plan setting out the next steps.

Conciliation

This is an informal, private meeting conducted by an ART conference registrar or ART member. It is a final effort to help you and the NDIA reach an agreement. Conciliations usually last from 2-3 hours, but they can go longer. A representative from the NDIA with the authority to settle the matter must attend. All via phone conference call.

Early resolution

If you decide to withdraw your application or if you and the NDIA reach an agreement the matter can be resolved early.



Hot Tip

This is the final opportunity to settle the case before going to the more formalised hearing.

Note – tribunal members do not have decision making power until the hearing stage. A tribunal member is not permitted to make any rulings during case conferences or conciliation. The only way to resolve a matter is through settlement or withdrawal of application.

Hearing

Final stage of the ART process and can take a year to get there.

Applicant has the right to submit evidence. Generally, the respondent will prepare an evidence bundle. The applicant just needs to lodge any additional evidence they wish to be considered at hearing.

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Did you know you have power in this process?

- You can lodge any new evidence
- You have the right to call any witness. Applicant needs to compile a witness list and lodge. You can ask the ART representative how to do this.
- Any witnesses you call should not be involved in the previous case conference processes as they might be seen as having a conflict of interest.
- You have the right to cross-examine any of the NDIA's witnesses.
- You have the right to subpoena evidence, as well as to view a copy of any evidence the agency subpoenas. The ART representative will assist you with the subpoena process and issue summonses.
- You need to be very thorough going through any evidence that has been subpoenaed to prepare for any cross examination and you too can question and cross examine.

Outcome: decided by a member of the tribunal.



This link provides step by step information identifying the responsibilities of the ART, the NDIA and you: [Administrative Review Tribunal Practice Direction](#).

It also breaks down the processes in the external review process including;

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Where can I get subsidised legal advice?

Legal services listed on the ART website; <https://www.ag.gov.au/legal-system/legal-assistance-services>

You can call for information and advice about any NDIS problem:

Law Access NSW on 1300 888 529. www.legalaid.nsw.gov.au

[Australian Centre for Disability Law](#) (ACDL)



Hot Tip:

The ART staff can help you understand the processes but cannot give you legal advice.

The majority of external appeals are resolved without needing to go to hearing. There are many families who have had successful outcomes at the ART without legal representation.



Hot Tip:

You can ask the NDIA lawyer to explain anything you don't understand, others have found this helpful when they have not had legal representation. The NDIA has an obligation to act as a model litigant in all litigation where the NDIA is a party, including in a Tribunal application. [NDIA 'Our model litigant guidelines' 21/03/2025](#)

It is mostly only novel¹ cases that are approved for free legal aid representation, however Legal Aid NSW offer 2 x 30-minute free legal advice sessions. [Legal Aid NSW](#) suggest saving your advice session until after your 1st Case Conference when you receive the NDIA's Statement of Issues (SOI), and the second session will be helpful to either review the details within an agreed settlement or to prepare for going to a Hearing. This is general advice and may vary in some instances.

Things to consider when accessing any legal support:

- Be familiar with the Statement of Issues
- Have your evidence at hand
- Prepare any questions ahead of time

¹ Novel case is a case for which no precedent can be found

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- Prepare a chart linking evidence to the issues listed in the SOI

Statistics show that the ART has changed the decision under review in nearly 70% of applications , so it is worthwhile making an application to the ART.

[Click here for more statistics](#). You can also contact Family Advocacy as it can be helpful to hear about similar cases that have gone through this process.

Contact us

Contact us if you need more information or have any questions.

Family Advocacy

Phone: 02 9869 0866 or 1800 620 588

Email: communications@family-advocacy.com

Web: www.family-advocacy.com