

23 November 2018

The Chair
Legal Affairs and Community Safety Committee
Parliament House

Email: lacsc@parliament.qld.gov.au

Dear Madam/Sir

Re Submission on the proposed Human Rights Act

Spinal Life Australia represents people with spinal cord injury, the late effects of polio and transverse myelitis. We appreciate the opportunity to make a submission on the proposed Act and do so in the hope it can foster supportive outcomes that are critical for people with physical disability across Queensland.

With kind regards,



Michael Powell
Chief Executive Officer

Submission from Spinal Life Australia

Proposed Human Rights Act for Queensland

Established in 1960, Spinal Life Australia is a leading provider of advocacy, therapy and supports for people with spinal cord damage and related physical disabilities. We have long advocated for a Human Rights Act for Queensland and we are pleased to comment as follows.

Landscape opportunity:

We see the establishment of a Human Rights Act as an opportunity for the Parliament to show leadership and guidance to support Queenslanders with disability, the aged and more widely, people with diminished function **to have a fair go** (see populations data attached). These groups include:

- People with a medical condition
- People with a disability
- The Over 60s
- Temporary injury
- Parents with prams
- Language other than English

The international community is now setting global standards for communities, seeking States and nations to become accessible, integrated, inclusive communities. State government is a developer, purchaser, regulator and design influencer of buildings, infrastructure, precincts, goods, services and information. Therefore, as much as it can, the Parliament needs to ensure a Human Rights Act can ensure 'a fair go' for Queenslanders and its visitors - can ensure their right to participate in public life and be a customer – can ensure they will be included in our community. There is an exceptional difference between a government saying it will offer equity and equality compared to offering 'inclusion' (see graphic attached). In this regard, we acknowledge the leadership of Brisbane City Council which has just launched its commitment to a 10 year access and inclusion plan called *Inclusive Brisbane – A city for everyone*.

Question: Who will have to comply with a Human Rights Act?

Answer – according to information backgrounding the proposed Act:

The Queensland Government and organisations and businesses carrying out certain functions should comply with a Human Rights Act. The central aim of a Human Rights Act is to ensure that the government respects, protects and fulfils human rights in accordance with Australia's international human rights obligations.

Some government functions are carried out by other authorities, e.g. businesses and organisations. This commonly occurs when the government outsources its power, giving certain roles to private bodies. In this regard, Spinal Life Australia endorses the following:

That all persons and entities exercising government power should therefore be bound to protect and promote human rights while they are exercising such power.

This means the Act will need to be sufficiently clear in its content to deal with Public Private Partnerships (PPP) that involve funders and suppliers in a partnership contract with government. We note, with the benefit of hindsight, that neither the government nor the community would want another occurrence of the difficulties arising from the NGR train project.

Complaint mechanism:

It is not known what this will be. However, it will need to be at least as strong and accessible to the public as the Anti-Discrimination Act is.

Exclusive services:

In order to participate in contemporary Queensland, a person needs to access the following:

Housing

Transport

Education

Employment

Recreation

Information

Services (health, government, financial, retail, daily living requirements)

Unless there is access to the above, a person cannot contribute to the fabric of their community, their region, their State. Any tier of government is an exclusive service. Service providers of 'exclusive' services are expected to ensure without exception that their services are accessible to all users. Government services are rarely reflected upon as 'exclusive' services, which they absolutely are because for the public they serve, there is no alternative or competitor service. We hope the responsibility associated with being an exclusive service provider is embedded into a Human Rights Act.

Weak interacting legislation:

We implore the Parliamentary Committee to note the detriments arising from existing legislation that will interact with a Human Rights Act for Queensland and seek to ensure Queensland's new Act can meet the challenge arising from these. First, we note that some Acts people rely upon were written before the digital age, for example, the Disability Discrimination Act 1992. The Access to Premises Standard comes up short because it does not cover fit-out for buildings or landscaping.

The most pertinent example is the Disability Standards Accessible Public Transport 2002 (DSAPT).

It is acknowledged that a Queensland government project involving transport and transport infrastructure must comply with the Disability Standards for Accessible Public Transport 2002 legislation. A government project team and its consultants should note the Standard was developed in 1994, had its Regulation Impact Statement in 1995 however, it was not passed in parliament until October 2002 by which time it was already significantly dated and technologically bereft given the 8 year gap. Therefore, for any proposed Queensland government transport project, DSAPT compliance is the minimum to be achieved yet sadly in the past, it has been treated as the maximum to be achieved.

To acknowledge this and counter it through a Human Rights Act, we suggest the drafting incorporate the concept of meeting 'Compliance and Functionality' so that all people capable of being a customer can get a service. Therefore, compliance is the minimum requirement and the design effort really needs to be around functionality in order to maximise the social and economic performance of the government's investment – and minimise the risk of future complaint action.

Operating Departmental Human Rights Action Plan's and the Department's roles:

Currently, Disability Services (DS) requires State department's to operate Action Plans. However, the Disability Services Act 2006 is up for review, given it will no longer be a funder of services when the NDIS rollout is complete. Therefore, consideration could be given to an Action Plan mechanism for State department's to utilise based on meeting a Human Rights Act.

A Human Rights Action Plan would be driven by the Department, from the Director-General down. The Executive Director of every Business Group should form the team under the Director-General that drives the Action Plan forward with regular reporting meetings. Each Business group needs to ask the question: are we delivering accessible, inclusive services in our area of responsibility?

Every Department has 5 primary roles and is required to deliver service under each role.

Example:

Department of Housing and Public Works roles:

The Action Plan will be developed based on the Department's five primary roles:

Service Provider

Objective:

To ensure services are responsive and accessible to all.

Employer

Objective:

To ensure the Department's workplaces are free from all discriminatory barriers.

Regulator

Objective:

To ensure that Housing and Public Works function as a planner, legislator and regulator demonstrates commitment to accessible and inclusive outcomes.

Developer*Objective:*

To ensure Housing and Public Works designs and builds all new infrastructure and facilities with safe, accessible, user friendly outcomes.

Landlord*Objectives:*

To ensure that all Housing and Public Works owned infrastructure and facilities provide non-discriminatory services.

The biggest ticket item to fix:

Of all the matters that need focus to be addressed, number one is Procurement. We believe endorsement for State procurement legislation that includes public consultation pre-procurement of capital works, universal design outcomes and the requirement that tenders and contracts require meeting the Goods and Services provisions of the Anti-Discrimination Act 1991 (Qld) or a Human Rights Act is paramount. Why? Because all the major failures in State infrastructure and services in the past 24 years can be traced back to ineffective procurement, evidenced by the Brisbane Convention and Exhibition Centre in 1994 and the NGR train debacle in 2018. Currently, there is a sound reason to choose the Goods & Services provisions of the State Anti-Discrimination Act – it is the legislation of choice by people lodging complaints that they cannot get a service, yet they are capable of being a customer. Complainants invariably win these matters because government cannot defend the inexcusable. Unfortunately, they do not feature in the media because agreed outcomes are always ‘confidential’. Our point is simple: stop the need for recourse to legal action between people and government and put a procurement process in place that supports an inclusive community.

Other references for consideration:

We suggest the following references may be useful in drafting the Act.

Federal government Whole of Journey Guideline

A concept that focusses on how the customer gets from their front door to the front door of the service provider/shop. This takes into account accessibility from home to arrive in the precinct of the provider, the accessibility of the precinct to reach the provider and then the accessibility of the service provider/shop. **(See attached)**

Information Communication Technology (ICT) Standard for Australia

AS EN 301 549:2016 Accessibility requirements suitable for public procurement of ICT products and services) is the first Australian Standard for the procurement of accessible ICT. It is intended for use by public authorities and other public sector bodies during procurement, to ensure that websites, software and digital devices are more accessible – so they may be used by persons with a wide range of abilities. **(See attached)**

Attachments:

Access factors – populations with diminished functionality

Equality Equity Inclusion graphic

Whole of Journey Guide

Major change Procurement ICT Standard

Populations with diminished functionality

Against the backdrop of an aging Australia, populations with diminished function are increasing. Yet they will all want to participate fully in their community and be a customer. The populations that can struggle to access goods and services, buildings and precincts include the following.

Numbers:	Population - Australian Bureau Statistics
People with permanent disability	18.5%
Aged 60+	18%
Parents with prams (children aged 1 to 4)	6%
	Sub Total: 42.5%

Aging:

At 2014, Australia began experiencing its highest ever number of people aged between 71-80.

Source: Bernard Salt, demographer

By 2031, the over 60s are forecast to become 26% of the population

Source: South East Queensland Region of Councils

In 2003, Australians aged 55+ = 21% population but control 39% of the nation's wealth

Increased lifespan is a critical factor to be taken into account: males to 93 and females to 95 before the year 2050 (note: on average, females live 2 years more)

According to the Australian Bureau of Statistics (2003), 51% of people aged 60+ have a disability. The proportion of older people with disabilities increases dramatically with age. 92% of people aged 90+ have a disability.

Disability:

In July 2016, the National Disability Insurance Scheme commenced across Australia. By 2019, the scheme is intended to fund 462,000 Australians with a disability (93,000 in Queensland). As a result, they will be participating as never before in their communities and as customers of goods and services.

Source: Federal government

In July 2016, the National Injury Insurance Scheme (Queensland) commenced, with funded care and supports for people who sustain a 'catastrophic' injury by accident. This is a no fault, no age limit Scheme. Six catastrophic types: Spinal cord injury, Acquired brain injury, Multiple amputee, Severe burns, Blindness, Brachial plexus.
Source: Queensland Treasurer

Carers of people with disability or long term medical condition
11.88%
Source: ABS 2012

People with injuries:

People who have sports related injury per annum
25.1%
Source: Medibank Private

People who have work related injuries
Source: Safe Work Australia 2010 5.7%
Source: ABS 2014 4.3%

Note: These sources do not separate temporary from permanent injury. However, ABS work related injuries data states most workers took less than a week off work. National observation points to the majority of sports injury being temporary, even high contact sports.

People with a medical condition:

Comprising four sub sets: illness, muscular, respiratory, cognitive
Examples: diabetes, arthritis, asthma, poor balance

Diabetes 4.8%
Arthritis 14.8%
Asthma 10.2%
Osteoporosis 3.3%

Source: ABS 2012

Note: the medical condition cohort is by far the largest of all the diminished functionality types.

Hearing impairment:

3.5 million Australians in 2005, forecast 5 million in 2020

Source: Access Economics study for Better Hearing Australia

Increasingly, the Deaf prefer Auslan language to learning English

30,000 Deaf Auslan preferred language users

Source: Australian Network on Disability

Vision impairment:

50,000 Australians blind, 430,000 vision impaired

Source: Access Economics 2004

66,000 Australians blind

Source: "Vision 2020' 2016

Speech impairment:

People with Aphasia, i.e. cannot speak or write. Nervous system disorder.

178,000 who are stroke victims plus those through ABI (data unknown)

Source: Aphasia Australia 2017

Language Other Than English (LOTE)

Australia 19%

Queensland 10%

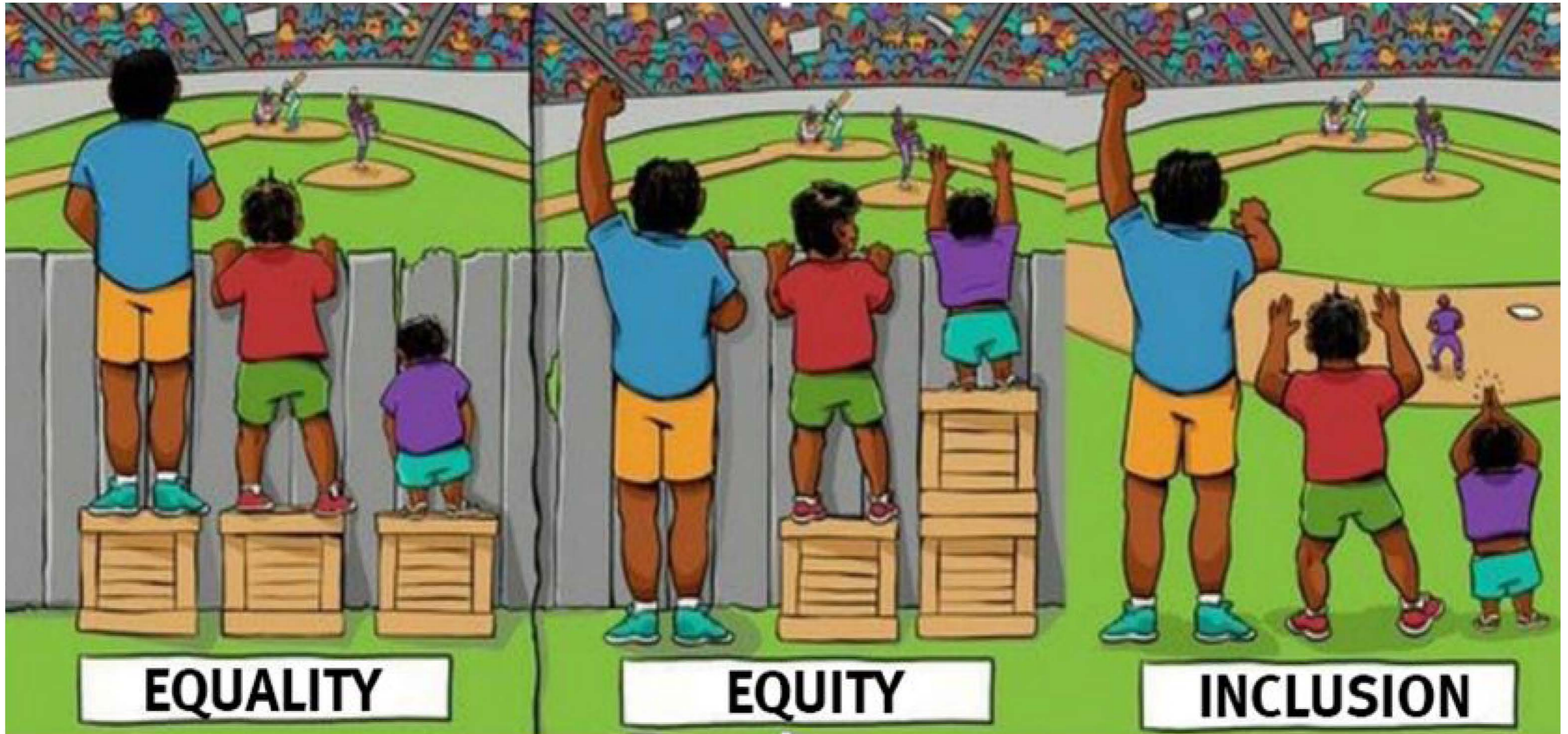
Source: ABS 2011

Note: it needs to be recognized that as a result of the aging process, the population cohort defined as the aged spawn the medical condition cohort statistics and in turn, the medical condition cohort spawn the disability statistics. Quite simply, cohorts can shift progressively from one cohort to another due to their diminishing functionality.

Updated June 2018

John Mayo, Spinal Life Australia





Australia Adopts European Standard on accessibility requirements for public procurement of ICT products and services

Contents

Background	1
Purpose of the <i>AS EN 301 549:2016</i> and its associated Toolkit.....	2
Use of <i>AS EN 301 549:2016</i> during procurement	2
Excerpt from the Preface of <i>AS EN 301 549:2016</i>	3

Background

AS EN 301 549:2016 Accessibility requirements suitable for public procurement of ICT products and services) is the first Australian Standard for the procurement of accessible ICT. It is intended for use by public authorities and other public sector bodies during procurement, to ensure that websites, software and digital devices are more accessible – so they may be used by persons with a wide range of abilities.

The aim of the Australian / European Standard and its accompanying Technical Reports is to provide a framework that will ensure that ICT products and services are accessible either directly or through compatibility with assistive technologies so that everyone can access information and use services that are being delivered electronically.

AS EN 301 549:2016 was directly sourced from a European Standard ([EN 301 549](#)). The European Standard was developed by an international team of experts, with the participation of the ICT industry and organizations representing consumers, people with disabilities and older persons. Standards Australia have adopted *EN 301 549* unchanged and published it as *AS EN 301 549:2016* in 2017. It has since been adopted by the Commonwealth government.

The Standard sets out accessibility requirements that can be applied to a wide range of products and services related to ICT, including computers, monitors, printers, laptops, smartphones and other digital devices, ticketing machines, websites and emails.

The accessibility requirements contained in the document are consistent with other global accessibility requirements. This will help to expand and open-up the international market for accessible ICT products and services.

Purpose of the AS EN 301 549:2016 and its associated Toolkit

[EN 301 549](#) (identical to AS EN 301 549:2016) specifies the Functional Accessibility Requirements applicable to ICT products and services. It contains a description of the test procedures and evaluation methodology for each accessibility requirement.

The *Accessible ICT Procurement Toolkit* is based on [EN 301 549](#). This Toolkit enables procurers to easily identify the relevant accessibility requirements from [EN 301 549](#) and advises on how best to use them in the procurement of ICT products and services. The Toolkit also assists manufacturers and developers to use the accessibility requirements in their ICT design, development and quality control procedures.

Use of AS EN 301 549:2016 during procurement

AS EN 301 549:2016 specifies the functional accessibility requirements applicable to ICT products and services, together with a description of the test procedures and evaluation methodology for each accessibility requirement in a form that is suitable for use in public procurement.

AS EN 301 549:2016 is intended to be used as the basis for an accessible ICT procurement toolkit. It will primarily be useful for public procurers to identify the requirements for their purchases, and also for manufacturers to employ it within their design, build and quality control procedures.

AS EN 301 549:2016 contains the necessary functional requirements and provides a reference document such that if procedures are followed by different actors, the results of testing are similar and the interpretation of those results is clear.

The test descriptions and evaluation methodology included in the present document are elaborated to a level of detail compliant with *ISO/IEC 17007:2009*, so that conformance testing can give conclusive results. Where the procuring body knows at the time of writing the *Call for Tenders* the type of technology it wishes to procure, it may choose one of pre-packaged sets of requirements from the list provided in the section on Commonly Procured ICTs in the [Accessibility Requirements Generator](#).

Where a pre-packaged set of requirements are not available or appropriate, the procuring authority may pick and choose the relevant Functional Accessibility Requirements using the [Accessibility Requirements Generator](#).

Excerpt from the Preface of AS EN 301 549:2016

PREFACE

This Standard was adopted by the Standards Australia Committee IT-040, ICT Accessibility. This Standard is identical with, and has been reproduced from EN 301 549 V1.1.2 (2015-04), *Accessibility requirements suitable for public procurement of ICT products and services in Europe*.

This Standard has been developed through the direct text adoption of the European Standard EN 301 549, *Accessibility requirements suitable for public procurement of ICT products and services in Europe*. EN 301 549 was produced by ETSI Technical Committee, Human Factors (HF), and the eAccessibility Joint Working Group of CEN/CENELEC/ETSI. It was first published in January 2014.

Under the auspices of Standards Australia, a broad alliance of stakeholders, led by the Australian Government Department of Finance and the Australian Communications Consumer Action Network (ACCAN), undertook to adopt the EN 301 549 as an Australian Standard. This new Australian Standard is to be used as guidance for all levels of government when determining technical specifications for the procurement of accessible ICT products and services.

The Commonwealth Procurement Rules (Section 10.9) direct procurers to base technical specifications on recognized International Standards when they exist and are applicable to the goods or services being procured. In the absence of an International Standard for the public procurement of accessible ICT, the Australian Standard will provide guidance on prescribing technical specifications when the Commonwealth procures ICT goods and services. State, territory and local governments will also be able to make use of this document.

This Standard has been developed so that it can also be used as guidance for private sector procurement of accessible ICT products and services.

As this Standard is reproduced from a European Standard, the following applies:

- (a) In the source text 'the present document' should read 'this Australian Standard'.
- (b) A full point substitutes for a comma when referring to a decimal marker.
- (c) In the first sentence of Clause 1, Scope, 'public procurement in Europe' should read 'public procurement in Australia'.

This is the Federal government Whole of Journey Guide document

https://infrastructure.gov.au/transport/disabilities/review/files/The_Whole_Journey_Guide_Consultation.pdf

Print out. 59 pages. It says consultation paper but the consulting had been done. It is now a published document.

It started out life as a valuable contribution to public transport services in Australia.

However, the concept should be applied to any service that relies on a service provider – customer relationship.