

ADMINISTRATIVE LAW THEMES

CHANGING NATURE OF GOVERNANCE AND HOW THIS CAN BE ADDRESSED IN LAW

MAIN OPINION	The changing nature of governance has become an ongoing issue in Australian administrative law that the High Court has been circumventing in their judgements. Changes in the way we interpret the jurisdictional pathways to judicial review are required to assure that the Government is unable to evade judicial scrutiny.
WHAT IS GOVERNANCE	The term 'Governance' can be used to describe the way we control the exercise of public activities and functions.
HOW HAS GOVERNANCE CHANGED	In the past, the State through the use of a 'Departmental Model' (Government Department headed by a popularly elected Minister of State and staffed by appointed public servants) were in charge of administering public functions and activities relating to goods and services. Today, the governance of public activities is largely carried out by private organisations. This change can be encapsulated in the preference of private over public and has followed neoliberalism in attempt to address high budget deficits, perceived inefficiencies in government organisations, mounting public debt and a loss of faith in the governments ability to meet citizen's expectations of an increased standard of living.
WHY IS IT AN ISSUE FOR ADMIN LAW	Under the current administrative law system, the privatisation of public activities and functions has placed its providers outside the reach of public law accountability mechanisms. This is contra the public law values of accountability, openness, transparency and raises the prospect that the Government can evade judicial scrutiny by the expedient of adopting the corporate form.
HOW HAS THIS ISSUE BEEN ADDRESSED IN THE LAW	The English Court of Appeal were directly confronted with the issue of whether