

Lead topic: Government Reform Unit	Sub-topic: Ombudsman Issues	Contact: Evelyn O'Connor Ext: 5311
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FAST FACTS

- The **Ombudsman (Amendment) Act 2012** which brought some 180 public bodies within the Ombudsman's remit. This was the most significant extension within 30 years. **The Ombudsman's remit was further extended by Ministerial Order to include private nursing homes** whose residents are in receipt of state support or subvention (from August 2015). This offers greater accountability and assurance to over 20,000 nursing homes residents and their families. The Department is working with the Department of Justice & Equality and the Office of the Ombudsman on giving effect to a commitment by the Tánaiste **to extend the remit of the Ombudsman to services received by persons under the Direct Provision system** of supports. It is expected that the Ombudsman will commence receiving complaints in respect of this area from early April.

Q&A'S

Q.1 What categories of public bodies are not included under the Ombudsman's remit?

A. There are a number of specific categories of public bodies which are longstanding exclusions from the Ombudsman's jurisdiction on account of their specific characteristics. The general principle that has guided this assessment is whether the individual citizen's interest is served from inclusion of the public body or otherwise. In particular, it has been a priority to ensure that, to the greatest extent possible, public bodies who in their day-to-day activities and administration have significant engagement and interaction with large numbers of citizens and have the potential through their administration and decision-making to give rise to an adverse effect for individual citizens, are under the remit of the Ombudsman.

Consequently the Government decided that bodies within the following categories of public body should be exempt from review:-

- commercial State bodies;
- economic sectoral regulators;
- bodies involved in the criminal justice and legal system; and
- specialist, research and advisory bodies with little or no interface with the general public.

Q. 2 Why were commercial state bodies not brought within remit?

A. Given the significant increase in the number of bodies being brought within scope as well as policy considerations, it was agreed by the Government that commercial state bodies were not appropriate for inclusion at that time. The main reason for excluding these bodies from the remit of the Ombudsman is because of the commercial disadvantage that this would impose on these bodies compared to their privately owned competitors. Essentially, the principle at stake relates to the need to

maintain a level competitive playing field between a State body and its private market competitors.

Requiring commercial state bodies to be subject to review by the Ombudsman where no such requirement applies to their competitors would potentially create a significant commercial disadvantage for state bodies. This would have an adverse effect on their competitiveness, the level of competition in the market place and ultimately on consumers. The value of the State's shareholding could also be affected. There could even be circumstances where market competitors of State companies could make complaints to the Ombudsman on their state competitors in the context of a competitive strategy..