

**CANADA:**  
Alberta: Information and Privacy Commissioner

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**Conférence Internationale des Commissaires à la Protection des Données  
Comité de Vérification**

**International Conference of Data Protection Commissioners  
Credentials Committee**

**DOSSIER DE CANDIDATURE POUR UNE ACCREDITATION EN  
TANT QU'AUTORITE EN CHARGE DE LA PROTECTION DES  
DONNEES**

Candidature auprès du Comité de Vérification pour l'accréditation d'une autorité chargée de la protection des données prévue par les résolutions adoptées lors de la 23ème conférence internationale des commissaires à la protection des données à Paris le 25 septembre 2001.

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**APPLICATION FORM FOR ACCREDITATION  
AS A DATA PROTECTION AUTHORITY**

Application to the Credentials Committee for accreditation as a data protection authority pursuant to the resolutions adopted at the 23rd International Conference of Data Protection and Privacy Commissioners at Paris on 25th September 2001.

## APPLICATION FORM FOR ACCREDITATION AS A DATA PROTECTION AUTHORITY

Application to the Credentials Committee for accreditation as a data protection authority pursuant to the resolutions adopted at the 23<sup>rd</sup> International Conference of Data Protection and Privacy Commissioners at Paris on 25<sup>th</sup> September 2001.

### Notes:

- (a) Please complete application in French or English.
- (b) Please keep answers brief and to the point.
- (c) Please ensure that all 33 questions are answered
- (d) If you retype the form, please include the numbered questions with your answers. It is possible to avoid such retyping by getting the electronic application form in French or in English upon request by e mail at [credentials@privacy.org.nz](mailto:credentials@privacy.org.nz).

### Details of applicant

1. Name and postal address of authority

Office of the Information and Privacy Commissioner/Alberta  
410. 9925-109 St. Edmonton. Alberta. T5K 2J8

2. Contact person for this application:

- (a) Name

TIM CHANDER

- (b) Email address

~~tim.chander@open.gov.ab.ca~~

- (c) Direct telephone number

~~403-491-1033~~

- (d) Fax contact

~~403-491-1033~~

### Type of application

3. The application is for accreditation as:

- (a) national Authority YES/NO
- (b) sub-national Authority YES/NO
- (c) Authority within an international, if yes which one..... YES/NO

## Description of applicant

4. Description of Authority (e.g. commissioner, commission, board etc)

Commissioner

5. Is the Authority a public body? YES/NO

6. Geographical jurisdiction

Province of Alberta, Canada

7. Sectoral coverage (i.e. does the applicant's jurisdiction cover the entire public and private sectors? If only part of a sector or if there are significant activities not covered, please specify)

Coverage includes the public sector. Coverage will soon extend to private sector.

8. Is the role of the Authority mainly concerned with data protection and privacy?  
YES/NO

## Legal basis

9. Title of law under which the Authority is constituted

*Freedom of Information and Protection of Privacy (FOIP) Act*

*Health Information Act (HIA)*

10. Is this principally a data protection law? YES/NO

11. Status of the law (e.g. statute, regulation, executive order)

Statute

12. Which body made the law?

All-party committee of stakeholders. Ministry responsible for FOIP is Alberta Government Services. Ministry responsible for HIA is Alberta Health and Wellness.

13. What body has the power to amend or revoke the law?

All-party committee of stakeholders. Ministry responsible for FOIP is Alberta Government Services. Ministry responsible for HIA is Alberta Health and Wellness.

## Autonomy and independence

14. Who appoints member(s) of the Authority? (Please explain if a different process applies to the presiding member from other Authority members in this question and in subsequent questions.)

Standing Committee on Legislative Offices.

15. What process is followed?

Open Competition.

16. For what term are appointments made?

Five-year term.

17. Does the law under which the Authority operates explicitly state that it acts independently? YES/NO

18. May the member(s) be removed before expiry of their term? YES/NO

19. If yes, who may remove members of the Authority before expiry of their term?

Standing Committee on Legislative Offices.

20. Are there limited reasons specified in the statute, or in another law, providing the permitted grounds for removal?

Yes.

21. What are the grounds for removal?

Failure to perform duties or health reasons.

22. Does the Authority possess the following powers (briefly describe and give statutory references)

(e) to initiate an investigation with seeking provision YES/NO  
Section (53)(1)(a) of the FOIP Act – Conduct Investigations  
Section 84(a) of the HIA.

(f) to report to the head of State, head of Government or legislature YES/NO  
Section 63(1) of the FOIP Act – Annual Report  
Section 95(1) of the HIA

(g) make public statements YES/NO  
As part of the general powers of the Commissioner.  
Section 53 of FOIP and Section 84 of the HIA

23. Does the Authority (and its staff) have immunity from legal suit for actions performed in the course of their duties?

**Yes. Section 60 of the FOIP Act and Section 92 of the HIA.**

24. Applicants may list any other measures set out in the statute or in other laws which guarantee the Authority's independence (for example if the law provides specifically that the Authority's finances are protected).

Section 73 of the FOIP Act and Section 81 of the HIA: "An Order made by the Commissioner under this Act is final."

### Consistency with international instruments

25. Does the Authority explicitly implement any international instrument (for example if the law under which the Authority operates specifies that it implements such international instrument)?

YES/NO

If "yes", which of the following does it principally implement?

(e) OECD Guidelines (1980) YES/NO

(f) (i) Council of Europe Convention No 108 (1981) YES/NO

(ii) Council of Europe Additional Protocol (8 November 2001)  
YES/NO

(g) UN Guidelines (1990) YES/NO

(h) EU Directive (1995) YES/NO

26. Does the law instead, or additionally, implement any general or specific international instrument? (If so, list the international body and the instrument)

The Act is generally based on OECD guidelines and Fair Information Practices.

27. Have significant questions been raised about the extent to which the law is consistent with the international instruments which are claimed to be implement in answer to questions 25 and 26? (Applicants should supply further information to assist the Committee including a description of any measures under way to address these inconsistencies.)

No inconsistencies having raised.

**Appropriate functions**

28. Does the Authority possess functions in any of the following areas (briefly describe and give statutory references):

(d) compliance (e.g. audit, inspection) YES/NO  
Office function resource dedicated to audit and compliance as a tool that can be used.

(e) approvals (e.g. prior-checking, notification) YES/NO  
Privacy Impact Assessments are mandatory under the HIA: Section 84(f)  
Privacy Impact Assessments are optional under FOIP: Section 53(1)(f)

(f) redress for individuals (e.g. complaints, conciliation enforcement) YES/NO  
Yes, under general powers of the Commissioner Section 53 of the FOIP Act.  
Reviews under Section 73(1) of the HIA and Section 65 of the FOIP Act.

(g) sanctions available to Authority (for example, prosecution and enforcement) YES/NO

details: Under FOIP up to \$10,000 ; Under HIA up to \$50,000.

(h) guidance (e.g. compliance advice) YES/NO

details: Section 54 of the FOIP Act and Section 86 of HIA.

(i) public education YES/NO

details: 53(1)(c) of the FOIP Act and Section 84(1)(c) of HIA

(j) policy advice for government YES/NO

details: Section 54(1) of FOIP Act and Section 86 of HIA.

(h) studies or research (e.g. into developing technologies, privacy issues) YES/NO

details: Section 53(1)(e) of FOIP and Section 84(1)(e) of HIA

**Additional comments**

29. Applicants are invited to offer any further comments that they wish.

See Section 84(1)(d) of the HIA and Section 53(1)(d) of the FOIP Act.

### Other materials

30. List any attachments which will accompany the application as an electronic attachment or to follow by post.

31. If law under which the Authority operates is accessible on the Internet, please give the reference

URL: FOIP: <http://www.oipc.ab.ca/foip/read.cfm>  
HIA: <http://www.oipc.ab.ca/hia/read.cfm>

32. If a recent annual report of the Authority (or a similar recent publication outlining typical activities) is available on the Internet, please give the reference

URL: <http://www.oipc.ab.ca/publications/reports.cfm>

### Research use

33. With the consent of applicants, the Committee proposes to make copies of the applications available to appropriate researchers approved by the Committee to facilitate a study on data protection. Please indicate whether you agree to this use:

- I agree to this application being released to a researcher YES/NO

### Making the application

The application should be emailed to the credentials committee at [credentials@privacy.org.nz](mailto:credentials@privacy.org.nz)

If sent as an email attachment it should be in M/S Word.

If unable to email the application, it should be posted to:

**Credentials Committee**  
**C/- Privacy Commissioner**  
**P O Box 466**  
**Auckland**  
**New Zealand**

The Committee needs access to a copy of the law under which the Authority is constituted. This need not be supplied in hard copy if it is available on the Internet and listed at question 31. If the law itself is not in English or French, it will be useful to supply an English or French summary or translation if one exists.

### Use of information

The information in this form will be used for processing the application and will be disclosed to members of the committee and their staff (being the commissioners from New Zealand, France and the United Kingdom) and future committees. It may be also disclosed also to the Data Protection Authorities which participate to the international conference and approved researchers. Any personal data contained in the form is available for access and correction in accordance with the applicable data protection laws of current and future committees. In the first instance it is subject to the New Zealand Privacy Act 1993.



ACCREDITATION OF DATA PROTECTION AUTHORITY  
CHECKLIST FOR THE CREDENTIALS SUB-GROUP

1 Name of Authority

Information and Privacy Commissioner/Alberta,  
Canada

2 Does the authority have clear and wide ranging data protection functions covering a broad area of economic activity (eg not just an advising body or a body operating in a narrow field such as medical privacy)?

Yes

Notes

**Jurisdiction covers the entire provincial public sector but also has specific jurisdiction in health sector. Advises that "coverage will soon extend to private sector".**

3 Legal Basis.

Is the authority a public body established on an appropriate legal basis (eg by statute or regulation)?

Yes

Notes

*Joint FoI and DP law*

4 Autonomy and Independence?

Is the authority guaranteed an appropriate degree of autonomy and independence to perform its functions (eg the power to make public statements and protection from removal from office)?

Yes

Notes

5 Consistency with International Instruments.

Is the law under which the authority operates compatible with at least one of the international instruments dealing with data protection and privacy (eg EU Directive, OECD Guidelines, Council of Europe Convention)?

Yes

Notes

**The application does not claim to directly implement any international instrument but is said to be "generally based on OECD Guidelines". In my opinion the law is consistent with international instruments and note that the Committee has accepted this in relation to the British Columbia provincial law upon which the Alberta law is based. *The law appears consistent with OECD guidelines and no queries have been raised***

*questioning this*

6 Appropriate Functions.  
Does the authority have an appropriate range of functions with the legal powers necessary to perform those functions (eg the power to receive and investigate complaints from individuals without seeking permission)?

**Yes**

Notes

7 Does the Sub-group recommend accreditation?

**Yes**

Notes

8 If accreditation is recommended what is the accreditation as?

**Authority within a limited sub-national territory**

Notes

9 If accreditation is as an authority within an international/supranational body does the recommendation include voting rights?

**Not applicable**

Notes

10 If accreditation is not recommended does the Sub Group recommend that accreditation is refused or is more information needed before a decision can be made?

**Not applicable**

Notes

11 If accreditation is not recommended and the application is from an authority with narrow functions does the Sub Group recommend that, at the discretion of the conference host, observer status is granted?

**Not Applicable**

Notes

If more information is required what is this:

Signed on behalf of the Sub-  
group:

**Blair Stewart**

Date: **07 May 2003**

*Jonathan Bamford*

Date: *20<sup>th</sup> June 2003*

Date:

Note: 2 signatures required for recommendations for accreditation.  
3 signatures required for recommendations for refusal