

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.

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.

Details of applicant

1. Name and postal address of authority

Data Inspection Board, Box 8114, S-10420 Stockholm
Data inspektionen Sweden

2. Contact person for this application:

- (a) Name

Birgitta Abjörsson, International Legal Adviser

- (b) Email address

[REDACTED]

- (c) Direct telephone number

[REDACTED]

- (d) Fax contact

[REDACTED]

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 and a board

5. Is the Authority a public body? ☒ YES ☐ NO

6. Geographical jurisdiction

The whole of Sweden

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)

The jurisdiction covers the entire public and private sectors

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

The Data Inspection Board was constituted *

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?

The Parliament (the Act); the Government (the Ordinance)

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

see 12 above

* question 9 can't'd
already in 1973 (the Data Act and the Data Ordinance;
both repealed in 1998.) In October 1998 the new
Personal Data Act and the Personal Data Ordinance
entered into force. See Section 3 of the Act and
Section 2 of the Ordinance as to the content.

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.)

The Director General is appointed by the Government and so are the eight members of the board

15. What process is followed?

No specific procedure; at the discretion of the Government

16. For what term are appointments made?

Appointments are made for a specific term at the discretion of the Government. The term may vary

17. Does the law under which the Authority operates explicitly state that it acts independently? YES/NO NO All public authorities act independently in accordance with statute laws. The Constitution expressly states that*

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

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

The Government

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

21. What are the grounds for removal?

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

(e) to initiate an investigation with seeking provision YES/NO YES

details: Section 43 of the PDA as to initiating an investigation

(f) to report to the head of State, head of Government or legislature YES/NO YES

details: there is a legal duty for the authority to report to the Government

(g) make public statements YES/NO YES

details: Our statements (decisions) are public in accordance with the constitutional principle of public access to official documents

PDA - Personal Data Act

* question 17 cont'd

The Government may not interfere or intervene in a particular case. Decisions of the Data Inspection Board may be challenged either by complaint in administrative courts or by law

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

No

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).

The Parliament decides the Budget

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

* *International instruments are implemented by the Parliament*

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

- | | | |
|-----|--|--------|
| (a) | OECD Guidelines (1980) | YES/NO |
| (b) | (i) Council of Europe Convention No 108 (1981) | YES/NO |
| | (ii) Council of Europe Additional Protocol (8 November 2001) | YES/NO |
| (c) | UN Guidelines (1990) | YES/NO |
| (d) | 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)

27. Have significant questions been raised about the extent to which the law is consistent with the international instruments which are claimed to be implemented 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.)

* *Question 25 cont'd*

The EC-directive on data protection has been implemented into Swedish legislation through the Personal Data Act (a statute adopted by the Parliament). The PDA takes into account the Council of Europe Convention no 108.

Appropriate functions

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

(a) compliance (e.g. audit, inspection)

YES/NO

details: Section 43 of the PDA

(b) approvals (e.g. prior-checking, notification)

YES/NO

details: Sections 36 and 41 of the PDA

(c) redress for individuals (e.g. complaints, conciliation enforcement)

YES/NO

details: Section 45 of the PDA. As to damages, Section 48, it is for the court of law to decide

(d) sanctions available to Authority (for example, prosecution and enforcement)

YES/NO

details: The Authority may prohibit, subject to a default fine, the controller to process data (Sections 44-46 of the PDA) However,

(e) guidance (e.g. compliance advice)

YES/NO

details: Section 1 of the Government Ordinance with instructions for the Data Protection Board (1998/192)

(f) public education

YES/NO

details: see e) above

(g) policy advice for government

YES/NO

details: Opinions on bills of law

(h) studies or research (e.g. into developing technologies, privacy issues)

YES/NO

details: see e) above

Additional comments

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

* question 28 d) cont'd

the Authority has to turn to the County Administrative
the Court for enforcement. As to erasure of
personal data, the Authority may apply at the County

Other materials

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

*The Personal Data Act; the Personal Data Ordinance
the Annual Report of 1999 (in English) and of 2001 in Swedish*

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

URL: *www.datainspektionen.se/in-english*

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: *for 2001 in Swedish only*

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**

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

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P O Box 466
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Margaret Gibbons

From: Blair Stewart
Sent: Thursday, 6 June 2002 10:01
To: Margaret Gibbons
Subject: Sweden - corrections



Sweden-accreditation

appl-corr...

Would you please make the changes in our originals and substitute that in the folder.

-----Original Message-----

From: Elisabeth Wallin [mailto:Elisabeth.Wallin@Datainspektionen.se]
Sent: Wednesday, 5 June 2002 19:53
To: Blair Stewart
Subject: Application for accreditation as a data protection authority

Dear Mr Stewart,

Thank you for sending us the retyped version of the Data Inspection Board's application for consideration. Since Birgitta Åbjörnsson is not in her office this week, I have checked the retyped document and have made just a few small amendments which you will find in the attachment. The amendments concern questions 1, 2 (a) and (b), 9, 17 and 28 (d) and (e). I have underlined and marked the amendments in red, so I hope that it will be easy to track them.

(I have also noted that you have included our answers under question 28 (e) to (h) in the updated version).

Please feel free to contact me if you have any further questions.

Yours sincerely

Elisabeth Wallin

The Data Inspection Board, Sweden
e-mail: elisabeth.wallin@datainspektionen.se
phone: +46 8 657 61 11

<<Sweden-accreditation appl-corr.doc>>

APPLICATION FORM FOR ACCREDITATION AS A DATA PROTECTION AUTHORITY SWEDEN

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.

[Transcript of faxed application]

Details of applicant

1. Name and postal address of authority

Data Inspection Board (Datainspektionen), Box 8114, S-10420 Stockholm
Sweden

2. Contact person for this application:

- (a) Name

Birgitta Åbjörnsson, International Legal Adviser

- (b) Email address

b.abjornsson@datainspektionen.se

- (c) Direct telephone number

+46-8 657 6116

- (d) Fax contact

+46-8 652 8652

Type of application

3. The application is for accreditation as:

(a) national Authority YES

(b) sub-national Authority NO

(c) Authority within an international, if yes which one... ..NO

Description of applicant

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

Commissioner and a board

5. Is the Authority a public body? YES
6. Geographical jurisdiction
The whole of Sweden
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)
The jurisdiction covers the entire public and private sectors.
8. Is the role of the Authority mainly concerned with data protection and privacy?
YES

Legal basis

9. Title of law under which the Authority is constituted
The Data Inspection Board was constituted already in 1973 (the Data Act and the Data Ordinance, both repealed in 1998). In October 1998 the new Personal Data Act and the Personal Data Ordinance entered into force. See Section 3 of the Act and Section 2 of the Ordinance as to the constitution of the Authority.
10. Is this principally a data protection law? YES
11. Status of the law (e.g. statute, regulation, executive order)
Statute
12. Which body made the law?
The Parliament (the Act); the Government (the Ordinance)
13. What body has the power to amend or revoke the law?
See 12 above.

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.)

The Director General is appointed by the Government and so are the eight members of the board.

15. What process is followed?

No specific procedure; at the discretion of the Government.

16. For what term are appointments made?

Appointments are made for a specific term at the discretion of the Government. The terms may vary.

17. Does the law under which the Authority operates explicitly state that it acts independently ?

NO All public authorities act independently in accordance with statute laws. The Constitution expressly states that the Government may not interfere or intervene in a particular case. Decisions of the Data Inspection Board may be reviewed after complaint by administrative courts of law.

18. May the member(s) be removed before expiry of their term? YES

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

The Government.

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

[Not answered]

21. What are the grounds for removal?

[Not answered]

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

- (a) to initiate an investigation with seeking provision YES

details: Section 43 of the Personal Data Act (PDA) as to initiating an investigation.

- (b) to report to the head of State, head of Government or legislature YES

details: There is legal duty for the authority to report to the Government.

- (c) make public statements YES

details: Our statements (decisions) are public in accordance with the constitutional principle of public access to official documents.

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

NO

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).

The Parliament decides the budget.

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

International instruments are implemented by the Parliament. The EC-Directive on data protection has been implemented into Swedish legislation through the Personal Data Act (a statute adopted by the Parliament). The PDA takes into account the Council of Europe Convention No. 108.

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

- (a) OECD Guidelines (1980) YES/NO

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

- (ii) Council of Europe Additional Protocol (8 November 2001)

YES/NO

- (c) UN Guidelines (1990) YES/NO

- (d) 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)

[not answered]

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.)

[not answered]

Appropriate functions

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

(a) compliance (e.g. audit, inspection) YES

details: Section 43 of the PDA.

(b) approvals (e.g. prior-checking, notification) YES

details: Sections 36 and 41 of the PDA.

(c) redress for individuals (e.g. complaints, conciliation enforcement) YES

details: Section 45 of the PDA. As to damages, section 48, it is for the courts of law to decide.

(d) sanctions available to Authority (for example, prosecution and enforcement) YES

details: The Authority may prohibit, subject to a default fine, the controller to process data (sections 44-46 of the PDA). However, the Authority has to turn to the County Administrative Court for enforcement. As to erasure of personal data, the Authority may apply to the County Administrative Court for the erasure (Section 47 of the PDA).

(e) guidance (e.g. compliance advice) YES

details: Section 1 of the Government Ordinance with instructions for the Data Inspection Board (1998:1192).

(f) public education YES

details: See (e) above.

(g) policy advice for government YES

details: Opinions on bills of law

(h) studies or research (e.g. into developing technologies, privacy issues) YES

details: See (e) above.

Additional comments

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

[No comments offered]

Other materials

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

The Personal Data Act and the Personal Data Ordinance, the Annual Report of 1999 (in English) and of 2001 in Swedish. [to follow by post]

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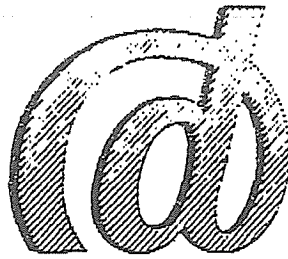
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- 4 JUN 2002

Data Inspection Board

TELEFAX

Page 1 out of 7

TO:

Company/Organization: Office of the Privacy Commissioner
of New ZealandName: Mr Blair StewartFax number: ~~0044 1223 312555~~FROM: Birgitta Björnsen

MESSAGE:

Dear Mr Stewart,
Please find enclosed the questionnaire
on accreditation. Letter will follow.

Best regards

Birgitta Björnsen

Datainspektionen

Box 8114, S-104 20 Stockholm, Sweden

Phone: +46 8 652 8652 Fax: +46 8 652 8652

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Datainspektionen Sweden

2. Contact person for this application:

- (a) Name

Birgitta Abjörsson, International Legal Adviser

- (b) Email address

[REDACTED]

- (c) Direct telephone number

[REDACTED]

- (d) Fax contact

[REDACTED]

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YES/NO

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YES/NO

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The Data Inspection Board was constituted *

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The Parliament (the Act), the Government (the Ordinance)

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

See 12 above

* question 9 cont'd

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- (f) to report to the head of State, head of Government or legislature YES/NO YES

details: there is a legal duty for the authority to report to the Government

- (g) make public statements YES/NO YES

details: Our statements (decisions) are public in accordance with the constitutional principle of public access to official documents

PDA =
Personal
Data Act

* question 17 cont'd

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YES/NO

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

- | | | |
|-----|--|--------|
| (a) | OECD Guidelines (1980) | YES/NO |
| (b) | (i) Council of Europe Convention No 108 (1981) | YES/NO |
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details: Section 43 of the PDA

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details: see e) above

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☒ YES ☐ NO

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Additional comments

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- (a) Name

Birgitta Abjönsson, International Legal Adviser

- (b) Email address

birgitta.abj@datainspektionen.se

- (c) Direct telephone number

+46 8 657 6110

- (d) Fax contact

+46 8 657 6525

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15. What process is followed?

No specific procedure; at the discretion of the Government.

16. For what term are appointments made?

Appointments are made for a specific term at the discretion of the Government. The terms may vary.

17. Does the law under which the Authority operates explicitly state that it acts independently ?

NO All public authorities act independently in accordance with statute laws. The Constitution expressly states that the Government may not interfere or intervene in a particular case. Decisions of the Data Protection Board may be reviewed after complaint by administrative courts of law.

18. May the member(s) be removed before expiry of their term? YES

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

The Government.

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

[Not answered]

21. What are the grounds for removal?

[Not answered]

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

- (a) to initiate an investigation with seeking provision YES

details: Section 43 of the Personal Data Act (PDA) as to initiating an investigation.

- (b) to report to the head of State, head of Government or legislature YES

details: There is legal duty for the authority to report to the Government.

- (c) make public statements YES

details: Our statements (decisions) are public in accordance with the constitutional principle of public access to official documents.

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

NO

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).

The Parliament decides the budget.

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

International instruments are implemented by the Parliament. The EC-Directive on data protection has been implemented into Swedish legislation through the Personal Data Act (a statute adopted by the Parliament). The PDA takes into account the Council of Europe Convention No. 108.

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

- (a) OECD Guidelines (1980) YES/NO

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

- (ii) Council of Europe Additional Protocol (8 November 2001)

YES/NO

- (c) UN Guidelines (1990) YES/NO

- (d) 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)

[not answered]

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.)

[not answered]

Appropriate functions

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

(a) compliance (e.g. audit, inspection) YES

details: Section 43 of the PDA.

(b) approvals (e.g. prior-checking, notification) YES

details: Sections 36 and 41 of the PDA.

(c) redress for individuals (e.g. complaints, conciliation enforcement)

YES

details: Section 45 of the PDA. As to damages, section 48, it is for the courts of law to decide.

(d) sanctions available to Authority (for example, prosecution and enforcement) YES

details: The Authority may prohibit, subject to a default fine the controller to process data (sections 44-46 of the PDA). However, the Authority has to turn to the County Administrative Court for enforcement. As to erasure of personal data, the Authority may apply to the County Administrative Court for the erasure (Section 47 of the PDA).

(e) guidance (e.g. compliance advice) YES

details: Section 1 of the Government Ordinance with instructions for the Data Inspection Board (1998:1192).

(f) public education YES

details: See (e) above.

(g) policy advice for government YES

details: Opinions on bills of law

(h) studies or research (e.g. into developing technologies, privacy issues)

YES

details: See (e) above.

Additional comments

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

[No comments offered]

Other materials

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

The Personal Data Act and the Personal Data Ordinance the Annual Report of 1999 (in English) and of 2001 in Swedish. [to follow by post]

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

URL: www.datainspektionen.se/in_english

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: for 2001 in Swedish only

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

Making the application

The application should be emailed to the credentials committee at 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

Datainspektionen - Sweden

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

3 Legal Basis.

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

Yes

Notes

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

Both CoE Convention and EU Directive implemented. (Law takes CoE Conv. 'into account')

- 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?

National authority (within the UN criteria)

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: **17 June 2002**

Jonathan Bamford

Date: **12/07/02**

Date:

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