

GOVERNMENT OF THE NORTHWEST TERRITORIES RESPONSE TO COMMITTEE REPORT 10-17(5), REPORT ON THE REVIEW OF THE 2013-2014 ANNUAL REPORT OF THE INFORMATION AND PRIVACY COMMISSIONER OF THE NORTHWEST TERRITORIES

The NWT *Access to Information and Protection of Privacy Act* (“the Act” or “ATIPP Act”) became law in 1996. It was created to promote access to information that the government creates and receives, and to protect individual privacy rights related to that information.

Under the Act, the Information and Privacy Commissioner is an independent officer appointed for a five-year term. The Act requires the Commissioner to file an annual report on her activities. The Commissioner may include in her report recommendations for amending the legislation to improve the Act’s efficiency and effectiveness.

The Standing Committee on Government Operations (the “Standing Committee”) conducted a review of the Information and Privacy Commissioner’s 2013-2014 annual report. The report summarizing their review was tabled in the Legislative Assembly on February 12, 2015. It included five recommendations.

The following is the Government of the Northwest Territories (GNWT) response to the recommendations contained in the Committee Report 10-17(5), *“Report on the Review of the 2013-2014 Annual Report of the Information and Privacy Commissioner of the Northwest Territories”*.

Recommendation 1

The Standing Committee on Government Operations again recommends that the Government of the Northwest Territories make every effort to complete the work necessary to bring municipalities under access to information and protection of privacy legislation.

The Standing Committee on Government Operations additionally recommends that the GNWT renew its commitment to complete the final report during the life of the 17th Assembly; and, that the Government table the final report no later than the August 2015 sitting identifying, for the consideration of the 18th Assembly, the next steps and resources necessary to complete this work in a timely manner; and, that, as the Committee has recommended in previous years, a proposal be included for phasing this work such that tax-based municipalities may be brought under ATIPP legislation without any further delay than is absolutely necessary, and which leaves open the possibility that smaller communities may be phased in at a later date.

GNWT Response

The GNWT agrees with Standing Committee that the work relating to municipalities and access and privacy legislation must continue to advance within the life of the 17th Assembly.

In September 2014, the Department of Municipal and Community Affairs (MACA) distributed a discussion paper to NWT community governments. The discussion paper "*Possible Application of ATIPP Act to Community Governments*", was developed in consultation with a working group made up of representatives from MACA, the Department of Justice, the Northwest Territories Association of Communities and the Local Government Administrators of the Northwest Territories. The purpose of the discussion paper was to obtain feedback from community governments on the potential application of the *Access to Information and Protection of Privacy Act* to community governments.

Three main topics are presented and discussed in the paper:

- Applying the ATIPP Act to Community Governments;
- Implementation Issues; and
- Financial Resources.

In response to the initial distribution of the paper, MACA received comments and feedback from six community governments. In order to make sure that as many communities as possible provided comments, MACA contacted each community government and gave them an opportunity to provide responses and feedback via telephone. Following this call-out MACA compiled feedback from a total of twenty-one community governments. MACA advises that the report summarizing the feedback received from stakeholders was completed and shared with Standing Committee in May 2015.

The feedback and concerns of community governments will help to shape the final report, including recommendations. The report will further address Standing Committee's request to consider initially phasing in access and privacy legislation for tax based communities. The final report will be completed in the fall of 2015 as a transitional issue for the consideration of the 18th Assembly. A copy of the final report will also be shared with Standing Committee.

Recommendation Two

The Standing Committee on Government Operations again recommends that the Government of the Northwest Territories provide an updated progress report to this Assembly on work done towards a comprehensive review of the ATIPP Act; and, that the Government of the Northwest Territories undertake a review of all previous recommendations made regarding updating the ATIPP Act and include, in the progress report, a status report on how the Committee's recommendations are being addressed.

GNWT Response

The GNWT has committed to undertake a comprehensive review of the *Access to Information and Protection of Privacy Act*. This work continues to be the priority of the Department of Justice, GNWT Access and Privacy Office, and the report on the review will be provided to Standing Committee in the fall of 2015.

The report will identify the areas in the Act that either require or would clearly benefit from amendments and address any outstanding recommendations for legislative

changes raised by Standing Committee in all previous reports. The report will also reflect consultations with public bodies and the Information and Privacy Commissioner which are planned to take place during the summer of 2015. A public consultation on amendments to the Act is anticipated to take place in the winter of 2015/16.

The Department of Justice, GNWT Access and Privacy Office will continue to move forward on this work during the life of the 17th Assembly and as a transitional issue for the 18th Assembly.

Recommendation Three

The Standing Committee on Government Operations recommends that the Government of the Northwest Territories work with the Information and Privacy Commissioner to incorporate access by design considerations into the design phase of program, policy and legislation development, giving particular thought to how these considerations may be built into the legislative proposal process.

GNWT Response

As noted in previous responses to the Standing Committee, the GNWT supports the Access by Design principles and recognises the increased expectation for public bodies to disclose information with openness and transparency, while ensuring personal and sensitive information is appropriately protected.

Departments are encouraged to undertake consultations with the Information and Privacy Commissioner in relation to legislative amendments that have privacy considerations, but there is no set protocol established. The Department of Justice, GNWT Access and Privacy Office, will work with the Information and Privacy Commissioner and GNWT departments to establish a standard approach that allows for access and privacy issues to be reviewed during the development of legislation.

Recommendation Four

The Standing Committee on Government Operations recommends that the Government of the Northwest Territories work closely with the Information and Privacy Commissioner on the implementation of the *Health Information Act*.

GNWT Response

The Department of Health and Social Services (HSS) consulted with the Information and Privacy Commissioner during the drafting of the *Health Information Act* (HIA). HSS will continue to work with the Commissioner on the implementation of the HIA including the development of:

- draft regulations,
- materials for the public awareness campaign – posters, brochures, factsheets and notices, and
- an HIA manual and other training resources.

In order to maintain this productive working relationship with the Information and Privacy Commissioner, HSS has also committed to establish regular meetings with her to

discuss Department initiatives, such as the Electronic Medical Records system, and current trends in health privacy.

Recommendation Five

The Standing Committee on Government Operations recommends that the Government of the Northwest Territories work closely with departments to help them improve their response times under the Act and that the GNWT make clear what sanctions will be imposed for departments that fail to meet their Statutory Commitments.

GNWT Response

The GNWT understands the importance of responding to access to information requests in a timely manner, and commits to improving its response times.

The GNWT is finalizing the “Activity Report on the Administration of the *Access to Information and Protection of Privacy Act*”. The purpose of this report is to provide Standing Committee and the public with statistical information relating to the volume of requests received by GNWT public bodies, the types of requests received, fees paid, and the timeliness of the responses. When completed, the report will also include other matters related to the administration of the Act. The report includes statistical information from all government departments relating to requests dating back to 2008.

The first report will be provided to Standing Committee in June 2015. The report will also be made available to MLAs and will be provided to the public through the Department of Justice website. The Activity Report will be updated and provided annually beginning in 2016.

The GNWT will continue to examine ways that response times can be improved. Support from the Department of Justice, GNWT Access and Privacy Office, to GNWT Departments and public bodies will assist with these efforts. Annual updates of the “Activity Report” will document the timeliness of responses.