



**REPORT | RAPPORT**

**Review of the *ATIPP Act*  
Examen de la *LAIPVP***

Le présent document contient la traduction française du sommaire.



Government of  
Northwest Territories

K'áhshó got'jne xədə k'é hederı ɔedjhtl'é yerınıwę nı dé dúle.  
Dene Kədə

ɔerıhtl'ıs Dēne Sųlıné yatı t'a huts'elkēr xa beyáyatı theɔɔ ɔat'e, nuwe ts'ēn yóftı.  
Dēne Sųlıné

Edı gondı dehgáh got'je zhaté k'éé edat'éh enahddhę nıde naxets'é edahlı.  
Dene Zhaté

Jii gwandak izhii ginjik vat'atr'ıjáhch'uu zhit yinothan jı', diıts'at ginohkhıı.  
Dinjii Zhu' Ginjik

Uvanittuaq ilitchurisukupku Inuvialuktun, ququaqluta.  
Inuvialuktun

Ĉ'ɔɔ ɔɔɔɔɔɔɔɔ ɔɔɔɔɔɔɔɔ ɔɔɔɔɔɔɔɔɔɔɔɔ, ɔɔɔɔɔɔɔɔ ɔɔɔɔɔɔɔɔɔɔɔɔ.  
Inuktitut

Hapkua titiqqat pijumagupkit Inuinnaqtun, uvaptinnut hivajarlutit.  
Inuinnaqtun

kıspin ki nitawihtın ē nıhıyawıhk ōma ācimōwin, tipwāsinān.  
nēhiyawēwin

Tıjchq yatı k'èè. Dı wegodı newq dè, gots'o gonede.  
Tıjchq

**Indigenous Languages**  
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## Executive Summary

In accordance with section 74 of the *Access to Information and Protection of Privacy Act* (the “ATIPP Act” or the “Act”), the ATIPP Act “must be reviewed within 18 months after the commencement of the Twentieth Legislative Assembly and within 18 months of every second Legislative Assembly thereafter.” As such, the Government of the Northwest Territories (GNWT) has reviewed the Act in accordance with the legislation. The Act, in addition to the GNWT’s Access and Privacy Office within the Department of Justice, has also been reviewed and evaluated in accordance with the GNWT’s Government Renewal Initiative. This What We Heard Report reflects the review of the ATIPP Act specifically.

PRA Inc. was contracted to conduct the review of the ATIPP Act. Data was collected through a public survey, and a pre-interview questionnaire followed by an online interview with specific stakeholders. A documentation review was also conducted prior to data collection to further support the analysis. In total, 64 individuals responded to the online survey, 24 pre-interview questionnaire responses were received from stakeholders, and 18 online interviews were conducted which involved a total of 23 stakeholders.

Participants were asked about specific aspects of the ATIPP Act and their ongoing relevance and effectiveness. Themes included:

- Clarity and understanding of instructions in the Act;
- Satisfaction levels with using the ATIPP process;
- Adequacy of current lists of records that fall under the Act;
- Timelines, timeliness, and extensions under the Act;
- Appropriateness of exceptions;
- Appropriateness of the fees and fines;
- Frequency of reviewing the Act.

Participants discussed a variety of strengths and weaknesses of the Act, including their satisfaction levels with aspects of the Act as well as with the process they went through in submitting requests. Strengths highlighted by participants included:

- The Act's role in creating a clear system and limits on information-sharing and administrative responsibilities;
- Supporting government transparency and accountability, especially through oversight by the Office of the Information and Privacy Commissioner;
- Encouraging responsiveness within government and enhancing trust; and
- Providing effective guidance to public bodies on the management of information and disclosure.

Weaknesses participants pointed to included:

- Challenges presented by tight timelines;

## What We Heard | Review of the ATIPP Act

- Ambiguity and lack of clarity in the wording, potentially leading to inconsistent application of sections of the Act;
- Perceived risks to employees and citizens with respect to protecting their communications;
- Lack of training for employees on how to comply with the Act; and
- Inefficiencies in implementation of the Act, leading to impacts on service delivery.

Participants in data collection suggested a number of improvements in response to these weaknesses, which are outlined in detail in the What We Heard section of the report.

## Sommaire

Conformément à l'article 74 de la Loi sur l'accès à l'information et la protection de la vie privée (la « LAIPVP »), « le ministre révisé la présente loi dans les 18 mois qui suivent l'entrée en vigueur de la Vingtième Assemblée législative et dans les 18 mois de chaque deuxième Assemblée législative par la suite ». Par conséquent, dans le cadre de l'initiative de renouveau du GTNO, le gouvernement des Territoires du Nord-Ouest (GTNO) a procédé à l'examen de la LAIPVP et du Bureau de l'accès à l'information et de la protection de la vie privée du ministère de la Justice. Le présent Rapport sur ce que nous avons entendu porte précisément sur l'examen de la LAIPVP.

La société PRA Inc. a été mandatée pour réaliser l'examen de la LAIPVP. Les données ont été recueillies au moyen d'un sondage auprès du public, ainsi que d'un questionnaire préalable aux entrevues suivi d'entrevues en ligne avec certains intervenants. Une analyse documentaire a également été effectuée avant la collecte des données pour étayer davantage l'analyse. Au total, 64 personnes ont répondu à l'enquête en ligne, 24 intervenants ont répondu au questionnaire préalable à l'entretien et 23 intervenants ont participé à un entretien en ligne (soit 18 entretiens au total).

Les participants ont été invités à se prononcer sur certains aspects précis de la LAIPVP, ainsi que sur leur pertinence et leur efficacité. Les thèmes abordés comprenaient notamment :

- La clarté des dispositions de la LAIPVP;
- Le degré de satisfaction à l'égard du processus de la LAIPVP;
- La pertinence des listes actuelles de documents visés par la LAIPVP;
- Les délais, le respect des délais et les prolongations prévues par la LAIPVP;
- Le caractère approprié des exceptions;
- Le caractère approprié des droits et des amendes;
- La fréquence de l'examen de la LAIPVP.

Les participants ont discuté des forces et des faiblesses de la LAIPVP, ainsi que de leur degré de satisfaction à l'égard de certains de ses aspects et de leur expérience du processus de demande. Parmi les forces relevées par les participants :

- Le rôle de la LAIPVP dans l'établissement d'un système clair encadrant la communication de l'information et les responsabilités administratives;
- La promotion de la transparence et de la responsabilisation du gouvernement, notamment grâce à la surveillance exercée par le Commissariat à l'information et à la protection de la vie privée;
- L'encouragement à une plus grande réactivité au sein du gouvernement et le renforcement de la confiance du public;
- La fourniture de directives claires aux organismes publics sur la gestion et la communication de l'information

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Les faiblesses mentionnées par les participants comprenaient notamment :

- Les difficultés liées à des délais serrés;
- L'ambiguïté et le manque de clarté dans la formulation de certaines dispositions de la LAIPVP qui entraînent une application incohérente;
- Les risques perçus pour les employés et les citoyens en ce qui concerne la protection de leurs communications;
- Le manque de formation pour les employés sur la façon de se conformer à la LAIPVP;
- Les lacunes dans la mise en œuvre de la LAIPVP qui nuisent à la prestation des services.

Dans le cadre de la collecte de données, les participants ont également proposé plusieurs améliorations pour remédier à ces faiblesses. Celles-ci sont présentées en détail dans la section Ce que nous avons entendu du rapport.

# Introduction

## Stakeholder Engagement

The review of the ATIPP Act included 18 live interviews with staff working in GNWT departments, the Office of the Information and Privacy Commissioner (OIPC), the Office of the Chief Information Officer (OCIO), the Access and Privacy Office (APO), and public bodies (a total of 23 individual interviewees). An additional five written responses to the same interview questions were received from public bodies.

Interviews and written responses were preceded by a pre-interview questionnaire to be filled out and returned prior to the live interview, or together with the written feedback; this pre-interview questionnaire comprised 12 closed questions and three open-ended questions. Some respondents also included additional text responses to closed survey questions.

All open-ended and additional text responses were analyzed and coded. Interview data from the live interviews and written responses were analyzed using the qualitative data analysis software NVivo 14.0<sup>1</sup> to identify themes related to the review of the ATIPP Act.

## Survey methodology

The survey sample self-selected through the GNWT's survey platform. The survey was available to all members of the public. The survey was managed on GNWT's survey platform and had 95 visitors and 64 completed responses (N=64).

The survey remained in field for 21 days (September 8 to September 29, 2025).

The survey data was analyzed using counts, averages, and other descriptive statistics. Verbatim responses to open-ended survey questions were coded by common themes and analyzed similarly to stakeholder interview results. Note that not all respondents answered all questions, so some totals presented in the section on survey results do not add up to the full total of N = 64.

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<sup>1</sup> NVivo is a qualitative data coding software, in which interview notes or other qualitative data are coded into categories for easier analysis.

# What We Heard

## Pre-interview survey responses

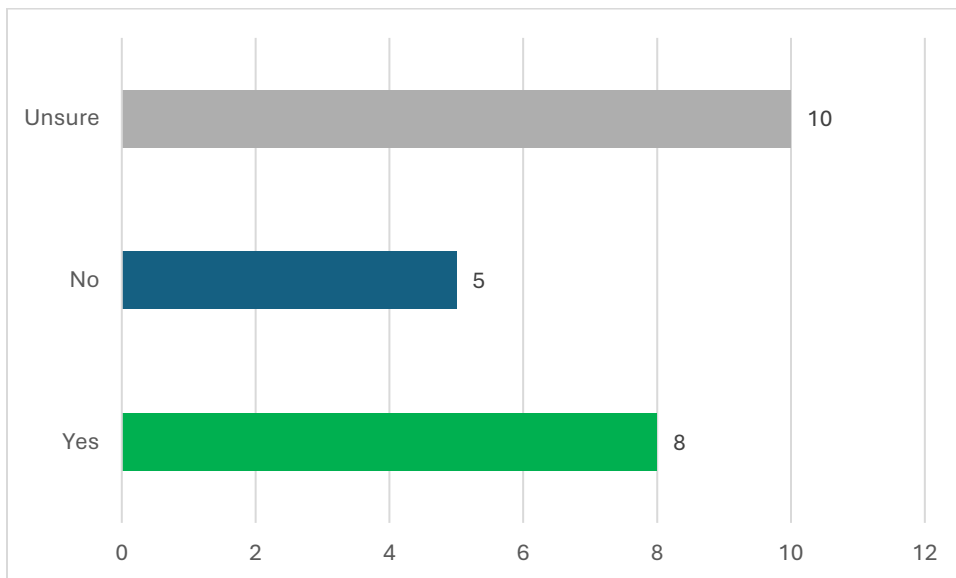
The pre-interview survey questions asked about specific aspects of the Act and their ongoing relevance. The themes of the questions included:

- Is the current list of records that fall under ATIPP Act still adequate?
- Is the timing under the ATIPP Act (timeline to respond to requests; extension time period and frequency; timeframe for third-party consultations) reasonable?
- Are the mandatory and discretionary exceptions to disclosure appropriate?
- Is the fee calculation appropriate?
- Is the maximum fine under ATIPP Act still relevant?
- Is the frequency of the review of ATIPP Act reasonable?

The following provide frequency data for each question with summary analyses of the associated open-ended responses.

Note that the full wording of the survey questions, including explanatory pre-ambles to each question, can be found in Appendix A.

**Question 1:** In your opinion, is the current list of records that do not fall under the Act still adequate?



**Question 1(a)** asked respondents what other records they think should not fall under the Act and why. The following summarizes the responses:

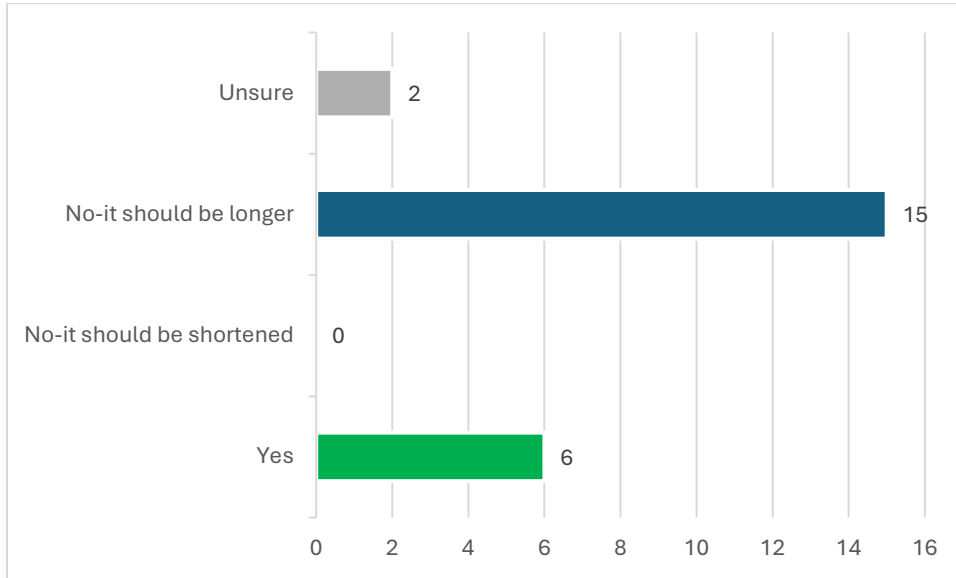
- Excluded records should be as short as possible so as not to contravene the purpose of the Act, preventing oversight. It was suggested that exclusions be replaced with exemptions that can be independently reviewed, allowing government bodies the ability to adhere to the purpose of the Act.
- Section 3(1)(f) should be expanded to records held by co-management boards where there are public registries available to the public.
- The Act could better clarify the inclusion of agencies such as local housing organizations recognized under the *Housing Northwest Territories Act*.
- Cybersecurity events should not be considered records if they are not personal, and if disclosure could harm the government and people, or leave the organization at greater risk of threat.
- Certain motor vehicle data should be added, as otherwise, these requests are handled through the APO.
- Terms in the Act like “entitled” and “relevant” are subjective with the potential to be used by applicants to argue for full disclosure without redactions, often forcing the public body to defend its interpretation before the OIPC. Examples include Section 24(1) and 24(2), which can cause confusion regarding refusal to disclose labour relations information; and section 24.1(2) and 24.1(3) which can cause confusion regarding refusal to disclose workplace investigation information.
- Ensure the Act respects the discretion and decision-making of public bodies in sensitive contexts.
- The following were suggested as exclusions to the records listed in the Act<sup>2</sup>:
  - Personal phone numbers
  - Personal email addresses
  - Informal sticky notes, as they often contain incomplete information that risks misinterpretation
  - Communications with First Nations communities that focus on rights
  - Matters protected for litigation, such as termination and the involvement of unions

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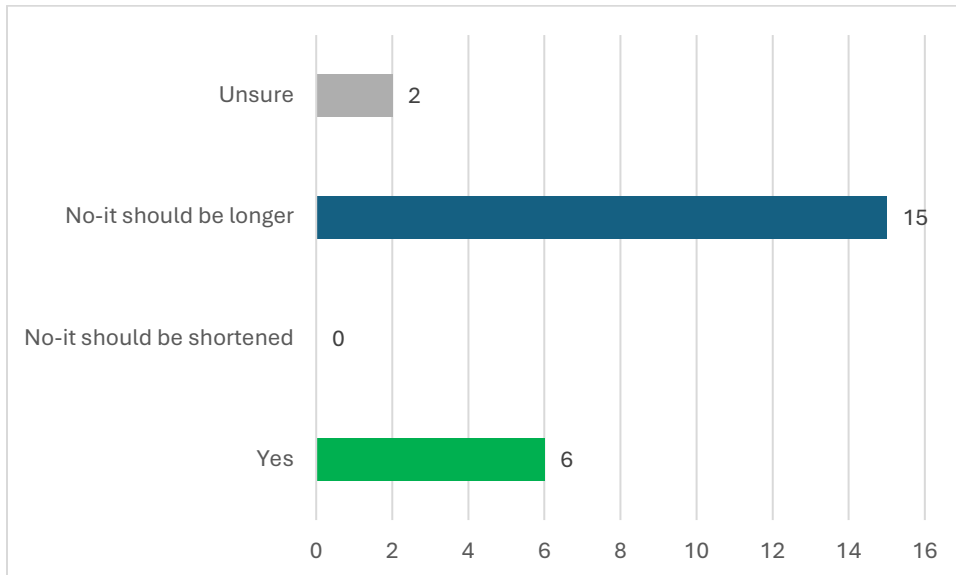
<sup>2</sup> Note that some of these suggestions already fall under current exceptions (which interviewees may have been unaware of.)

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**Question 2:** In your opinion, is the initial 20-business day deadline to respond to a request sufficient?

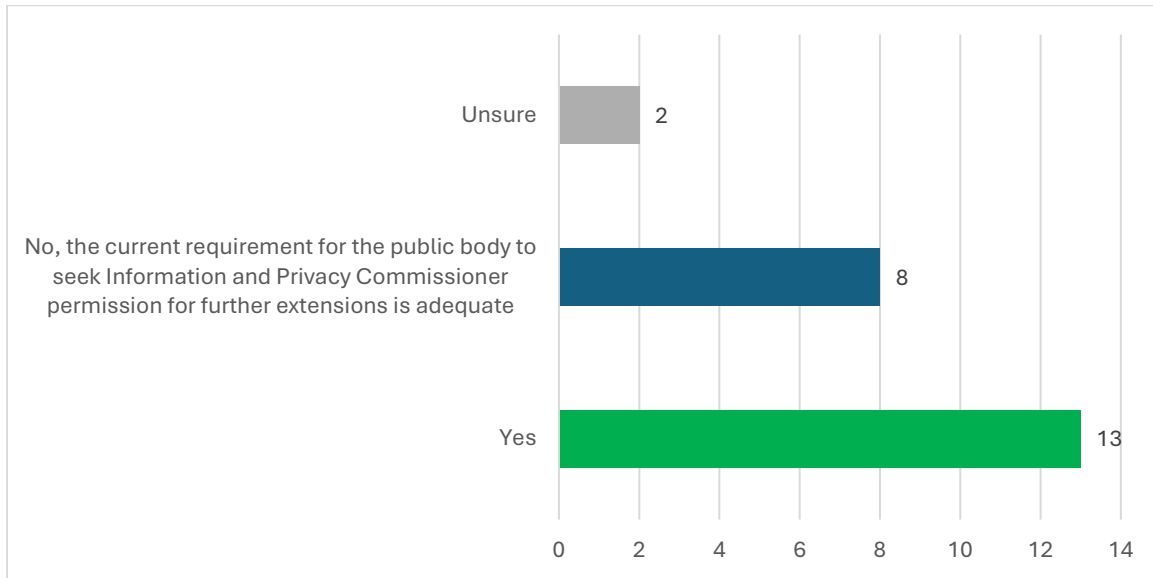


**Question 3:** In your opinion, is the 20-day time extension that public bodies can take reasonable?

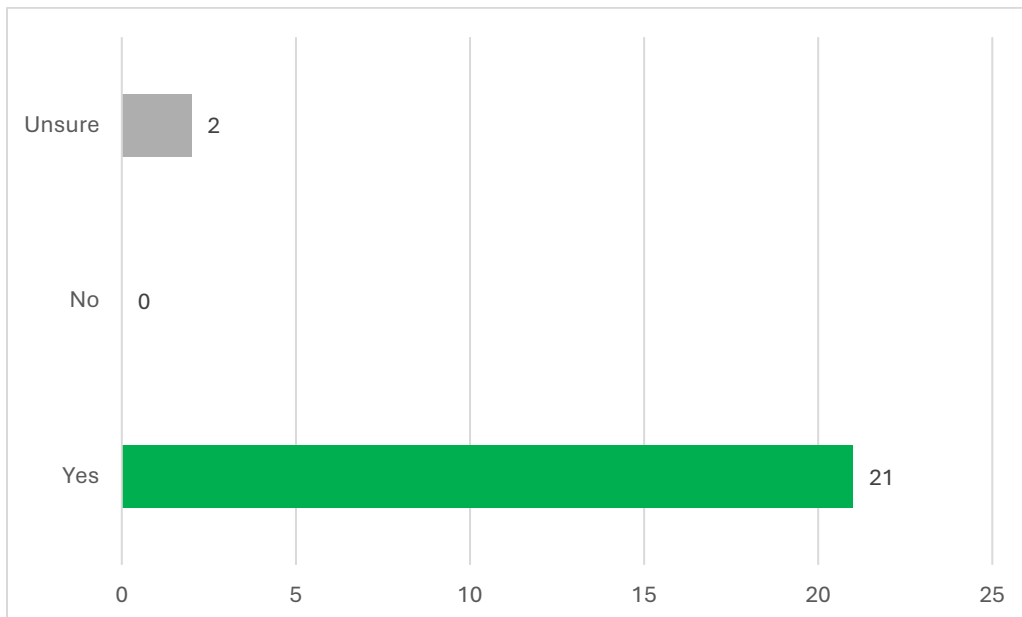


## What We Heard | Review of the ATIPP Act

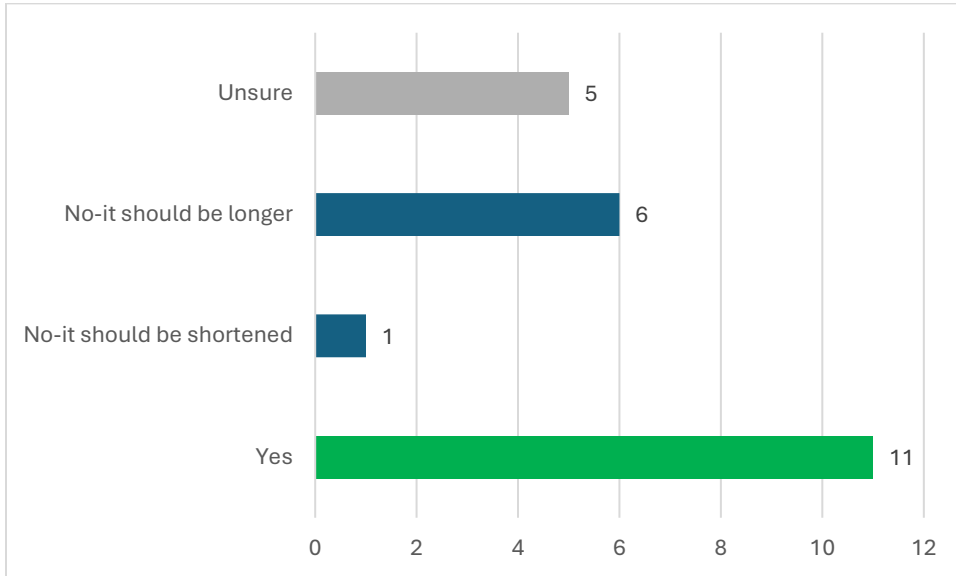
**Question 4:** In your opinion, should the head of the public body be able to take one additional time extension beyond subsection 11(1) without requiring the permission of the Information and Privacy Commissioner?



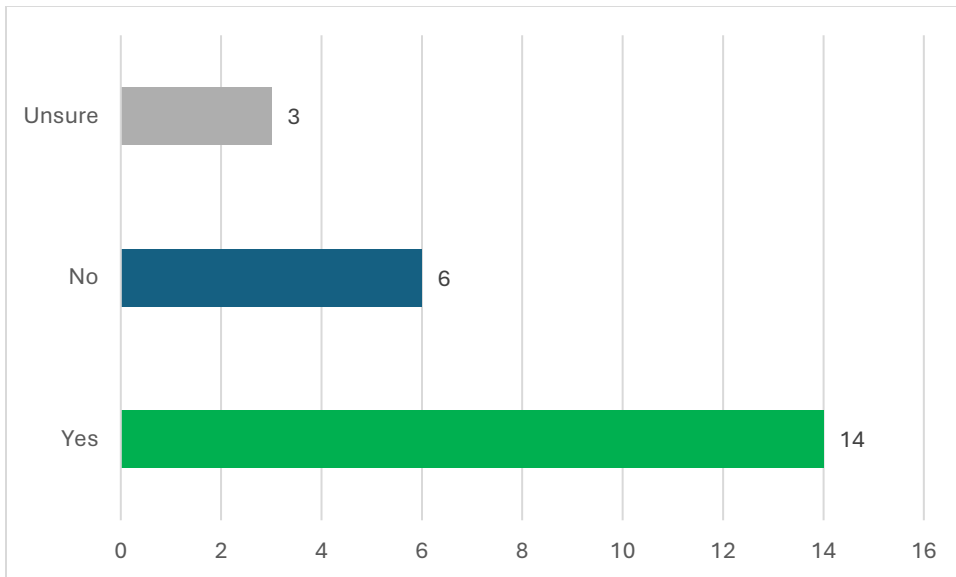
**Question 5:** In follow-up to question 4, should subsection 11.1 be expanded to allow the Information and Privacy Commissioner to extend the time limit for responding to requests in response to emergency situations (like COVID-19 and wildfires)?



**Question 6:** In your opinion, is the timeframe for third parties to respond to consultations under the ATIPP Act reasonable?



**Question 7:** In your opinion, are the mandatory exceptions to disclosure appropriate?



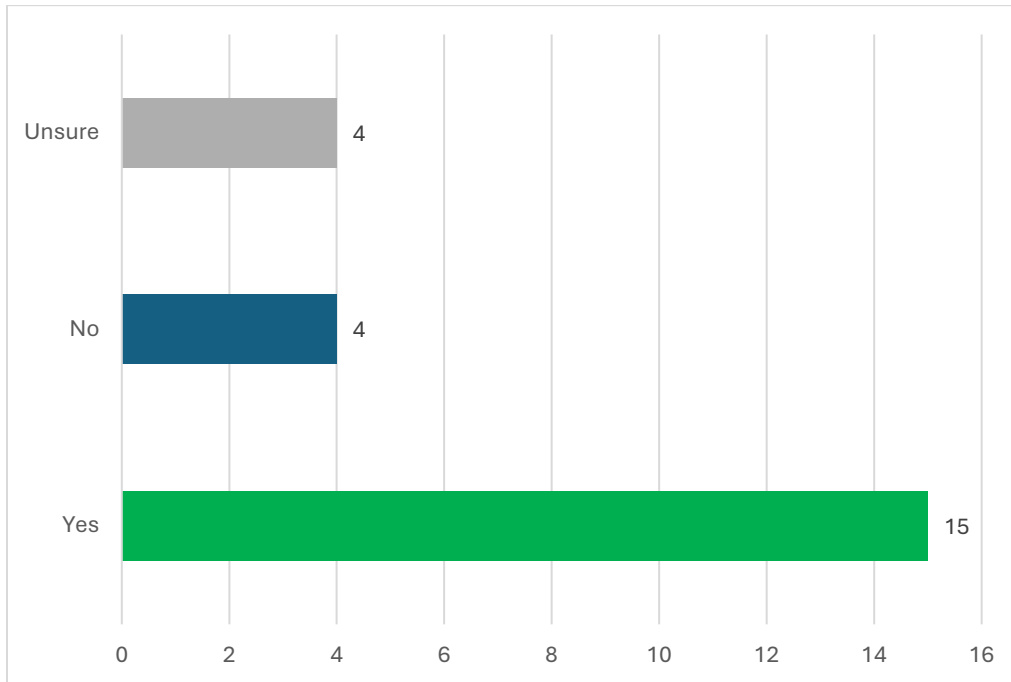
Question 7(a) asked respondents to provide suggestions for improvement to the **mandatory** exceptions to disclosures. The following summarizes the responses:

- Definition or clarification regarding:
  - Section 23(4)(c) and (4)(e) and whether they have the ability to override notwithstanding other requirements in section 23. Further, section 23(4)(c) should specify that the Act which requires disclosure should be an Act other than the ATIPP Act.
  - In section 23(4)(e), define “employment responsibilities.”
  - Section 24(1) appears quite narrow, and definitions are needed.
  - Section 26(1) requirement to consult parties in section 26(1) is unclear in relation to the application of section 23 and section 24.
  - The application of section 24.1 and 24.2 in relation to other provisions.
- Propose an amendment to section 24.2 of the ATIPP Act. Currently, an Applicant who is entitled to a third party’s information can receive that information and disseminate it. This does not align with the ATIPP Act’s privacy provisions. Suggest a legislative requirement to restrain a party from doing this once they have received information. Overall, section 24.2 should be clarified in regard to its relationship to other exceptions, specifically section 23.
- Division B – *Exceptions to Disclosure* of the ATIPP Act describes the requirement to refuse disclosure of Executive Council records, along with the exceptions to that requirement (section 13). One such exception is the requirement to disclose if the information has existed in a record for 15 years or more. It was suggested by one respondent that 15 years is too long, recommending a five-year limit.
- Other suggested mandatory exceptions to include in the ATIPP Act are:
  - Financial information <sup>3</sup>
  - Legal information <sup>2</sup>
  - Communications with First Nations governments and First Nations individuals

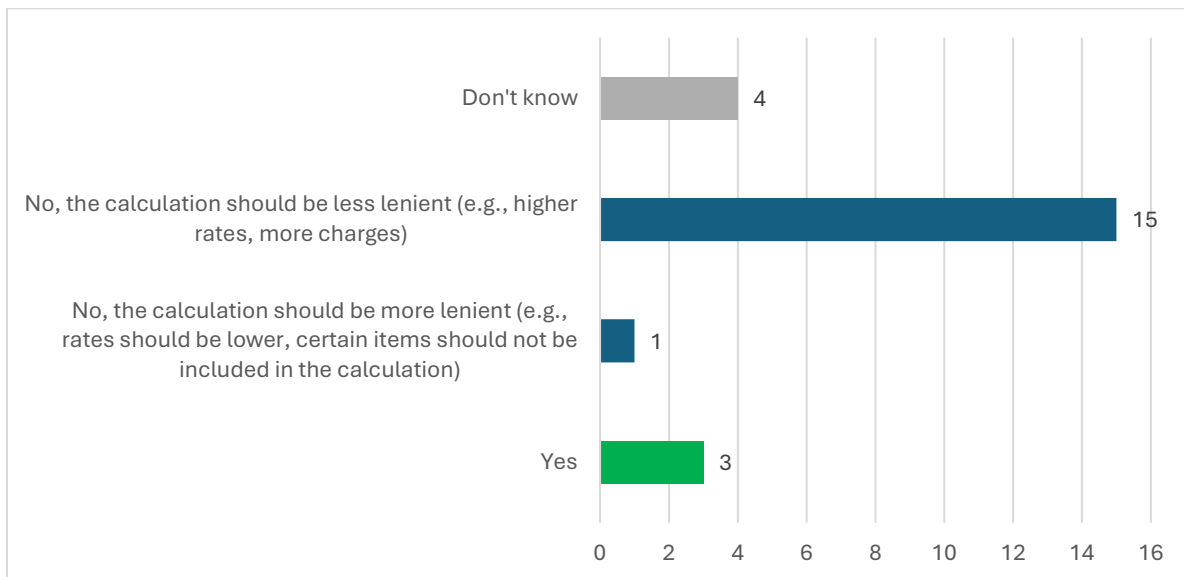
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<sup>3</sup> Note that section 24 allows for the protection of third-party financial information and is mandatory. Section 15 protects solicitor-client privilege, but is a discretionary exception. Section 16 protects communications with Indigenous governments, but it is a discretionary exception.

**Question 8:** In your opinion, are the **discretionary** exceptions to disclosure appropriate?

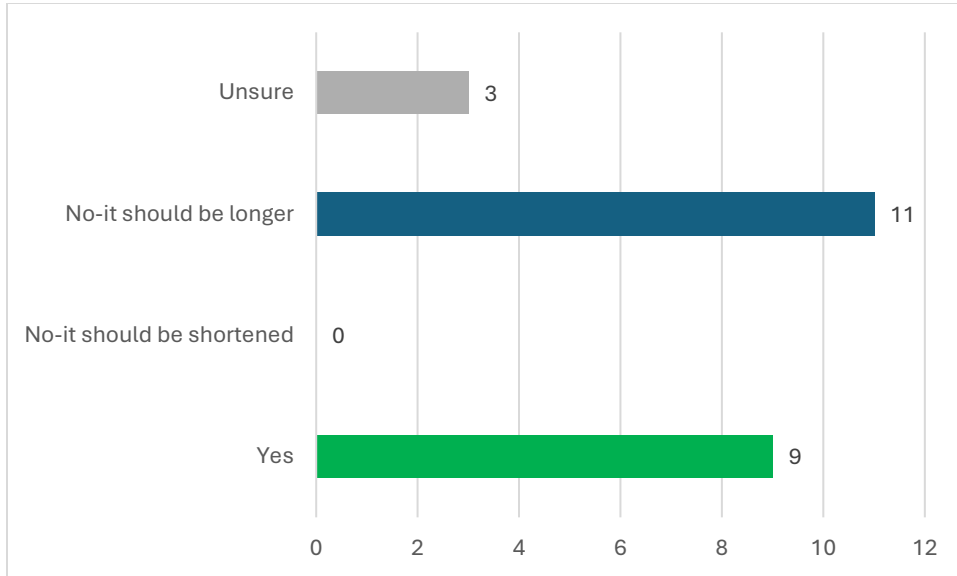


**Question 9:** In your opinion, is the way fees are currently being calculated to determine if the individual that made the request will be charged appropriate?

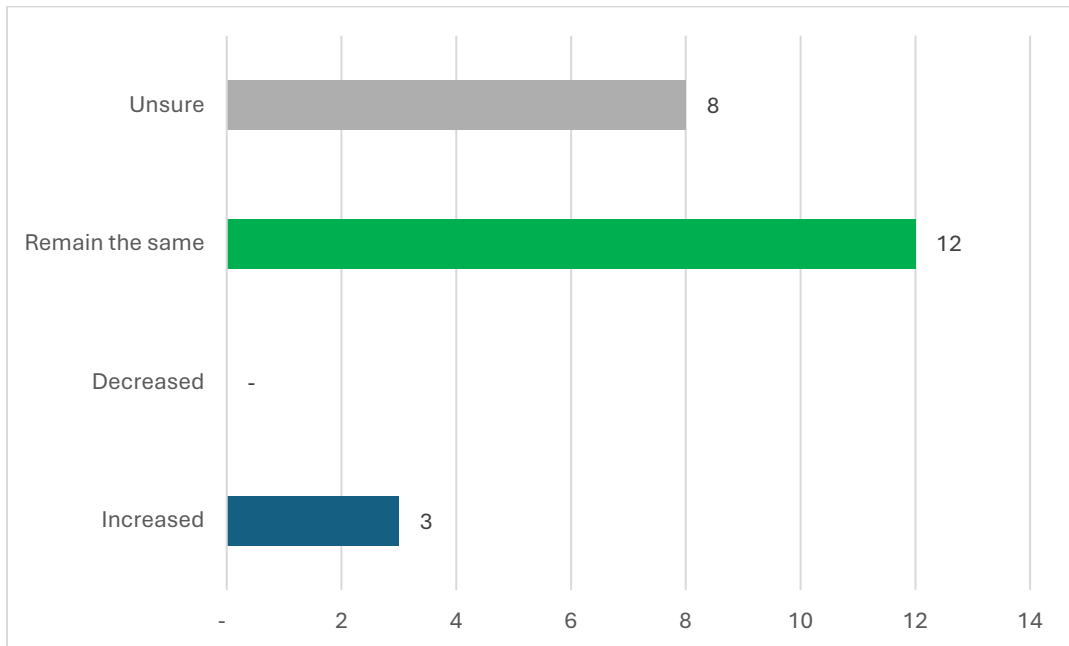


## What We Heard | Review of the ATIPP Act

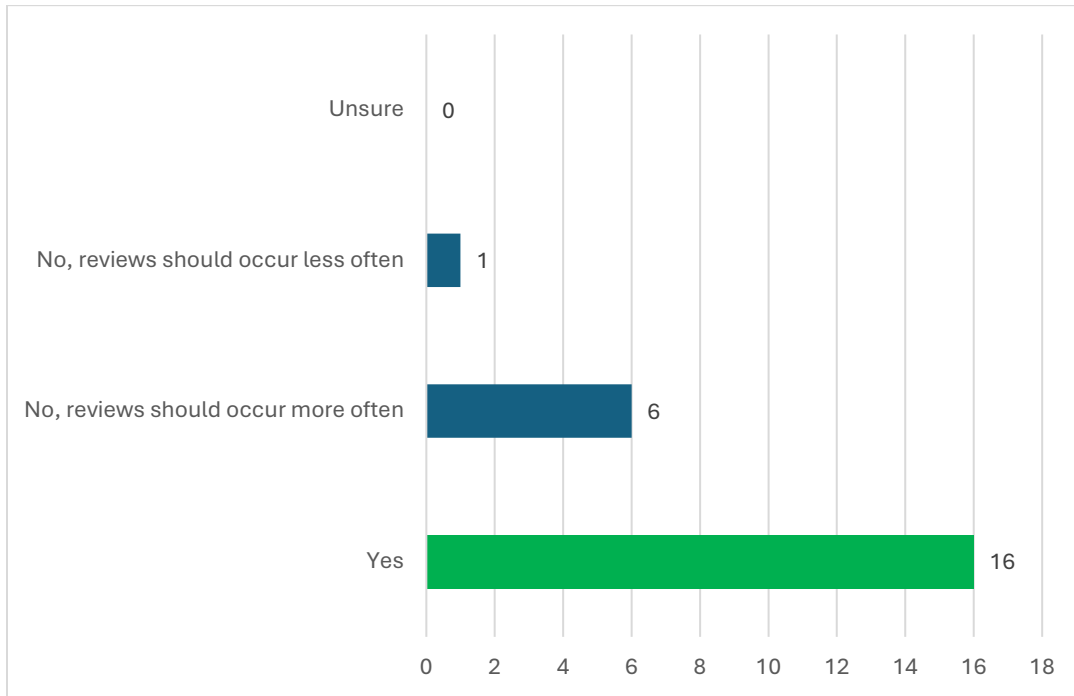
**Question 10:** Do you think the 20-business daytime limit for responding to an order of the Information and Privacy Commissioner is reasonable?



**Question 11:** Should the maximum \$10,000 fine noted above be increased, decreased, or remain the same?



**Question 12:** In your opinion, is this review schedule for the ATIPP Act reasonable?



## Stakeholder interview responses

Stakeholders, which include staff working in GNWT departments, public bodies, the OIPC, OCIO, and APO, were asked to provide their perspective on the main strengths of ATIPP Act, main weaknesses of ATIPP Act, and what changes they would like to see made to the Act. The following section summarizes the findings from interviews with stakeholders under the headings Strengths, Weaknesses, and Suggestions for Improvement, each summarized by themes that emerged through the analysis.

### *Strengths*

Most stakeholders highlighted the importance of the ATIPP Act in providing a legal avenue for access to government-held information in a clear framework, supporting government transparency and accountability. The ATIPP Act in its current state encourages a more responsive government and enhances trust in government as it provides a legal basis through which personal information is collected, used, and disclosed. Oversight by the OIPC was also mentioned as a strength keeping government entities accountable.

Stakeholders emphasized that the ATIPP Act is not just about the right of protecting information, but also critical in guiding government bodies on the collection and management of personal information so they know how to disclose information properly, and through the proper channels.

Several stakeholders listed specific sections of the Act that ensure mandatory privacy protections for third parties that safeguard personal and confidential information from unauthorized use, collection, or disclosure. Examples cited include:

- Health records 10(4);
- Notification of information disclosure (5(2) and 5(3));
- Redaction of information 5(2); and
- Limited permission around sharing of information without consent.

Further, stakeholders reported important sections throughout the Act that ensure effective execution of the Act, such as:

- Duty to assist (7(1));
- Public interest overrides through the Act;
- Established timelines for responses create predictability for applicants and public bodies;
- Privacy impact assessments as a requirement of the Act; and
- Clarity around mandatory vs. discretionary disclosure is quite well laid out in the ATIPP Act.

### *Weaknesses*

Stakeholders' responses regarding "weaknesses" of the ATIPP Act in its current form typically centred around the themes of timeline extension requests, clarity of language in the Act for both implementation and understanding among non-legal staff and citizens, risks to GNWT staff and citizens, and impact on service delivery.

### *Timelines*

Many of the stakeholders discussed the timelines in the ATIPP Act as weaknesses to the effectiveness of the Act. Smaller public bodies report the timelines as challenging to meet when requests are broad, high-volume, or submitted during peak operational periods. Large-scale requests that target large groups or organizations (e.g., an entire school) require significantly more time to process. Meeting the deadlines set out in the ATIPP Act in such cases is seen to be unrealistic as it requires the reprioritization of other critical duties, which is not operationally feasible.

A few stakeholders reported that decision-making around discretionary time extensions were moved from departments to the OIPC for oversight purposes. The consequence is that time limits are compounded by the time spent asking for extensions, further cutting into timelines. Under the old version of the Act, departments could have extended timelines and applicants could appeal to the OIPC if they were unhappy with the decision, but the requirement now shifts to the OIPC first; this led some interviewees to perceive increased delays and backlogs.

### *Clarity*

Most stakeholders reported ambiguity in the wording in the Act and issues related to inconsistent application of sections of the ATIPP Act due to lack of clarity, impacting the achievement of the Act's objectives. Stakeholders reported that some of the sections in the Act require further clarification from the OIPC, demanding more of their time in cases that could otherwise be clarified in the Act's wording.

Lack of clarity and use of legal language also results in non-legal staff struggling to interpret the Act without APO guidance. This reportedly impedes the efficient, timely processing of requests.

Many stakeholders highlighted that there is significant ambiguity around overrides throughout the Act. The most commonly cited example was sections 23 and 24, which describe the protection of personal and commercial interests of third parties by detailing the prohibitions and permissions regarding the disclosure of personal or business information that may result in an unreasonable invasion of privacy or harm competitive or financial interests. Stakeholders reported that it is unclear if section 24.2 overrides section 23. Similar issues were reported in sections throughout the Act.

Many stakeholders reported that there appears to exist a misalignment between the information sections on complying with the ATIPP Act in non-ATIPP Acts, and the ATIPP Act itself. The ATIPP Act constrains public services from completing their work on ATIPP requests in a timely manner, due to the timelines and requirements to consult the OIPC for extensions (i.e., not by design). Several stakeholders reported that the way legislation is written across GNWT hinders workflows; and that

the government would benefit from cross-referencing or linking information-related sections from other Acts within the ATIPP Act in order to enhance workflows.

Some specific examples of sections in the Act were highlighted by stakeholders.

- Section 11(1)(b) requires clarity as the APO is separate from the public body in this section, and the wording reportedly causes confusion. One respondent explained that the APO being slowed by a particularly large request does not necessarily burden the public body that submitted the request, and the section does not specify if the time-extension criteria extend to the APO in these circumstances.

***Section 11(1)(b): Extension of time limit for responding***

*11. (1) The head of a public body may extend the time for responding to a request for a period not exceeding 20 business days where*

*(b) a large number of records is requested or must be searched to identify the requested record and meeting the time limit would unreasonably interfere with the operations of the public body;*

- Requests for time extensions are required to be processed through the OIPC if the request is for more than 20 business days. However, the process for consulting third parties is 55 business days, which creates a requirement to go to the OIPC any time employees are consulting third parties, adding an unnecessary administrative step. Further, a few stakeholders mentioned that almost all cases have third party information, making this requirement infeasible. Some stakeholders also reported that mandatory consultation requirements with third parties often create significant delays, especially when responses from third parties are slow or incomplete.
- The Act does not provide clarity on the sharing of cybersecurity/privacy incidents.
- The Act would benefit from further clarity around disclosures through court processes versus disclosures through the ATIPP Act.
- Further clarity and criteria are needed around what constitutes “in the public interest” regarding disclosures.

***Risks to employees and citizens***

Several stakeholders reported that the ATIPP Act does not protect communications between staff in the normal process of completing their work, particularly when it comes to Human Resource/Labour Relations information. This creates a gap that is seen as a risk to employees and/or citizens.

A few stakeholders also reported that the Act is sometimes used as an instrument for harassment by applicants, highlighting that there are no checks for information requests and whether a request should proceed. This results in what some respondents called “malicious intent,” or abuse in some requests.<sup>4</sup> These requests also require the time and energy of multiple staff to process.

A few participants reported a lack of awareness and lack of understanding among employees that all communications conducted on government devices can potentially be subject to an ATIPP request and indicated that this realization can and has led to concealment of information, due to the disinclination to having the contents of their communications examined. Examples were highlighted wherein employees may have chosen to avoid putting something in a record, or to have curated the content of their communications, out of concern that it would be accessed.

A few stakeholders were uncertain whether third parties have the right to appeal and whether they have standing to challenge decisions regarding disclosure of information, which may put them at risk. An example that was provided was the lack of clarity around overrides in sections 23 and 24, as described in the *Clarity* section above.

### *Impact on service delivery*

One stakeholder indicated that there is an expectation of integrated service delivery across the GNWT but there is a lack of integrated data within GNWT to achieve this task. Another stakeholder reported that the records management system is lacking, but the ATIPP Act’s expectations require strong records management, making implementation of the ATIPP Act very challenging.

A few stakeholders reported what they perceived as excessive numbers of general requests which they indicated were highly time-consuming; these requests were perceived as overly sweeping and not necessarily relevant to the work of the requesting parties. Processing time for these requests was therefore substantial, to the detriment of other requests. These stakeholders further perceived that consultants, specifically, making these sweeping requests might be adding unnecessarily burdensome work to departments.

Further, some stakeholders perceived that many applicants are able to find loopholes to request information repeatedly. Some examples include changing a few words in the application to have it processed again or reducing the size of the request to lower costs and then returning shortly thereafter to get the next batch, further adding, potentially unnecessarily, to the workload for APO staff and public bodies.

One stakeholder discussed that Cabinet approval is often required for the collection of personal information for new programming, which is seen as a very high escalation for very small programs requirements.

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<sup>4</sup> Note that it is stated that “S.31. (2) The Information and Privacy Commissioner may refuse to conduct a review or may discontinue a review if, in his or her opinion, the request for a review (a) is frivolous or vexatious; (b) is not made in good faith; (c) concerns a trivial matter; or (d) amounts to an abuse of the right to access.” Also note that this section is not often relied upon.

### *Suggestions for improvement*

Stakeholders provided numerous suggestions for improvement in line with the identified weaknesses in the previous section. The themes for the suggestions were typically regarding fees, timelines and requests for extensions, clarity of language, and jurisdiction/scope of the OIPC.

#### *Fees*

Stakeholders discussed a need to change the fee schedule to lower the number of requests that are large in scope, and that are submitted by people who have access to publicly available information, but do not consult public records prior to submitting a request for information through the ATIPP Act. One stakeholder explained that a request must be at least 600 pages before calculating fees, which seems excessive when there are a lot of requests coming in. They suggested lowering that threshold but remain aware of the risk that this may sometimes deter applicants.

In order to forestall applications from those who may be submitting a request to avoid performing their own research, or those submitted with what some stakeholders termed “malicious intent,” a few stakeholders suggest including a fee for general information requests. Prior to amendments to the ATIPP Act in 2021, an initial fee was required for general requests.

#### *Timelines*

Similar to the pre-interview questionnaire data, stakeholders generally find the time requirement for requests to be too short, and extension requests too administratively burdensome. Building on the discussion about timelines above, stakeholders provided various suggestions:

- Extend the amount of business days for the initial extension period before having to request an extension through the OIPC.
- Introduce extended initial response timelines for large-scale or complex requests, especially those that target entire groups or organizations. Another stakeholder suggested expanding provisions for time extensions in emergency or peak operational periods without requiring full OIPC approval. These additions should reduce the number of time-extension requests submitted to the OIPC.
- Create a provision to address the need for extensions during emergencies, disasters, or other unforeseen events resulting in unplanned closures or interruptions in operations. In these cases, section 8(2) currently applies, and the delay will be deemed a refusal to provide access, which are subject to a review and an order under section 35(2). By triggering an automatic extension during unplanned disruptions, this would mitigate these additional refusals and reviews.
- One stakeholder suggested implementing a tiered timeline system based on the size and complexity of requests.
- Increase the time allowed for public bodies to extend response times for requests.
- Regarding section 35(2), the OIPC currently does not have jurisdiction to extend a public

body's time to respond once the public body has been deemed to have refused to respond. When third party interests are involved, the 55-business day extension period to conduct consultation would ordinarily apply under sections 26 and 27. It is suggested to provide the OIPC discretion to extend time periods under section 35(2) (similar to section 35(3)(b)(i)) either narrowly (limited to section 26) or more generally.

***Section 35(2): Disagreement by Information and Privacy Commissioner: access to a record***

*(2) On completing a review, if the Information and Privacy Commissioner does not agree with a decision by the head of a public body to give or to refuse to give access to all or part of a record, the Information and Privacy Commissioner shall*

*(a) prepare a written report with respect to the matter, setting out the Commissioner's reasons for disagreeing with the decision of the public body to give or to refuse to give access to all or part of a record;*

*(b) by order, require the head to provide the applicant access to all or part of a record; and*

*(c) provide a copy of the report referred to in paragraph (a) and the order referred to in paragraph (b) to the person who asked for the review, the head of the public body concerned and any other person given a copy of the request for a review under section 30.*

- In situations where more time is needed for consultation with a third party or another public body, allow a public body to extend the time to provide its response by 55 business days where an extension of time is required under section 11(1)(c).

***Section 11(1)(c): Extension of time limit for responding***

*11. (1) The head of a public body may extend the time for responding to a request for a period not exceeding 20 business days where*

*(c) more time is needed to consult with a third party or another public body before the head can decide whether or not the applicant is entitled under this Act to access to a requested record; or*

- It was suggested that section 35(3) be amended to address a review pursuant to section 11.2(2), possibly limiting the jurisdiction to subsection 35(3)(b)(i).

***Section 11.2(2): Review***

*(2) A review under this section must be held in accordance with Division D of this Part.*

***Section 35(3): Disagreement by Information and Privacy Commissioner: review of any other decision, act or failure to act***

*(3) On completing a review, if the Information and Privacy Commissioner does not agree with a decision, act or failure to act of the head of a public body, other than a decision referred to in subsection (2), the Information and Privacy Commissioner shall*

*(a) prepare a written report with respect to the matter, setting out the Commissioner's reasons for disagreeing with the decision, act or failure to act;*

*(b) by order, do one or more of the following:*

*(i) reduce, deny or authorize an extension of a time limit under section 11 or 11.1,*

*(ii) reduce a fee or order a refund, in the appropriate circumstances, including if a time limit is not met,*

*(iii) specify how personal information is to be corrected,*

*(iv) require a public body to stop collecting, using or disclosing personal information in contravention of Part 2 of this Act,*

*(v) require the head of a public body to destroy personal information collected in contravention of this Act, and*

*(c) provide a copy of the report referred to in paragraph (a) and the order referred to in paragraph (b) to the person who asked for the review, the head of the public body concerned and any other person given a copy of the request for a review under section 30.*

### Clarity

As with the stakeholder responses above, the language of the Act creates a barrier to consistent application and general accessibility of the Act. Stakeholders provided various suggestions:

- Several stakeholders suggest creating a supplemental, plain language version of the Act for non-legal staff and citizens. This should provide clearer definitions and practical examples for exemptions and exceptions.
- One stakeholder emphasized allowing more protection to employees who lodge formal complaints to their supervisors, Human Resources, or Labour Relations against other staff members pertaining to events such as dangerous practice, bullying, racism, harassment and so forth reported in the workplace. They expanded to include more protection for supervisors and managers in working with Human Resources or Labour Relations without fear of their communications (emails, documents) being released to the employee about whom they are speaking.

Some specific sections were flagged by stakeholders:

- Section 11(1): Time extensions for third party consultations should not require approval from the OIPC as this is time consuming for staff and the OIPC.

#### ***Section 11(1): Extension of time limit for responding***

*11. (1) The head of a public body may extend the time for responding to a request for a period not exceeding 20 business days where*

*(a) the applicant does not give enough detail to enable the public body to identify a requested record;*

*(b) a large number of records is requested or must be searched to identify the requested record and meeting the time limit would unreasonably interfere with the operations of the public body;*

*(c) more time is needed to consult with a third party or another public body before the head can decide whether or not the applicant is entitled under this Act to access to a requested record; or*

*(d) a third party asks for a review under subsection 28(2).*

- Section 23(4)(c): Specify that the Acts referenced in this section that require disclosure do not include ATIPPA.

***Section 23(4)(c): Personal privacy of third party; Circumstances where no unreasonable invasion of privacy***

*(4) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy where*

*(c) an Act of the Northwest Territories or Canada authorizes or requires the disclosure;*

- Section 24.2: Clarify the relationship (e.g., override) of this section with other exceptions, such as section 23 of the Act.

***Section 24.2: Disclosure with consent or legislative authority***

*(2) A head of a public body may disclose information described in subsection (1)*

*(a) with the written consent of the third party to whom the information relates; or*

*(b) if an Act or regulation of the Northwest Territories or Canada authorizes or requires the disclosure.*

- Section 26: Suggest amending this section so that consultation with third parties is not required when considering disclosure. This would assist with capacity issues. Consulting every third party that appears in a request is very time consuming and labour intensive.

***Section 26: Notifying third party of proposed disclosure; Content of notice; Head may dispense with notice; Notice of third-party rights***

*26. (1) Where the head of a public body is considering giving access to a record that may contain information*

*(a) the disclosure of which would be an unreasonable invasion of a third party's personal privacy under section 23, or*

*(b) that affects the interests of a third party under section 24,*

*the head shall, where reasonably possible, give written notice without delay to the third party in accordance with subsection (2).*

*(2) The notice must*

*(a) state that a request has been made for access to a record that may contain information the disclosure of which may affect the interests or invade the personal privacy of the third party;*

*(b) describe the contents of the record;*

*(c) state that the third party may, within 30 business days after the notice is given, consent in writing to the disclosure or make representations to the public body explaining why the information should not be disclosed; and*

*(d) include a copy of the record or part of it containing the information in question.*

*(3) Where, in the opinion of the head of a public body, it is not reasonably possible to provide notice to a third party under subsection (1), the head may dispense with the giving of notice.*

*(4) Where notice is given under subsection (1), the head of the public body must also give the applicant a notice stating that*

*(a) the record requested by the applicant may contain information the disclosure of which would affect the interests or invade the personal privacy of a third party; and*

*(b) the third party is being given an opportunity to make representations concerning disclosure.*

- Regarding section 31(3), the current language may leave applicants with the impression that the 90-business day period is a strict deadline, however, the OIPC does not lose jurisdiction to complete the review at the expiration of the 90-day period.

***Section 31(3): Time limit for review***

*(3) Except when a review is not conducted or is discontinued under subsection (2), a review must be completed within 90 business days after the receipt by the Information and Privacy Commissioner of the request for the review.*

- There is an apparent conflict between sections 27(3) and 27(4) and 29, which set different periods for which an applicant can seek a review (15 business days and 20 business days, respectively). However, both start the period when the applicant receives notice of the decision. It is recommended to repeal section 27(4).

**Section 27(3): Notice of right to request review of access grant**

*(3) Where the head of the public body decides to give access to the record or part of the record, the notice must state that the applicant will be given access unless the third party asks for a review under subsection 28(2) within 15 business days after the day on which notice is given.*

**Section 27(4): Notice of right to request review of access refusal**

*(4) Where the head of the public body decides not to give access to the record or part of the record, the notice must state that the applicant may ask for a review under subsection 28(1) within 15 business days after the day on which notice is given.*

**Section 29: Time limit for requesting review**

*29. A request for a review of the decision of the head of a public body must be delivered in writing to the Information and Privacy Commissioner within 20 business days after the person asking for the review is given notice of the decision.*

- When the OIPC orders a public body to give access to information, section 36 requires compliance within 20 business days, but a third party has 20 business days to make an appeal. This could result in a public body providing access to records before the expiration of the appeal period. To protect third parties, it is suggested to amend section 36 or 37 to ensure that a record containing third-party personal information or third-party interest that is ordered to be disclosed under section 35 is not disclosed until the expiration of the appeal period in section 37(1) or 37(2).

**Section 36: Duty to comply with order**

*36. Subject to subsection 37(3), within 20 business days after receiving the written report and order of the Information and Privacy Commissioner under subsection 35(2) or (3), the head of the public body concerned shall comply with the order.*

**Section 37: Appeal of decision: applicant or third party; Appeal of decision: head of a public body; Order stayed until court application; Parties to appeal**

*37. (1) Where the Information and Privacy Commissioner agrees under subsection 35(1) with a decision, act or failure to act of the head of a public body, an applicant or a third party given a copy of the request for review may appeal the Information and Privacy Commissioner's order by filing a notice of appeal with the Supreme Court and serving the notice on the head of the public body within 20 business days after the day the appellant receives the copy of the report and order of the Information and Privacy Commissioner.*

*(2) Where the Information and Privacy Commissioner does not agree under subsection 35(2) or (3) with a decision, act or failure to act of the head of a public body, the head of a public*

*body may appeal the Information and Privacy Commissioner's order by filing a notice of appeal with the Supreme Court and serving the notice on the person who asked for the review and any other person given a copy of the request for a review under section 30, within 20 business days after the day the public body receives the copy of the report and order of the Information and Privacy Commissioner.*

*(3) If an appeal to the Supreme Court is made before the end of the 20-business-day period referred to in section 36, the order of the Information and Commissioner is stayed until the application is dealt with by the court.*

*(4) An applicant or a third party described in subsection (1) who has been given notice of an appeal under this section may appear as a party to the appeal.*

- Clarify section 68 to ensure effective reporting of noncompliance with orders made by the OIPC. The following wording was suggested:

#### ***Section 68: Annual report***

##### *Current wording*

*68. The Information and Privacy Commissioner shall, by July 1 in each year, submit to the Speaker an assessment of the effectiveness of this Act and a report on the activities of the Information and Privacy Commissioner under this Act during the previous year, including information concerning any instances where recommendations made by the Information and Privacy Commissioner after a review have not been followed.*

*36. Subject to subsection 37(3), within 20 business days after receiving the written report and order of the Information and Privacy Commissioner under subsection 35(2) or (3), the head of the public body concerned shall comply with the order.*

##### *Suggested rewording*

*The Information and Privacy Commissioner shall, by July 1 in each year, submit to the Speaker an assessment of the effectiveness of this Act and a report on the activities of the Information and Privacy Commissioner under this Act during the previous year, including information concerning any instances where **any orders or** recommendations made by the Information and Privacy Commissioner after a review have not been followed.*

- Regarding section 35, the OIPC is able to conduct a review of any decision, act, or failure to act of a public body, however the OIPC has no jurisdiction to provide relief or make any

recommendation in relation to a failure to satisfy the obligation under section 7 to conduct a diligent search. It is suggested that section 35(3)(b) be amended to include a form of remedy to this issue.

***Section 35(3)(b): Disagreement by Information and Privacy Commissioner: review of any other decision, act or failure to act***

*(3) On completing a review, if the Information and Privacy Commissioner does not agree with a decision, act or failure to act of the head of a public body, other than a decision referred to in subsection (2), the Information and Privacy Commissioner shall*

*(b) by order, do one or more of the following:*

*(i) reduce, deny or authorize an extension of a time limit under section 11 or 11.1,*

*(ii) reduce a fee or order a refund, in the appropriate circumstances, including if a time limit is not met,*

*(iii) specify how personal information is to be corrected,*

*(iv) require a public body to stop collecting, using or disclosing personal information in contravention of Part 2 of this Act,*

*(v) require the head of a public body to destroy personal information collected in contravention of this Act, and*

- Several sections use calendar days while others use business days. Several stakeholders recommend updating to only reflect business days.

***Jurisdiction of the Information and Privacy Commissioner***

- It was suggested that the jurisdiction of the OIPC be expanded to permit the OIPC to increase the time a public body has to provide an applicant with access to the requested records beyond the 20 business days in section 36. This is particularly important in cases involving third parties where the 55-business day requirement under sections 26 and 27 would apply.

***Section 36: Duty to comply with order***

*36. Subject to subsection 37(3), within 20 business days after receiving the written report and order of the Information and Privacy Commissioner under subsection 35(2) or (3), the head of the public body concerned shall comply with the order.*

- Expand section 35(2) to allow the OIPC to require the head of the public body to refuse access to some or all of a record.

***Section 35(2): Disagreement by Information and Privacy Commissioner: access to a record***

*(2) On completing a review, if the Information and Privacy Commissioner does not agree with a decision by the head of a public body to give or to refuse to give access to all or part of a record, the Information and Privacy Commissioner shall*

*(a) prepare a written report with respect to the matter, setting out the Commissioner's reasons for disagreeing with the decision of the public body to give or to refuse to give access to all or part of a record;*

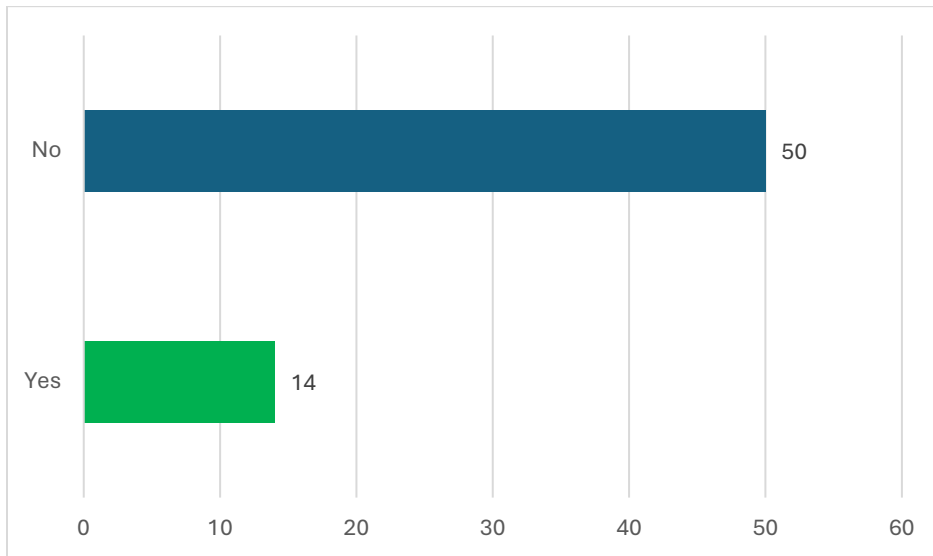
*(b) by order, require the head to provide the applicant access to all or part of a record;  
and*

*(c) provide a copy of the report referred to in paragraph (a) and the order referred to in paragraph (b) to the person who asked for the review, the head of the public body concerned and any other person given a copy of the request for a review under section 30.*

## Survey responses

The following charts and corresponding N-values are for valid responses only, omitting those who did not respond (skipped) or selected “Don’t know” options.

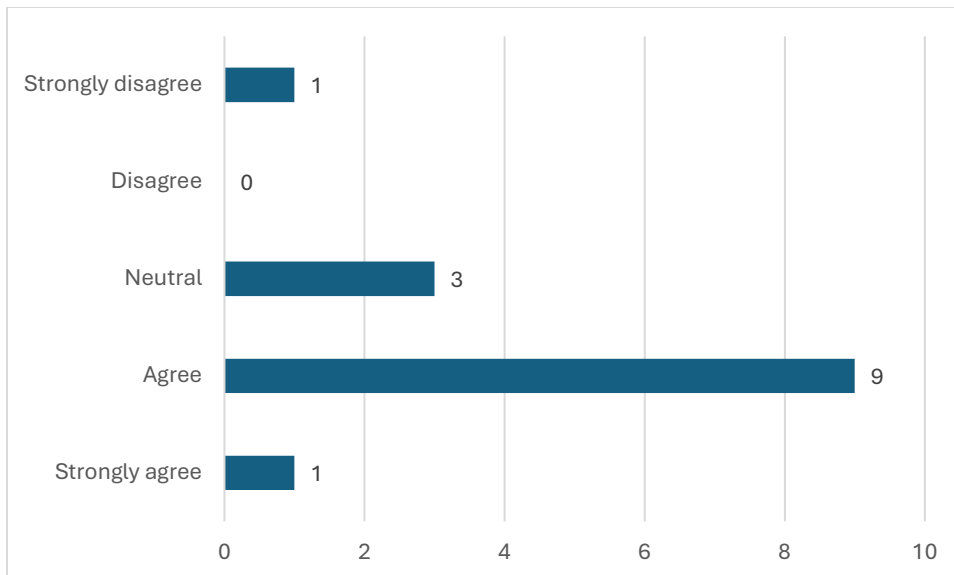
**Question 1:** Have you submitted a request for information under the ATIPP Act since August 2021? (N=64)



N=64

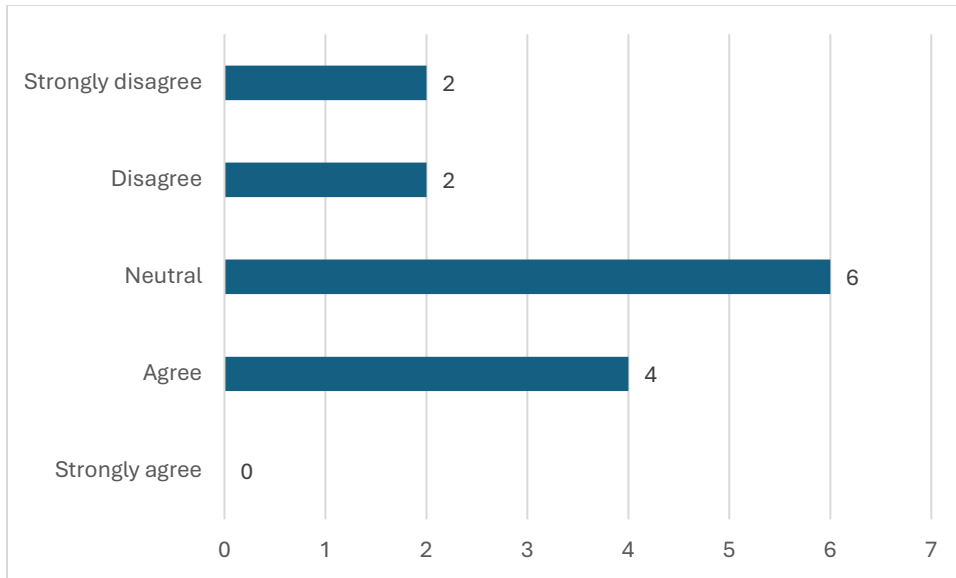
Question 2 asked respondents who responded “Yes” to Question 1, to rate their level of agreement with various statements regarding their the ATIPP Act requests on a 5-point Likert scale.

**Question 2a:** I clearly understood my rights under the ATIPP Act before submitting my access to information request. (N=14)

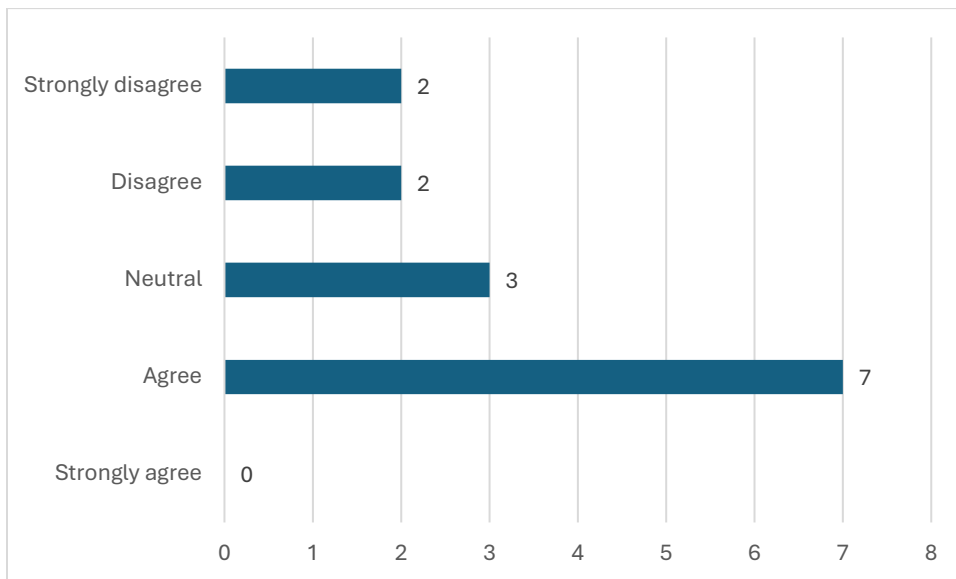


## What We Heard | Review of the ATIPP Act

**Question 2b:** I found the instructions and guidance (received through phone, email, or online) on how to submit an access to information request under the ATIPP Act helpful. (N=14)

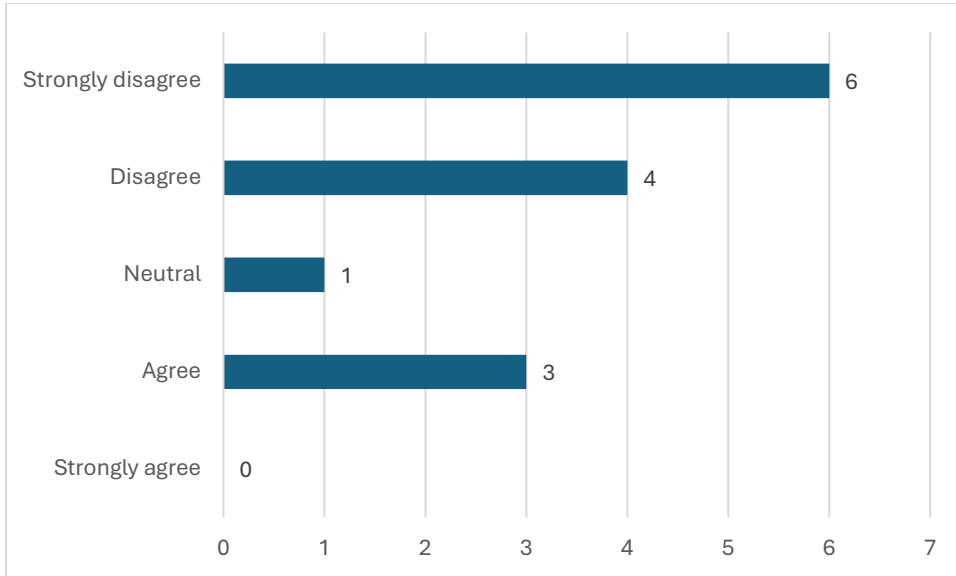


**Question 2c:** The ATIPP request form was easy to complete. (N=14)

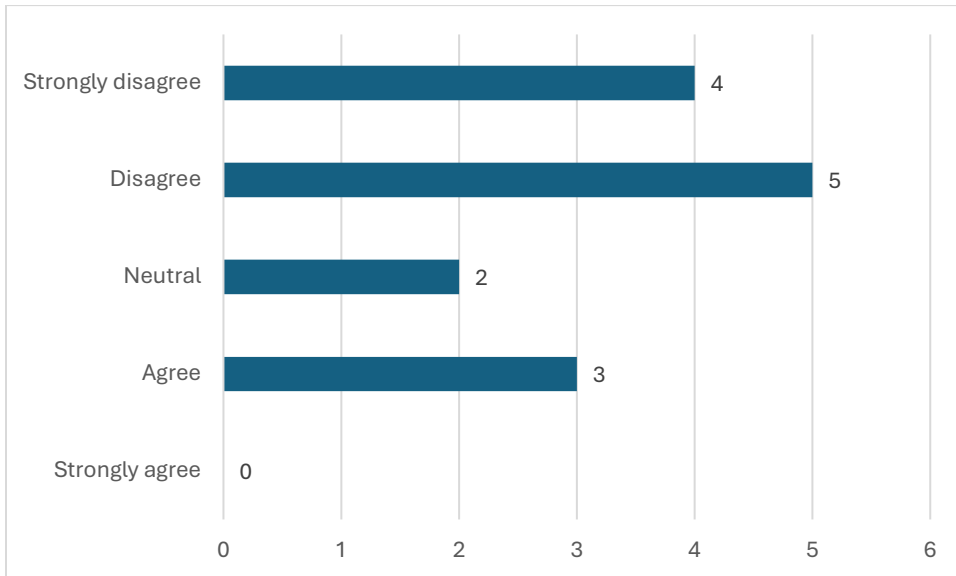


## What We Heard | Review of the ATIPP Act

**Question 2d:** My access to information request was acknowledged in a timely way (i.e., by confirming receipt). (N=14)

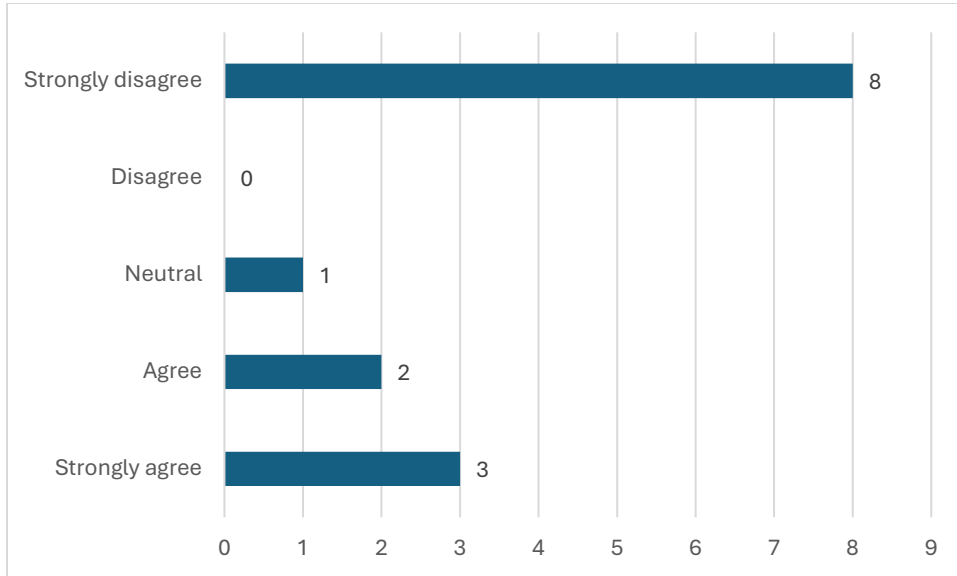


**Question 2e:** The response(s) I received to my access for information request was clear. (N=14)

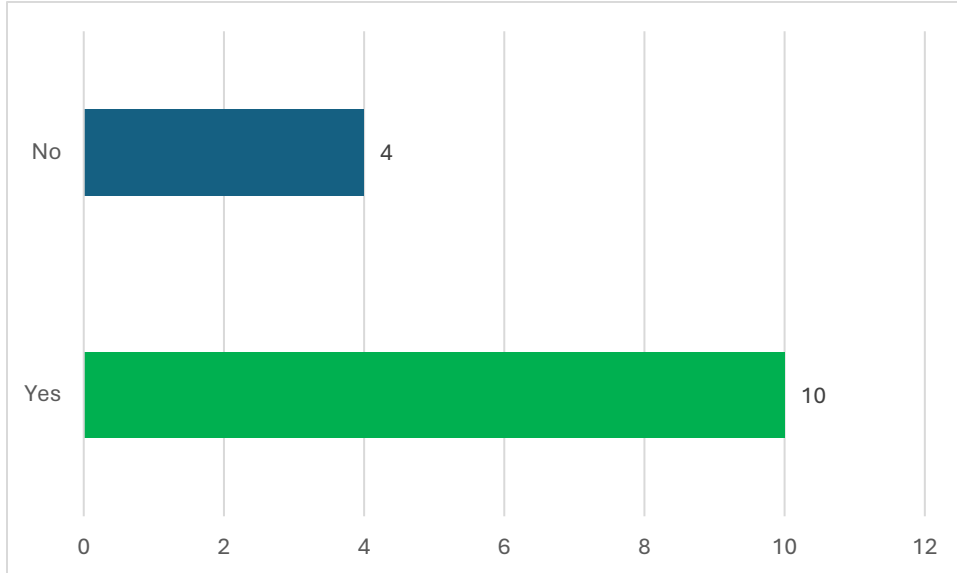


## What We Heard | Review of the ATIPP Act

**Question 2f:** Overall, the ATIPP process contributes to government transparency and accountability. (N=14)

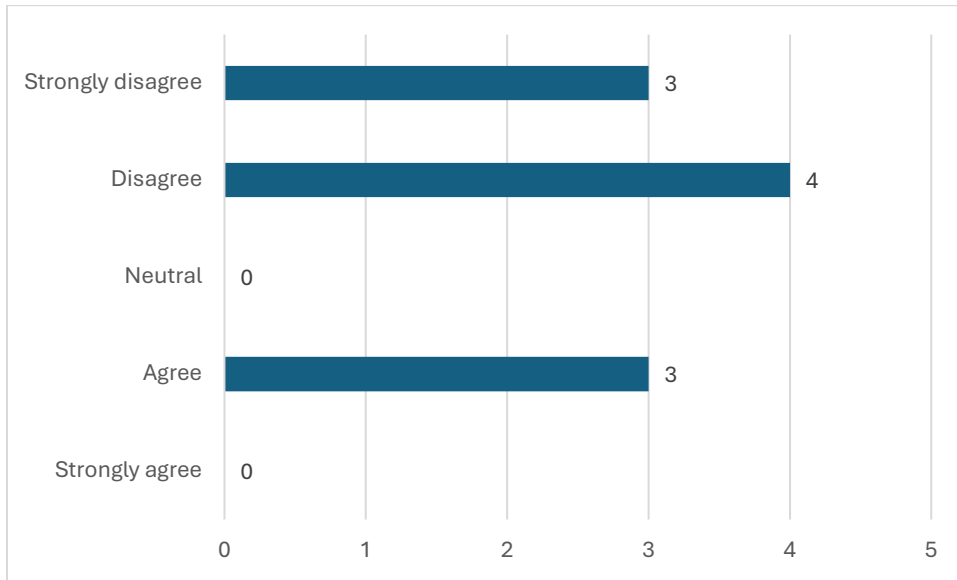


**Question 3:** Did you need to contact the APO, a government department, or another public body for assistance with your request? (N=14)

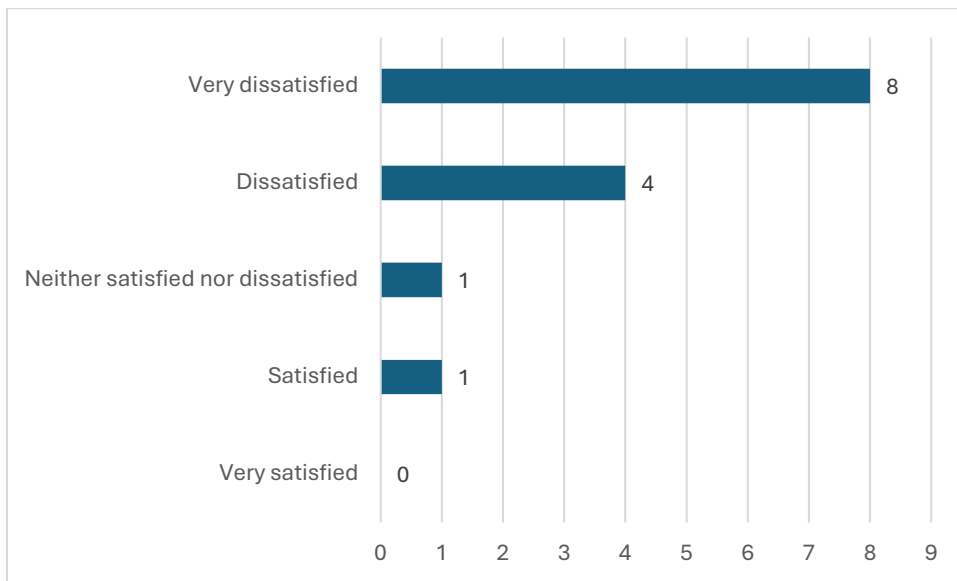


## What We Heard | Review of the ATIPP Act

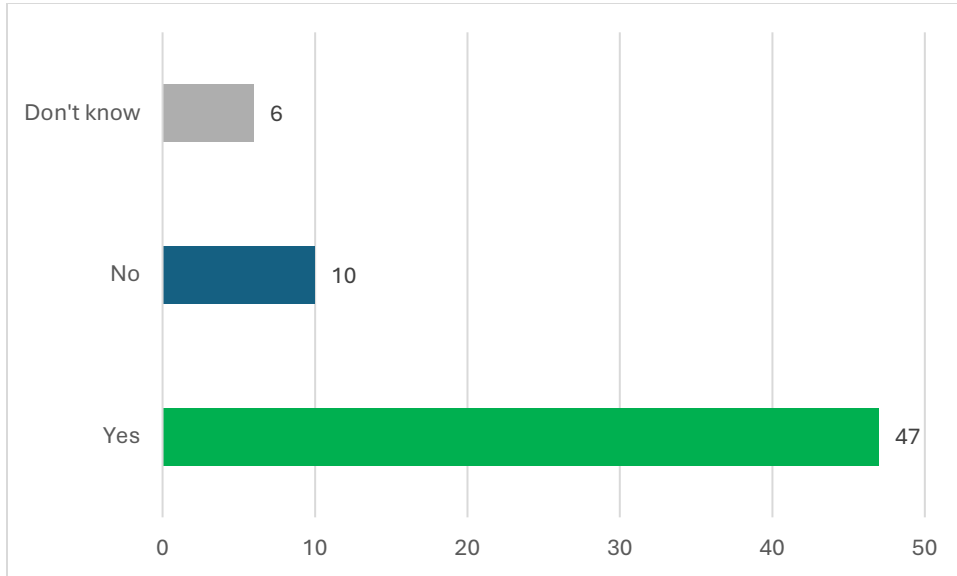
**Question 4:** How satisfied are you with the assistance you received? (5-point Likert scale) (N=10)



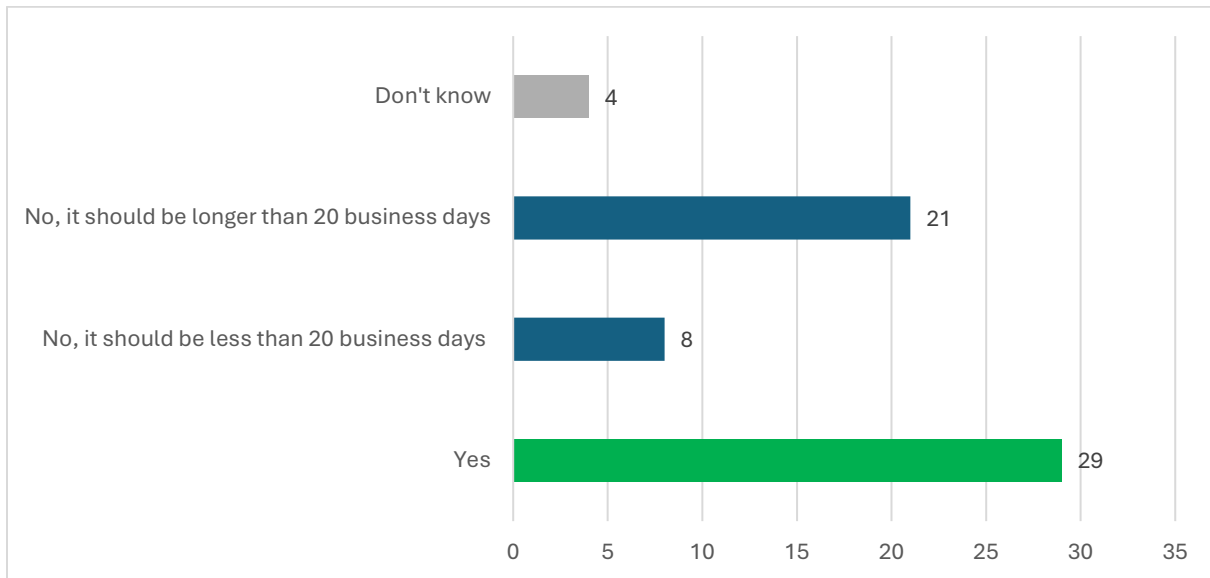
**Question 5:** Overall, what is your satisfaction level of your experiences with using the ATIPP process? (5-point Likert scale) (N=14)



**Question 6:** Are you aware of the Access and Privacy Office (APO) role within the GNWT and their activities related to ATIPP requests for information? (N=16)



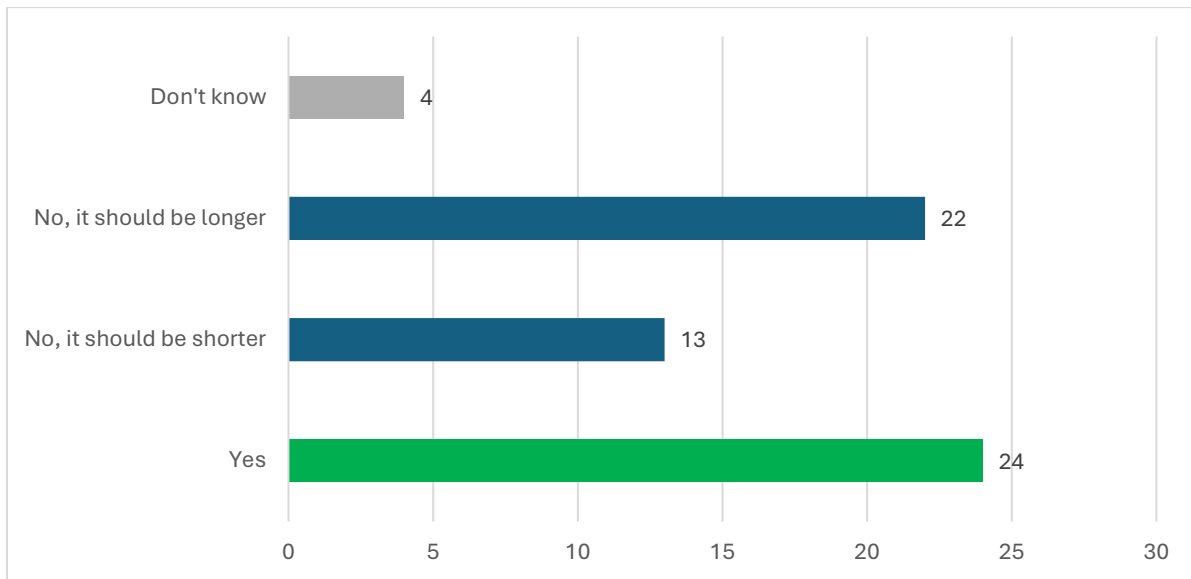
**Question 7:** Under the ATIPP Act, public bodies are required to respond to a request for information within 20 business days (noting response extensions can be taken for specific reasons). In your opinion, is the initial 20-business day deadline to respond to a request sufficient? (N=33)



**Question 8:** The ATIPP Act allows public bodies to extend the time limit for responding to an applicant’s request under subsection 11(1) by a period not exceeding 20 business days if:

- The applicant does not give enough detail to enable the public body to identify a requested record.
- A large number of records is requested or must be searched to identify the requested record and meeting the time limit would unreasonably interfere with the operations of the public body.
- More time is needed to consult with a third party or another public body before the head can decide whether or not the applicant is entitled under this Act to access to a requested record.
- A third party asks for a review under subsection 28(2).

In your opinion, is this 20-business day time extension that public bodies can take reasonable?  
(N=63)



## What We Heard | Review of the ATIPP Act

**Question 9:** Under the ATIPP Act, fees can only be charged in the following situations:

For general information:

- Fees may only be charged if the total amount of the fees calculated in accordance with Schedule B of the ATIPP Regulations exceeds \$250.00.

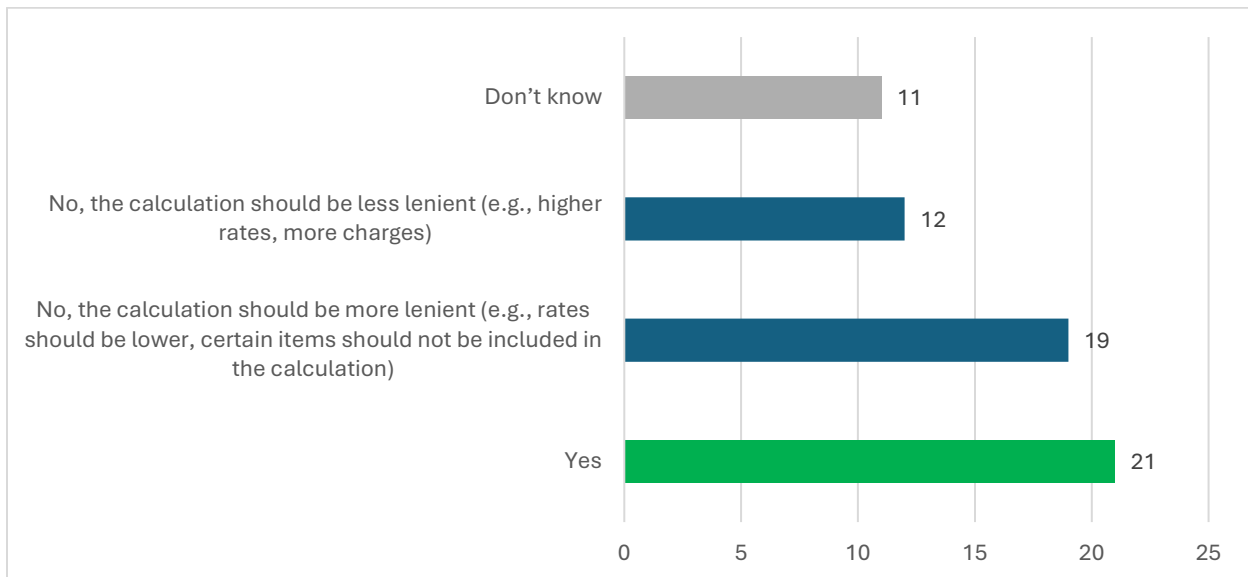
For personal information:

- Fees may only be charged if the total amount of the fees exceeds \$250.00.
- The only fees that may be charged for the processing of a request for personal information relating to the applicant are fees for:
  - printing, copying, or otherwise reproducing a record as set out in item 4 of Schedule B; and
  - shipping the record or a copy of the record.

The fees are calculated as follows:

- For reviewing, severing and preparing the record: \$6.25 per 1/4 hour
- For supervising the examination of a record: \$6.25 per 1/4 hour
- For shipping a record or a copy of a record: actual amount charged to public body
- For copying a record (photocopies and computer printouts): \$0.10 per page
- For copying a record (all other means of production): actual cost to public body

In your opinion, is the way the fees are currently being calculated under the ATIPP Regulations appropriate? (N=63)

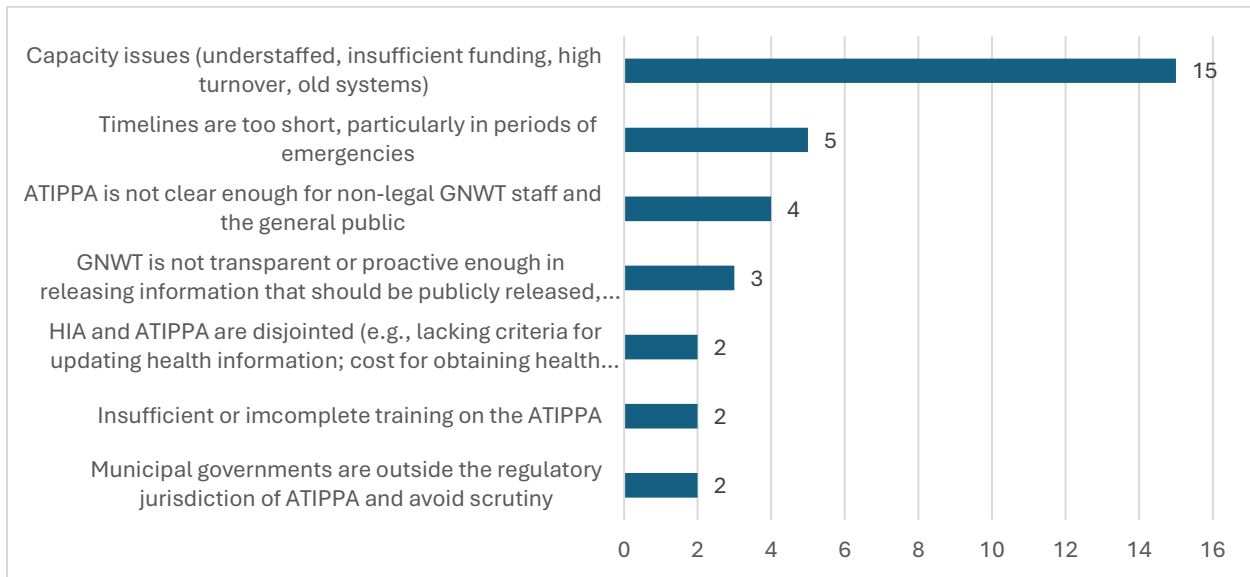


## Open-ended responses

**Question 10:** In your view, what are the main weaknesses of the ATIPP Act? (N=37)

The response provided most frequently (n=15) was that capacity issues — including an understaffed APO with high turnover, insufficient funding for ATIPP Act-related requests, and antiquated systems — were severely slowing processing times and creating backlogs.

This was followed by timelines being too short (n=5), the ATIPP Act lacking clarity or a plain-language version (n=4), and lack of transparency and proactivity in releasing information that should be publicly available (n=3).



Some concerns regarding the ATIPP Act stated by individual respondents include the following:

- Allowing MLAs access to information that is not relevant to their constituents, thus creating unnecessary paperwork leading to backlogs.
- Applicants abusing the system by submitting large records requests (not focused requests), resulting in a zero fee and causing backlogs for APO staff. These abuses are not met with enforcement and the ATIPP Act does not have the necessary “guardrails” in place for these instances.
- Privacy impact assessments are cumbersome, limited in usefulness, and not always necessary.
- APO works with departments on a trust basis and information provided to APO from departments have frequently been found to contain “faulty” information.
- Vulnerabilities specific to First Nations governments as First Nations governments are only recognized if they have a self-government agreement in place, despite an entrusted duty to provide these data to First Nations.
- Public bodies do not have data retention/management/disposal requirements under the legislation which could help standardize data protection across GNWT departments and agencies.

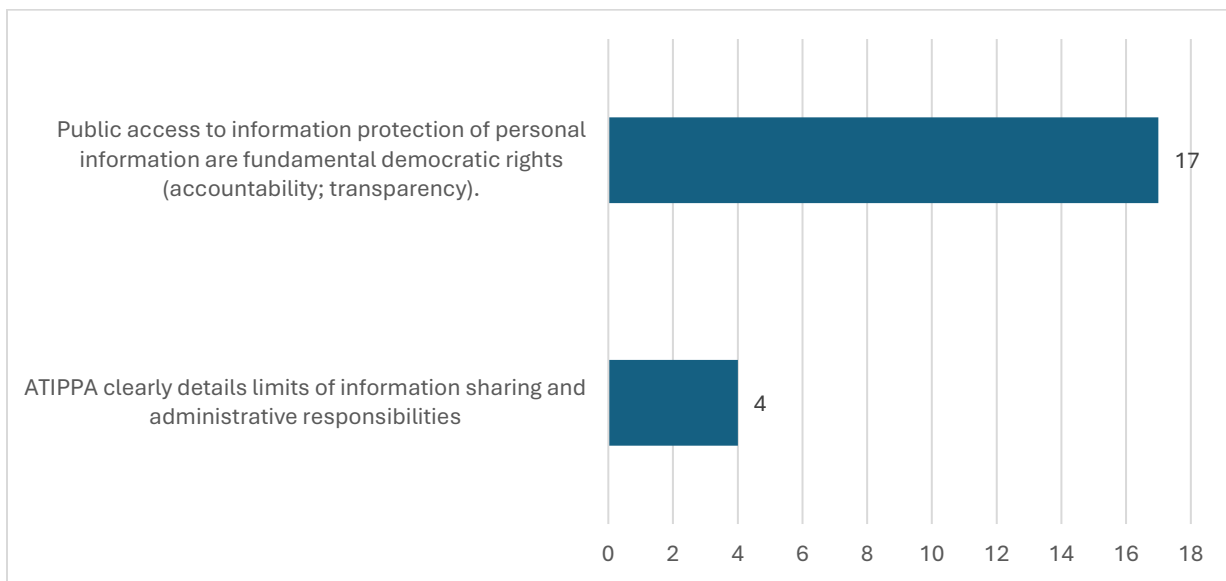
## What We Heard | Review of the ATIPP Act

**Question 11:** In your view, what are the main strengths of the ATIPP Act? (N=30)

The main strength of the ATIPP Act that was more frequently reported (n=17) was that the Act is necessary to ensure the public has ongoing access to information and protection of personal information held by the government, which was emphasized by many respondents as a crucial democratic right.

The next most frequently reported strength (n=3) is that the ATIPP Act provides the necessary information regarding the limits of information sharing requirements of the government, as well as the administrative responsibilities of the GNWT (i.e., APO responsibilities;).

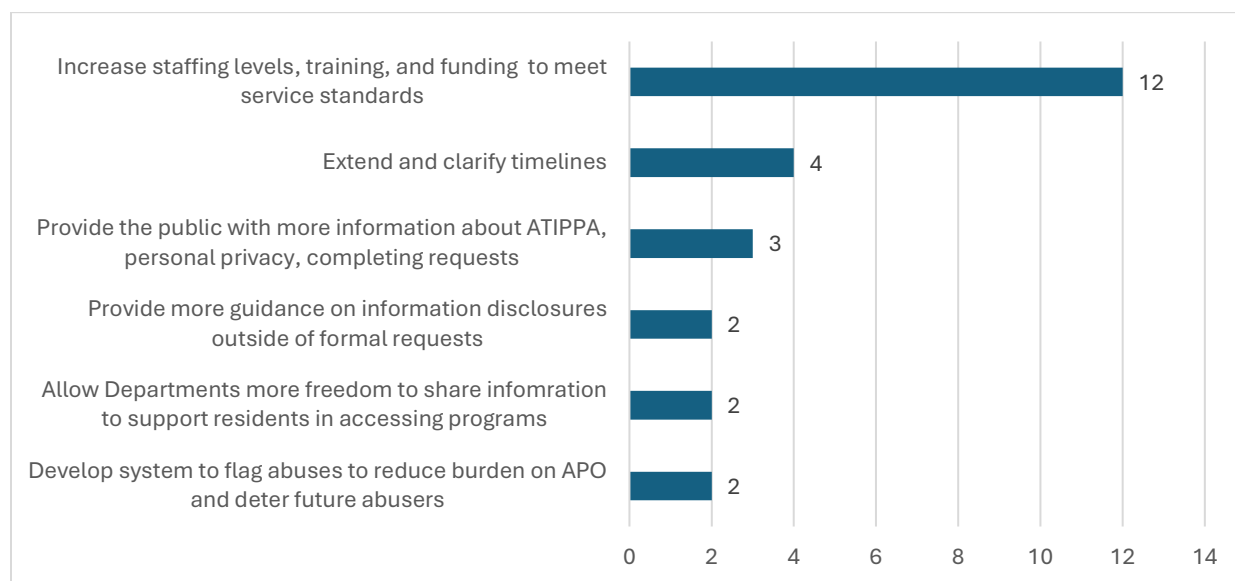
One respondent highlighted the value of the ATIPP Act in providing access to residential school records.



**Question 12:** Do you have any suggestions for how the ATIPP Act could be improved? (N=35)

The main response provided regarding suggestions to improve the Act (N=12) was to increase staffing levels, staff training, and funding to the APO to meet service standards. Many respondents reported that requests take too long and typically exceed the timelines. Further, respondents suggested extending and clarifying timelines (N=4) to reflect the realities of the current resource levels servicing requests.

A few respondents (N=3) suggested that GNWT provide more information to the public regarding the Act itself and personal privacy (e.g., plain-language version of the Act), as well as how to properly and accurately complete a request.



Additionally, one or two respondents suggested the following:

- Develop system to flag abuses and/or review the fee structure to reduce the burden on the APO and deter future abuses. (N=2)
- Allow departments more freedom to share information to support residents in accessing programs. (N=2)
- Provide more guidance on information disclosures outside of formal requests. (N=2)
- Designate community governments as public bodies to ensure they are subject to the ATIPP Act. (N=1)
- Increase accountability among GNWT managers, directors, ADMs, and DMs. (N=1)
- Introduce technical requirements for data protection, such as a security architecture for all public bodies. (N=1)
- Affirm Indigenous governments (IRC, NWTMN, Dene Nation governments, etc.) as governments with the capacity to withhold respective data to the same degree with which the GNWT can withhold data. (N=1)
- Private information about Indigenous governments and peoples should not be disclosed. (N=1)
- Revise sections 11.1, 24.2, 26, and 27, though no specific details were provided. (N=1)

## Conclusion

This What We Heard report on the review of the ATIPP Act provides a summary of the input received from NWT residents throughout public engagement, which included a public survey, a pre-interview questionnaire, and online interviews.

The report is a component of the Evaluation of the Access and Privacy Office (APO) and Review of the ATIPP Act, conducted by PRA Inc. for GNWT in accordance with the Government Renewal Initiative (GRI).

The results of this review are expected to inform next steps for the GNWT Department of Justice with respect to the legislative review and administration of the ATIPP Act.

## APPENDIX A – Pre-interview survey questionnaire

### Government of the Northwest Territories – Department of Justice

#### Evaluation of the APO and Review of ATIPP Act

#### Survey for: GNWT Departments, IPC, OCIO, APO, and public bodies

The Government of Northwest Territories' (GNWT's) Department of Justice is evaluating its Access and Privacy Office (APO) and conducting a review of the Access to Information and Protection of Privacy (ATIPP) Act, in accordance with Section 74 of the Act. The centralized APO, in the Department of Justice, processes access to information requests under the ATIPPA on behalf of all Government of the Northwest Territories departments.

The evaluation focuses on assessing the intent, effectiveness, and efficiency of the APO in order to determine the extent to which the current service delivery model is meeting its key objectives and ensuring the utilization of resources in an effective and efficient manner. The review of the ATIPP Act focuses on outlining how the Act is functioning and recommending areas for improvement.

PRA Inc., an independent research firm, has been hired to help with this evaluation and review. The evaluation team is inviting you to participate in a stakeholder interview/written feedback because of your involvement, knowledge and experience with the APO and ATIPP Act. As part of the interview/written feedback, we are also asking that you complete this **15-minute survey with questions specifically related to the ATIPP Act**.

**Please complete this survey ahead of your interview/written feedback and send it back to PRA Inc.** Any responses to the survey questions you want to discuss further can take place during your interview or in the interview guide written feedback.

**Your participation in this survey is completely voluntary** and your acceptance or refusal to participate will not affect your relationship with the GNWT, JUS, or any other government organization. PRA privacy policy complies with the *Personal Information Protection and Electronic Document Act* (PIPEDA) and the *Privacy Act*, and this review falls under the Northwest Territories *Access to Information and Protection of Privacy Act* (with personal information being collected under subsection 40(c)(i)). All information collected by PRA will be used for review purposes only. **Your specific responses will not be attributed to you and no individuals will be identified in any report.**

If you have any questions about the review, please contact Shayla Moran, GNWT Access and Privacy Officer, by email ([Shayla\\_Moran@gov.nt.ca](mailto:Shayla_Moran@gov.nt.ca)) or phone (867-767-9256 Ext. 82100).

**To complete this survey, please highlight your responses to the questions below.**

### Records that fall under the Act

Under the [ATIPP Act](#) most records held by public bodies are subject to the Act. However, there are a limited number of records that do not fall under the Act. If a public body receives a formal access to information request for these types of records, the applicant must be informed the Act does not apply to the requested information. [Subsection 3\(1\) of the ATIPP Act](#) currently lists the records that do not fall under the Act.

1. In your opinion, is the current list of records that do not fall under the Act still adequate?

<sub>1</sub> Yes      <sub>0</sub> No      <sub>8</sub> Unsure

- a. If you answered “No” to the question above, what other records do you think should not fall under the Act and why?

### Timing under the Act

Under ATIPP Act subsection 8(1), public bodies are required to respond to a request for access to information within 20 business days after receiving it, unless the time limit is extended or the request is transferred to another public body. The time period begins on the date the request is received by the public body.

2. In your opinion, is the initial 20-business-day deadline to respond to a request sufficient?

<sub>1</sub> Yes  
<sub>2</sub> No-it should be shortened  
<sub>3</sub> No-it should be longer  
<sub>8</sub> Unsure

The ATIPP Act allows public bodies to extend the time limit for responding to an applicant’s request under subsection 11(1) by a **period not exceeding 20 business** days if:

- the applicant does not give enough detail to enable the public body to identify a requested record;

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- a large number of records is requested or must be searched to identify the requested record and meeting the time limit would unreasonably interfere with the operations of the public body;
  - more time is needed to consult with a third party or another public body before the head can decide whether or not the applicant is entitled under this Act to access to a requested record; or
  - a third party asks for a review under subsection 28(2).
3. In your opinion, is this 20-day time extension that public bodies can take reasonable?
- <sub>1</sub> Yes
- <sub>2</sub> No-it should be shortened
- <sub>3</sub> No-it should be longer
- <sub>8</sub> Unsure

Under subsection 11.1.(1) of the ATIPP Act, the head of a public body may request the Information and Privacy Commissioner to authorize **a further extension** of the time limit for responding to an applicant (beyond one already taken under subsection 11(1)) on any of the grounds set out in subsection 11(1).

4. In your opinion, should the head of the public body be able to take one additional time extension beyond subsection 11(1) without requiring the permission of the Information and Privacy Commissioner?
- <sub>1</sub> Yes
- <sub>2</sub> No, the current requirement for the public body to seek Information and Privacy Commissioner permission for further extensions is adequate
- <sub>8</sub> Unsure
5. In follow-up to question 4, should subsection 11.1 be expanded to allow the Information and Privacy Commissioner to extend the time limit for responding to requests in response to emergency situations (like COVID and wildfires)?
- <sub>1</sub> Yes      <sub>0</sub> No      <sub>8</sub> Unsure

An applicant may request any information held by a public body, including third party information. A third party is considered someone other than an applicant or a public body. Public bodies that are considering disclosing records that contain third party information are required to notify and consult with the third parties prior to any disclosure. This third-party consultation is required, where

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reasonably possible, if the head of a public body is considering giving access to a record that may contain information:

- the disclosure of which would be an unreasonable invasion of a third party’s personal privacy under section 23, and/or
- that affects the business interests of a third party under section 24.

The third party has 30-business days to consent in writing to the disclosure or make representations to the public body explaining why the information should not be disclosed. The public body must notify the applicant and third party of the public body’s decision regarding access.

6. In your opinion, is the timeframe for third parties to respond to consultations under the ATIPP Act reasonable?

- <sub>1</sub> Yes  
<sub>2</sub> No-it should be shortened  
<sub>3</sub> No-it should be longer  
<sub>8</sub> Unsure

### Exceptions under the Act

The ATIPP Act has two types of exceptions, mandatory exceptions and discretionary exceptions, (where mandatory exceptions state that “The head of a public body **shall** refuse to disclose...” and discretionary state that “The head of a public body **may** refuse to disclose...”). Records or portions of records requested by an applicant which are found to fall under a mandatory exception must be denied. Records requested by an applicant which fall under a discretionary exception must be reviewed to determine whether harm is likely to result from the release of information. If no harm is apparent the information should be disclosed. Exceptions to disclosure are covered under [Division B of the ATIPP Act](#).

7. In your opinion, are the **mandatory** exceptions to disclosure appropriate?

- <sub>1</sub> Yes      <sub>0</sub> No      <sub>8</sub> Unsure

a. If you answered “No” to the above question, please provide suggestions for improvement.

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8. In your opinion, are the **discretionary** exceptions to disclosure appropriate?

<sub>1</sub> Yes      <sub>0</sub> No      <sub>8</sub> Unsure

a. If you answered “No” to the above question, please provide suggestions for improvement.

### Fees under the Act

Under the ATIPP Regulations, fees can only be charged in the following situations:

For general information:

- Fees may only be charged if the total amount of the fees calculated in accordance with Schedule B exceeds \$250.00.

For personal information:

- Fees may only be charged if the total amount of the fees exceeds \$250.00.
- The only fees that may be charged for the processing of a request for personal information relating to the applicant are fees for:
  - (a) printing, copying or otherwise reproducing a record as set out in item 4 of Schedule B; and
  - (b) shipping the record or a copy of the record.

In accordance with **Schedule B of the ATIPP Regulations**, the following fees are to be used:

- For reviewing, severing, and preparing the record: \$6.25 per 1/4 hour
- For supervising the examination of a record: \$6.25 per 1/4 hour
- For shipping a record or a copy of a record: actual amount charged to public body
- For copying a record (photocopies and computer printouts): \$0.10 per page
- For copying a record (all other means of production): actual cost to public body

9. In your opinion, is the way fees are currently being calculated to determine if the individual that made the request will be charged appropriate?

<sub>1</sub> Yes

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- <sub>2</sub> No, the calculation should be more lenient (e.g., rates should be lower, certain items should not be included in the calculation)
- <sub>3</sub> No, the calculation should be less lenient (e.g., higher rates, more charges)
- <sub>8</sub> Don't know

### Information Privacy Commissioner

Under section 35 of ATIPP Act, the Information and Privacy Commissioner has the authority to review decisions of the GNWT or other public bodies in relation to disclosure or non-disclosure of information requested under the ATIPP Act and **may make orders confirming those decisions or requiring the head to provide the applicant access to all or part of a record** (the Information and Privacy Commissioner has order making authority in regards to other aspects of the ATIPP Act as well). The head of the public body concerned shall comply with this order within 20 business days after receiving the order.

- Section 36 of the ATIPP Act states: “Subject to subsection 37(3), within 20 business days after receiving the written report and order of the Information and Privacy Commissioner under subsection 35(2) or (3), the head of the public body concerned shall comply with the order.”
- Subsection 37(3) states: “If an appeal to the Supreme Court is made before the end of the 20-business-day period referred to in section 36, the order of the Information and Commissioner is stayed until the application is dealt with by the court.”

10. Do you think the 20 business-day time limit for responding to an order is reasonable?

- <sub>1</sub> Yes
- <sub>2</sub> No-it should be shortened
- <sub>3</sub> No-it should be longer
- <sub>8</sub> Unsure

### Fines under the Act

Under section 59 the ATIPP Act, every person who knowingly collects, uses, or discloses personal information in contravention of this Act or the regulations is guilty of an offence punishable on summary conviction and is liable to a fine not exceeding \$10,000.

Every person is guilty of an offence punishable on summary conviction and is liable to a fine not exceeding \$10,000, who willfully

- obstructs the Information and Privacy Commissioner or any other person in the exercise of the powers or performance of the duties or functions of the Information and Privacy Commissioner or other person under this Act

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- destroys records that are subject to the Act, or directs someone else to destroy records, for the purpose of evading a request for access to the records
- attempts to gain or gains access to personal information for which the person has no authority to do so
- fails to comply with any lawful requirement of the Information and Privacy Commissioner or any other person under this Act
- makes any false statement to, or misleads or attempts to mislead, the Information and Privacy Commissioner or any other person in the exercise of the powers or performance of the duties or functions of the Information and Privacy Commissioner or other person under this Act.

11. Should the maximum \$10,000 fine noted above be increased, decreased, or remain the same?

- <sub>1</sub> Increased
- <sub>2</sub> Decreased
- <sub>3</sub> Remain the same
- <sub>8</sub> Unsure

### **Review of the Act**

Currently, the ATIPP Act must be reviewed by the Minister within 18 months after the commencement of the Twentieth Legislative Assembly and within 18 months of every second Legislative Assembly thereafter.

12. In your opinion, is this review schedule reasonable?

- <sub>1</sub> Yes
- <sub>2</sub> No, reviews should occur more often
- <sub>3</sub> No, reviews should occur less often
- <sub>8</sub> Unsure

***Thank you very much for your participation.***