



OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  
NEWFOUNDLAND AND LABRADOR

## Report A-2025-029

June 4, 2025

### Executive Council

**Summary:**

The Complainant filed an access to information request seeking a list of documents meeting certain criteria related to ongoing negotiations between the Provinces of Newfoundland and Labrador and Quebec. Executive Council conducted a search but was not able to locate a document containing a list of records. Upon review, this Office agreed with Executive Council's interpretation of the Complainant's request and furthermore concluded that there was no obligation on the part of Executive Council to create such a list of records.

**Statutes Cited:**

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, section 13(1).

**Authorities Relied On:** NL OIPC Reports [A-2023-025](#).

## BACKGROUND

- [1] The Complainant made an access to information request to the Executive Council under the **Access to Information and Protection of Privacy Act, 2015** (the “Act”) for the following:

List of records satisfying two criteria:

- (i) They pertain to a tentative agreement between the Newfoundland and Labrador and Quebec announced by the Premier on 12 December 2024 OR the individual projects in the agreement, AND
- (ii) Stewart McKelvey, a law firm, or its lawyers participated in their drafting OR provided advice OR were involved in the negotiation OR are mentioned in their contents.

Possible location: HP TRIM and/or the other document management system used by the Government. Words that can be used to locate responsive records in HPRM: “McKelvey,” “[a named lawyer],” “Quebec,” “Legaut,” [sic] “Hydro,” etc.

- [2] Executive Council conducted a search for a list of records satisfying the criteria set out in the Complainant’s request. No responsive records were found.
- [3] The Complainant disagreed with this position, noting that Executive Council had released several statements referencing the work being done by Stewart McKelvey.
- [4] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act. Information and Privacy Commissioner Kerry Hatfield delegated authority for this matter to me, as Director of Research and Quality Assurance, pursuant to section 103 of ATIPPA, 2015.

## PUBLIC BODY’S POSITION

- [5] Executive Council asserts that the Complainant’s access request was clear and that it sought a “list” of records. Therefore, Executive Council conducted its search seeking a record that contained a list of records and none was located.

## COMPLAINANT'S POSITION

- [6] The Complainant states that records must exist and that Executive Council did not meet its section 13(1) duty to assist.

## DECISION

- [7] This Office has held in numerous decisions that the duty to assist a complainant, as required pursuant to section 13(1) of the Act, creates a responsibility on the part of the public body to communicate with the Complainant to ensure that the access request reflects the Complainant's intentions. In Report [A-2023-025](#), this Office stated with respect to the duty to assist:

Knowing how to frame a request, where it should be directed, and establishing its scope is a challenge and support guides to assist cannot account for every situation. As such, the access to information process depends on regular communication between the ATIPP Coordinator and the Applicant to minimize confusion and to ensure that the request can be properly addressed.

Assistance from the coordinator may be necessary when there is some doubt as to the meaning of the language in the access request. It is important that a Complainant's efforts to access records not be frustrated by a failure to understand bureaucratic language around records management.

- [8] With that said, many access requests can be accepted at face value and will not require the ATIPP coordinator to engage in follow-up to clarify the request. In determining whether clarification is needed, consideration should be given to the language of the access request (Is it precise? Does it demonstrate a familiarity with the ATIPP process?). Furthermore, a person making their first ATIPP request may require more guidance on how to frame an access request than a sophisticated user of the ATIPP process who routinely makes such requests.
- [9] In this case, the Complainant is well-versed in the ATIPP process and knows the difference between asking for "any and all records" and "a list of records." The public body therefore reasonably interpreted the request as being for a record that is a list of documents meeting

certain criteria (pertaining to a tentative agreement between the Newfoundland and Labrador and Quebec governments and the participation of the law firm Stewart McKelvey). Therefore, Executive Council was correct in limiting its search to records that contain a list of records related to the topic of the Complainant's search request.

[10] Whether or not Executive Council might have records related to a tentative agreement between the Newfoundland and Labrador and Quebec governments and the participation of the law firm Stewart McKelvey, this Office accepts that it does not have a record that consists of a list of such records. Executive Council is not obliged to create a new record listing all the individual records that potentially meet the criteria in the Complainant's request.

[11] With respect to the scope of the search conducted, Executive Council has advised this Office that it conducted a search of its email and document management systems using the key words recommended by the Complainant. There were no responsive records containing a list of records that satisfied the Complainant's search request. This Office is satisfied that Executive Council met its duty to assist the Complainant.

## RECOMMENDATIONS

[12] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015** I recommend that Executive Council maintain its position on this matter.

[13] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of Executive Council must give written notice of his or her decision with respect to these recommendations to the Commissioner and any person who was sent a copy of this Report within 10 business days of receiving this Report.

[14] Dated at St. John's, in the Province of Newfoundland and Labrador, this 4<sup>th</sup> day of June 2025.



Sean Murray  
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Newfoundland and Labrador