



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

A-2025-038

September 3, 2025

Office of the Premier

Summary:

The Complainant made an access request to the Office of the Premier for records about a named law firm over a three-month period. The Office of the Premier provided a late final response with redactions made under section 30 (legal advice), section 35 (disclosure harmful to the financial or economic interests of a public body), and section 40 (disclosure harmful to personal privacy). The Commissioner found the Office of the Premier had breached its duty to assist in missing the deadline to respond to the access request and in future should comply with all statutory timelines and communicate proactively with applicants. With respect to the redactions, the Commissioner found that section 30 had been applied appropriately, leaving the application of section 35 moot.

Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, sections 9, 13, 16, 30, and 35.

Authorities Relied on:

[Newfoundland and Labrador \(Information and Privacy Commissioner\) v. Newfoundland and Labrador \(Justice and Public Safety\), 2023 NLCA 27.](#)

[Newfoundland and Labrador \(Office of Women and Gender Equality\) v. Newfoundland and Labrador \(Information and Privacy Commissioner\), 2025 NLSC 70.](#)

BACKGROUND

- [1] On February 11, 2025, the Complainant made a request to the Office of the Premier under the **Access to Information and Protection of Privacy Act, 2015** (the “Act”) for the following:

Information received from, sent to, or containing references to/mentions of [named law firm] (as per Premier Furey's statement on 6 January 2025 in the HOA), and its representatives. Period covered: December 20, 2024 to date. Possible location: the Government's email management system, including the Premier's and the Chief of staff's accounts. Search terms: “[law firm name],” “[named individual],” “[law firm's email domain].”

- [2] The Office of the Premier provided its final response on March 20, 2025. The records included redactions under sections 30 (legal advice), 35 (disclosure harmful to the financial or economic interests of a public body), and 40 (disclosure harmful to personal privacy). The Complainant made a complaint to this Office noting the lateness of the response and questioning the redactions under section 30 and 35.

- [3] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

PUBLIC BODY'S POSITION

- [4] The Office of the Premier acknowledged that it did not meet the statutory deadline. It argued that it required additional time to consult and ensure the sections of the Act were applied correctly, and that as much information was released to the Complainant as possible.

- [5] The Office of the Premier argued that the records withheld under section 30 and section 35 were appropriately withheld as they were communications from legal counsel that contained legal advice, and disclosure of that advice that could reasonably be expected to prejudice the financial or economic interest of the government of the province in relation to the Churchill Falls Memorandum of Understanding.

COMPLAINANT'S POSITION

[6] The Complainant took issue with the Office of the Premier's failure to comply with the timelines for providing its final response. Additionally, the Complainant questioned the application of sections 30 and 35 to redact information. Finally, given the connection to the Churchill Falls Memorandum of Understanding, the Complainant argues that section 9 should apply.

ISSUES

- [7] This report must address:
1. Did the Office of the Premier breach its duty to assist in failing to meet the statutory deadline for providing a final response to the request?
 2. Did the Office of the Premier appropriately apply section 30 and 35?
 3. If sections 30 and 35 were properly applied, should section 9 be applied to release the information?

DECISION

[8] The Office of the Premier missed its statutory deadline by seven business days as the final response should have been provided by March 11, 2025 but was not provided until March 20, 2025. There was no application made to this Office for a time extension. Additionally, the Office of the Premier did not proactively make the Complainant aware that it was likely to miss the deadline or provide an estimated timeframe for release. It only acknowledged that the response was late when the Complainant reached out after the deadline had passed.

[9] The Complainant also asserts that the Office of the Premier failed in its duty to assist by not providing them with a breakdown of the total number of pages of responsive records and the total number of pages withheld. However, the Office of the Premier did provide the Complainant with an answer to that question after the final response was issued, in an email dated March 28, 2025.

- [10] Therefore, with respect to the missed deadline and lack of communication around that issue, the Office of the Premier has breached its duties under sections 13 and 16(1).
- [11] The Office of the Premier declined to provide this Office with a copy for the records withheld under sections 30 and 35 based on solicitor-client privilege. As such, this Office was unable to review the records to evaluate the application of either section. However, the very nature of the request (being communications with a named law firm) supports the assertion that some or all of the records are properly withheld under section 30.
- [12] While it's plausible and even likely that all of the records withheld under section 30 are subject to solicitor-client privilege, we have no way of knowing whether every record withheld under section 30 was in fact subject to the privilege. That being said, the courts' interpretations of our powers in **Newfoundland and Labrador (Information and Privacy Commissioner) v. Newfoundland and Labrador (Justice and Public Safety)** and **Newfoundland and Labrador (Office of Women and Gender Equality) v. Newfoundland and Labrador (Information and Privacy Commissioner)** has left us with no mechanism to ensure that the Premier's Office has in fact complied with the Act and released all of the records to which the Complainant is entitled.
- [13] Additionally, as the law firm was involved in giving advice related to the new Churchill Falls Memorandum of Understanding, it is likely that section 35 would also apply. However, given that we have been unable to review the records, it cannot be said that the Office of the Premier has meet its burden of proof with respect to the application of section 35. However, having accepted the application of section 30, the application of section 35 is rendered moot.
- [14] The Complainant has made the argument that because the records relate to the Churchill Falls Memorandum of Understanding, the public interest demands that they be released. Without being able to review the records it is impossible for us to say; however, given the records have been withheld under section 30, the threshold for concluding the public interest outweighed the purpose of the exception (to protect solicitor-client privilege) would be quite high.

RECOMMENDATIONS

[15] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I recommend:

1. In future that the Office of the Premier abide by the timelines and procedures as set out by the Act and to be proactive in its communication with applicants, and
2. With respect to the redactions under section 30 and 35, that the Office of the Premier continue to withhold the records.

[16] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of the Office of the Premier 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.

[17] Dated at St. John's, in the Province of Newfoundland and Labrador, this 3rd day of September 2025.



Kerry Hatfield
Information and Privacy Commissioner
Newfoundland and Labrador