



OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  
NEWFOUNDLAND AND LABRADOR

## Report A-2025-042

October 6, 2025

### Department of Jobs, Immigration and Growth

**Summary:**

The Complainant made two access requests to the Department of Jobs, Immigration and Growth for records related to the JobsNL Wage Subsidy program. The Department withheld all the records responsive to the first request citing section 40 (disclosure harmful to personal privacy). In response to the second request, the Department provided responsive records but withheld some information under sections 29 (policy advice and recommendations), 35 (disclosure harmful to the financial or economic interests of a public body), and 40. The Complainant was not satisfied with the responses to either request and made complaints to this Office. The Commissioner found the redactions in both requests were appropriate but recommended that the Department do a further search for a particular record.

**Statutes Cited:**

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, sections 13, 29, 35, and 40.

**Authorities Relied On:** NL OIPC Reports [A-2012-011](#) and [A-2019-025](#).

## BACKGROUND

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

“employee contact forms” (forms) associated with the JobsNL Wage Subsidy Program (program) for March 2025.

- [2] The Department refused to provide the requested records, citing section 40 as the information contained in the forms would constitute personal information. As well, given the small sample size, the Department determined that even providing statistical information would risk reidentification of individuals. The Department had previously provided the Complainant with a blank copy of the form.

- [3] The Complainant also made a second access request for:

All emails and Microsoft Teams communications about the JobsNL Wage Subsidy program for March 2025. This includes minister, executive, and staff.

- [4] The Department discussed this request with the Complainant and the Complainant agreed to amend the request to the following:

All emails and Microsoft Teams communications about the JobsNL Wage Subsidy program for March 2025. This includes minister, executive, directors, and program staff in St. John’s who receive, process and approve documents under the program.

- [5] The Department released over 60 pages of records to the Complainant. Some information was withheld under sections 29, 35, and 40 of the Act. The Complainant was not satisfied with the either response and filed two access complaints with this Office.

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

## PUBLIC BODY'S POSITION

- [7] With respect to the first request, the Department submitted that all information on the completed forms is personal information, and noted the Complainant had previously been provided with a blank copy of the form. The Department also determined that it could not provide statistics about the applicants because of the risk of reidentification due to the small sample size and the mosaic effect.
- [8] Regarding the second request, the Department sought clarification from the Complainant to ensure that it provided the Complainant with all responsive records without having to conduct unnecessary searches. The new wording allowed the Department to search the communications of the 15 employees who would likely have the records. The Department asserted that the original wording of the request would have necessitated the search of an additional 100 employees.
- [9] The Department submits the redactions applied to the responsive records in the second request were necessary to protect discussions about eligibility, information related to future plans of proposals of the third party businesses, and the personal information of various individuals. As with the first request, when applying redactions under section 40 the Department considered the small sample size and the mosaic effect.

## COMPLAINANT'S POSITION

- [10] With respect to the first request, the Complainant argued that residency status may not constitute personal information and that even if it was it should be released under section 40(5). Additionally, the Complainant noted that they would be willing to accept a table setting out the aggregate data.
- [11] Regarding the second request, the Complainant argued they should not have been asked to amend the request, that there should be more records (particularly Teams messages as only one was found), that the redactions were inappropriate, and that there were email attachments referenced in the records which were not provided.

## ISSUES

- [12] With respect to the first request, this Report must determine whether the Department properly applied section 40 when refusing access to the requested records.
- [13] With respect to the second request, the issues to be addressed are whether the Department breached its duty to assist, whether the Department conduct a reasonable search for records, and whether exceptions to access have been properly applied.

## DECISION

### First Request

- [14] In Report [A-2012-011](#), this Office confirmed that “residency status” does constitute personal information. While that report was issued under the previous act, the definition of personal information has changed very little and in fact has been expanded in the current Act. Given the sensitivity of “residency status” and its potential relationship to race or ethnic origin, it would be an unreasonable invasion of personal privacy to release the information.
- [15] Additionally, redacting everything but residency status would not be enough to protect the privacy of the individuals given the small cell count issue and the mosaic effect. The mosaic effect refers to a situation in which information in an individual dataset, in isolation, may not pose a risk of identifying an individual, but when combined with other available information could pose such a risk. The responsive records constitute ten or fewer forms from a one-month period and the Department has already released the names of the businesses employing the individuals through a separate access request. Given that the Complainant knows the names of the business (most of which are very small) and when the new positions were created, there is a very real possibility of individuals being re-identified. The risk of re-identification would not be reduced by the Department instead providing aggregate data instead of the forms themselves.
- [16] The Complainant has argued that section 40(5) should be used to release the information as they believe that the “totality of section 40” supports the assertion that the release of the

“residency Status” would not constitute an unreasonable invasion of personal privacy. However, sections 40(5)(e) and (f) clearly weigh in favour of withholding and the other factors are either not relevant or neutral.

### **Second Request**

[17] With respect to the Department’s request for the Complainant to clarify or narrow the request, the Department provided this Office with its communications with the Complainant, showing that the Complainant agreed to the narrowing of the request. The Department noted that their interpretation of the original request would have required searching the emails of 115 employees and the new wording narrowed that down to the 15 employees who would most likely have responsive records. The Department’s actions were reasonable in ensuring that the Complainant received the records they were seeking without creating an unnecessary burden. There is no evidence of coercion or undue pressure placed on the Complainant.

[18] The Department provided a detailed description of the search that was conducted in response to this request: 15 employees (nine regional staff, two directors and four executive) were identified as reasonably likely to have records responsive to the request. A search of all relevant email accounts was conducted by the ATIPP coordinator using the search term, “JobsNL Wage Subsidy” and the results were reviewed by the coordinator. With respect to Teams messages, the retention period is very short and the Department confirmed most communications about the program takes place over email. On review of the Department’s search for responsive records, we are satisfied the Department met its burden under section 13 to conduct a reasonable search.

[19] Regarding email attachments, there were three references to attachments that were not included in the records provided to the Complainant. The Department noted that with respect to the attachment referenced on page 175 of the records, the system it uses for searching for records retrieves records directly from email inboxes and if an email is no longer in a mailbox, it cannot be retrieved. This is what occurred in this instance: the Client Service Officer confirmed they deleted the email due to the file’s large size, while the document was saved in the Department’s file storage system. The Department noted that it could not be certain if the version that now exists in its system is the same version that was attached to the email

as the document it has may have been updated or revised since it was emailed. While the current version may not be strictly responsive to the original request, in this particular case, because the Department is able to identify the current version of the record, the Department should provide the copy that is available, with any necessary exceptions to access applied.

[20] For the other two emails referencing attachments, these were from outside the timeframe requested and the Department's tool does not provide attachments or emails falling outside the scope of the specified request period. The emails themselves were included only because they were part of the email chains that included other emails that were within the timeframe of the request. That would explain why attachments referenced in those chains are not appearing in the retrieved records and are non-responsive as they fall outside of the timeframe of the request.

[21] Of the records that were provided, some information was withheld under sections 29, 35, and 40. The information withheld under section 29 are discussions between program staff and are advice related to assessing a company's eligibility with respect to the program. As such those redactions are appropriate. Section 35(1)(d) was used to redact information in relation to future plans or proposals of third-party business and are appropriate.

[22] During the investigation it was determined that there were some redactions made under section 40 that could be removed. The Department agreed and provided amended records to the Complainant. With respect to the remaining redactions under section 40, the same issue with the mosaic affect and small sample size must be considered. Some information that has been redacted may not necessarily constitute personal information; however, given the other information that is publicly available and the small sample sizes, the potential that individuals could be re-identified is very high. For example, information about current positions or employees at the respective business has been redacted because that information could be used to identify the individual hired under the wage subsidy program.

## RECOMMENDATIONS

- [23] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I recommend that the Department of Jobs Immigration and Growth, within 10 business days of receipt of this Report release the current version of the email attachment referenced on page 175 of the records subject to any exceptions to access.
- [24] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of the Department of Jobs Immigration and Growth 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.
- [25] Dated at St. John's, in the Province of Newfoundland and Labrador, this 6<sup>th</sup> day of October 2025.



Kerry Hatfield  
Information and Privacy Commissioner  
Newfoundland and Labrador