



OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  
NEWFOUNDLAND AND LABRADOR

Report A-2025-045

November 5, 2025

### Newfoundland and Labrador Hydro

**Summary:**

The Complainant made an access to information request to Newfoundland and Labrador Hydro under the **Access to Information and Protection of Privacy Act, 2015** for records about the public body's preparation of its response to a previous request. Newfoundland and Labrador Hydro disclosed some records but withheld others under section 30(1) of the Act (legal advice). The Commissioner found that section 30(1) was properly applied and recommended that Newfoundland and Labrador Hydro continue to withhold the records.

**Statutes Cited:**

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c. A-1.2, sections 13, 29, 30, 96, and 97.

**Authorities Relied On:** NL OIPC Reports [A-2025-023](#), [A-2025-024](#), [A-2025-028](#), and [A-2025-039](#).

## BACKGROUND

- [1] The Complainant made an access to information request to Newfoundland and Labrador Hydro (“NL Hydro”) under the **Access to Information and Protection of Privacy Act, 2015** (the “Act”) for “instruments of delegation” of statutory authority under the Act, and for records about the preparation and the approval of the final response to a previous access request.
- [2] NL Hydro provided two pages of records in response to the first part of the request. In response to the second part, NL Hydro withheld seven pages in full, citing section 30(1) (solicitor-client privilege) and section 29 (advice and recommendations).
- [3] The Complainant objected that NL Hydro applied sections 29 and 30 to withhold most information without specifying the pages to which the exceptions were applied. Arguing that the list of responsive records was unknown, the Complainant raised concerns about NL Hydro’s compliance with section 13 (duty to assist applicant).
- [4] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

## DECISION

- [5] During our investigation, NL Hydro provided our Office with a detailed explanation of the search conducted. The access request was clear and specific and the public body’s search was straightforward. We accept that all relevant records were located. We therefore conclude that the search was reasonable and thorough.
- [6] NL Hydro, in its original response to the access request, explained that for the second part of the request there were seven pages of responsive records, all of which were withheld under section 30(1) (legal advice). That adequately clarified the “list of responsive records” issue, and we conclude that the requirements of section 13 were met.

- [7] In accordance with recent jurisprudence, NL Hydro declined to provide our Office with the records withheld under section 30(1). The position taken by this Office in such cases is that where the public body provides a description of those records, containing page numbers, information about the sender and recipient, and the nature of the communication, it is sometimes possible for us to conclude whether the exception has been properly applied.
- [8] In the present case, NL Hydro has provided our Office with sufficient information for us to conclude that all of the records responsive to this part of the request are communications between the public body and legal counsel; the records involve the parties requesting or providing legal advice, or are otherwise part of that continuum of communications; and the records were intended to be confidential. Those records are therefore properly withheld.
- [9] The Complainant argues that as section 30 is an information-level, not a record-level exception, some portions of those records ought to be disclosed, such as information identifying the origin, destination, date and time of communications. However, jurisprudence on solicitor-client privilege makes it clear that the privilege must be treated as close to absolute as possible. It is well-understood that information about the identities of the parties, or the date and time of a communication, can sometimes be subject to the privilege. In the present case, from the information provided to us and the surrounding circumstances, we are satisfied that NL Hydro has properly applied the exception.
- [10] The Complainant further argues that the description of the records provided to our Office by NL Hydro should also be provided to him. However, as we discussed in our [Report A-2025-024](#), that is not the way the access complaint investigation process works. This Office is the statutory oversight agency that provides independent review of public body decisions. Pursuant to sections 96 and 97 of the Act, we control our own procedure and we decide, on a case-by-case basis, whether representations made by one party may, in whole or in part, be provided to another party. There is no statutory entitlement to another party's representations, and in many cases the details of a party's representations must remain confidential.
- [11] Finally, NL Hydro has claimed that section 29 as well as section 30 applies to the withheld records. Unlike the application of section 30, there is an expectation that a public body will

provide records subject to section 29 for our review. Having not seen the records, we must conclude NL Hydro has not met the burden of proving section 29 applies. However, those records were in any case properly withheld under section 30. In the circumstances, as we said in [Report A-2025-039](#), the failure to meet the burden of proof for section 29 does not affect our ultimate recommendation.

## RECOMMENDATIONS

- [12] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I recommend that Newfoundland and Labrador Hydro maintain its position and continue to withhold the responsive records withheld pursuant to section 30(1) of the Act.
- [13] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of Newfoundland and Labrador Hydro 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 5<sup>th</sup> day of November, 2025.



Kerry Hatfield  
Information and Privacy Commissioner  
Newfoundland and Labrador