



CHAPTER O-0.5

Official Languages Act

Assented to June 7, 2002

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Sanctionnée le 7 juin 2002

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OFFICE OF THE COMMISSIONER
OF OFFICIAL LANGUAGES
FOR NEW BRUNSWICK



COMMISSARIAT AUX
LANGUES OFFICIELLES DU
NOUVEAU-BRUNSWICK

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OFFICE OF THE COMMISSIONER
OF OFFICIAL LANGUAGES
FOR NEW BRUNSWICK



COMMISSARIAT AUX
LANGUES OFFICIELLES DU
NOUVEAU-BRUNSWICK

June 2016

The Honourable Chris Collins
Speaker of the Legislative Assembly

Mr. Speaker:

Pursuant to Section 43(21) of the *Official Languages Act*, I am pleased to submit the report concerning the activities of the Office of the Commissioner of Official Languages for New Brunswick for the period from April 1, 2015, to March 31, 2016.

Respectfully submitted,

A handwritten signature in dark ink, reading "Katherine d'Entremont".

Katherine d'Entremont, MPA
Commissioner of Official Languages for New Brunswick

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FOREWORD

New Brunswick: Only Officially Bilingual Province

The Constitution of Canada states that English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the Legislature and the Government of New Brunswick.

Official Languages Act

The *Official Languages Act* of New Brunswick (OLA) requires the following institutions to offer and provide their services in both official languages:

- institutions of the Legislative Assembly and the Government of New Brunswick,
- provincial departments,
- regional health authorities and hospitals,
- Crown corporations (e.g., NB Power, Service New Brunswick),
- the province's courts,
- policing services,
- any board, commission or council, or any other body or office established to perform a governmental function.

In addition, the OLA imposes obligations on the following:

- cities (Bathurst, Campbellton, Dieppe, Edmundston, Fredericton, Miramichi, Moncton, and Saint John),
- municipalities with an official language minority of at least 20% of the population (Atholville, Charlo, Dalhousie, Eel River Crossing, Rexton, Richibucto, Shediac, and Tide Head),
- Regional Service Commissions 1, 2, 3, 5, 6, 7, 9, and 11.

Exceptions

It should be noted that the OLA does not apply to distinct educational institutions. School districts, public schools, community centres, community colleges, and universities do not have to offer services in both official languages. Moreover, the OLA does not apply to the English and French sections of the Department of Education and Early Childhood Development.

Private Sector

The OLA does not apply to private-sector enterprises, except in cases where they offer services to the public on behalf of a body which has obligations under the OLA.

Active Offer

Institutions bound by the OLA have an obligation to inform citizens that their services are available in both official languages. As a result, it is not up to citizens to request services in their language, it is the institution's obligation to make that offer. Examples of active offer include answering the telephone or greeting someone in both official languages.

The position of the Commissioner of Official Languages

The OLA established the position of Commissioner of Official Languages in 2002.

Katherine d'Entremont was appointed to this position in June 2013 for a non-renewable seven-year term.

The Commissioner has a dual mission: to investigate and make recommendations with respect to compliance with the Act, and to promote the advancement of both official languages in the province.

The Commissioner of Official Languages is an officer of the Legislative Assembly and is independent of government.

Annual Report

The OLA provides that the Commissioner of Official Languages must prepare and submit to the Legislative Assembly an annual report concerning the activities of the Office of the Commissioner of Official Languages for New Brunswick. This third report by Commissioner d'Entremont provides a description of the activities carried out between April 1, 2015, and March 31, 2016.

FROM THE COMMISSIONER KATHERINE D'ENTREMONT



Rising to the Challenge

In June 2015, a few days after I tabled my last annual report, I was in Toronto to deliver a speech to a group of university students from across Canada. After my presentation, the group was invited to ask me questions. One student stood up. She had taken note of my annual report and was wondering the following: Why did the Commissioner of Official Languages recommend that bilingualism be mandatory for senior public servants in New Brunswick? The student asked me that question because she could not believe that such a requirement was not already in place. For that student, the bilingualism requirement was self-evident. Why is the same not true for the government?

People living outside New Brunswick often have an idealized image of official bilingualism in this province. I must then explain that there are some challenges, that in theory, everything appears fine but in reality, there are some “implementation” issues.

New Brunswick can and must rise to the challenge of its status as the only officially bilingual province in Canada. To do so, official languages must become a real priority.

Some good results, some not so good

This year, we conducted an audit of the overall compliance of provincial departments and other Part I agencies with the *Official Languages Act* (see page 16). It was the first audit of this type conducted in 20 years, since the publication of the Delaney-LeBlanc report by the government in 1996.

The in-person and telephone audits reveal relatively high rates of service delivery in both official languages at the provincial level: higher than 80% for service in French and higher than 90% for service in English. It is worth noting that there were no failures in obtaining service in English in any of the seven regions of the province. However, in four regions, there were failures in obtaining services in French, the highest failure rate being 18.2%. After nearly half a century of official bilingualism in New Brunswick, one might expect the delivery of bilingual services to be excellent in every respect throughout the province. This is not the case.

Another result must be highlighted: the low rate of active offer for in-person audits. On average, auditors were greeted in both official languages by employees fewer than one in five times. Yet, for the citizen, the active offer of service is the first step in obtaining quality services in one's official language of choice.

There is a reason why legislators made the active offer of service mandatory when the new *Official Languages Act* (OLA) was adopted in 2002. They wanted to change the dynamics of service delivery. Citizens would no longer have the burden of requesting services in their language; it would be up to the government to offer them a choice.

In the absence of an active offer, our auditors were instructed to insist on being served in the audit language, English or French. The goal was to determine whether a bilingual capacity exists. Was it possible to obtain a service in English and in French? However, citizens are not auditors, and many of them will be reluctant to request service in the official language of their choice if they are greeted only in the other language. Failure to make a verbal active offer will often result in services being provided in the language of the employee rather than in the language that would have been chosen by the citizen.

The lack of an active offer is often a key component of the complaints received at the Office of the Commissioner. It was indeed the case in one investigation into a Horizon Health Network facility (see page 65). It is interesting to note the innovative corrective action taken by Horizon following this investigation, namely, conducting its own active offer audits by mystery patients. I congratulate the Horizon Health Network for its leadership in this regard. It demonstrates that this institution takes its obligations to actively offer its services in both languages seriously.

Compliance based on planning

Unilingual public servants are sometimes reluctant to make an active offer of service in both languages, because they are not sure they have access to a bilingual co-worker who can provide service in the other language. This type of situation continues to exist due to a lack of planning and organization of resources to ensure bilingual services.

That is why it is a positive step forward that the provincial government is now legally required to have an implementation plan for the *Official Languages Act*. It should be noted that the Act clearly specifies the various elements this plan must contain. For example, it must include "measures to ensure the equality of use of the English and French language in the public service." It must also have "measures to improve the bilingual capacity of senior management in the public service."

As part of an investigation (see page 51), we closely examined the various measures contained in the Plan and concluded that many of them are insufficient to achieve the objectives set out in the OLA. We therefore concluded that important elements of the Plan do not comply with the Act and we recommend that government make a number of changes to the Plan.

The government must find ways to fully comply with its linguistic obligations. I note that it recently reorganized its structure to focus on its priorities. A news release announced a new structure based on five priority units. Unfortunately, the issue of the equality of our two official languages is conspicuous by its absence from this new structure, yet there is still much work to be done to ensure that all New Brunswickers are able to access government services in the official language of their choice.

Acting on our recommendations

In my capacity as Commissioner, I have the mandate to investigate, present reports, and make recommendations with regard to compliance with the OLA. I do not have the authority to impose solutions, only to make recommendations. My recommendations are meant to assist government in meeting its linguistic obligations.

Since becoming Commissioner in 2013, fundamental recommendations to improve the delivery of bilingual services have gone unheeded. In particular, recommendations from my 2013-2014 annual report pertaining to bilingual staffing and second-language training are even more relevant today. For example, we have recommended that the provincial government develop and implement effective monitoring mechanisms to assess the actual ability of work teams to provide services of equal quality in both official languages.

It is doubtful that government could fully comply with the OLA if it does not implement such recommendations. If it continues along such a path, citizens may have to apply to the courts to have their language rights respected, which would be very costly for the Province. However, legislators created the position of Commissioner of Official Languages precisely to avoid this type of situation. The Commissioner of Official Languages is a language ombudsman, whose work often results in the resolution of situations of non-compliance with the OLA, thus avoiding costly and time-consuming litigation, both for citizens and government.

Our investigation into security services in government buildings is an example of what can happen when solutions are not implemented (see page 61). In 2006, following an investigation into a similar matter, my predecessor recommended that contracts between departments and security companies contain a clause concerning compliance with the OLA. That recommendation was approved by the former Premier, who subsequently directed that it be implemented. Nearly 10 years later, we concluded that the contract between the government and the security firm did not contain a provision to ensure compliance with the OLA. How can government ensure the delivery of bilingual services by frontline security personnel if official language obligations are not part of the service contract?

A bright light

Ensuring the delivery of quality bilingual services requires an organizational culture that makes this a priority. In this regard, we shine a light on the inspiring practices of the Administrative Director of the New Brunswick Heart Centre (see page 82). I have every hope that the practices of Ms. Doucet and the New Brunswick Heart Centre will inspire other public sector employees in their efforts to ensure quality services in French and English for all people in this province.

Model to emulate

I recently attended the meeting of the International Association of Language Commissioners at which I gave a presentation on the evolution of the legal framework for language rights in New Brunswick. A number of people at this event were quite impressed by the linguistic guarantees enjoyed by New Brunswickers. And so they should be. Yet challenges remain in the implementation of the OLA.

New Brunswick can, and must, rise to the challenge of its status as the only officially bilingual province. First of all, this requires leadership to ensure that respect for the two official languages and the two official linguistic communities are a real priority, not just talking points. Then, the Province must take appropriate measures to fully comply with its language obligations. Lastly, regular monitoring is needed to prevent problems and ensure respect for the language rights of New Brunswickers. In short, official languages must become a real priority.



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department — ministère	
institution — institution	
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municipality — municipalité	
official languages — langues officielles	
peace officer — agent de la paix	
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cité — city	
communauté linguistique — linguistic community	
communication et communiquer — communication and	
institution — institution	
langues officielles — official languages	
ministère — department	
municipalité — municipality	
publication et publier — publication and published	
services publics — public service	
sociétés de la Couronne — Crown Corporation	
tribunaux — court	
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Are you being served in the official language of your choice?

Can New Brunswickers be served by government in the official language of their choice throughout the province? That is the question behind a pilot project conducted by the Office of the Commissioner to audit compliance by Part I departments and agencies with the *Official Languages Act*. This was the first such assessment since the 1996 Delaney-LeBlanc report, published by the government. The audits were used to compare the delivery of services in English and in French at the provincial and regional levels.

Three types of audits were conducted: in-person audits in offices, telephone audits, and e-mail audits. They were conducted between January 18 and May 6, 2016. The margin of error for the three types of audits was 5%, 19 times out of 20.

It is important to note that this audit was conducted with only one group of institutions with obligations under the OLA, namely Part I government departments and agencies (see list page 20). Public bodies excluded from the audit were mainly the health sector, the courts, police services, Crown corporations and municipalities and Regional Service Commissions with obligations under the OLA.

HIGHLIGHTS OF THE OLA COMPLIANCE AUDITS

IN-PERSON AUDITS IN OFFICES

- Verbal active offer (greetings in both official languages by employees) was the exception rather than the rule at the provincial level. The rates of in-person active offer for audits conducted in French and audits conducted in English were 19.3% and 17.7%, respectively (Table 1).
- Rates for receiving service in the official language of one's choice are relatively high at the provincial level (Tables 10 and 11):
 - 81.6% for audits in French,
 - 94.7% for audits in English.
- There were no instances of failure to receive service in English anywhere in the province. However, failures to receive service in French were reported in four of the seven regions (Table 10):
 - Moncton and South-East (7.7%),
 - Fundy Shore and Saint John (12.5%),
 - Fredericton and River Valley (16.4%),
 - Miramichi (10.5%).

TELEPHONE AUDITS

- Active offer (greetings in both official languages) is common practice over the telephone, and failure rates are low: 3.6% for audits conducted in French and 7.8% for audits conducted in English (Tables 12 and 13).
- Rates for receiving service in the official language of one's choice are relatively high at the provincial level (Tables 20 and 21):
 - 92.1% for audits in French,
 - 94.6% for audits in English.
- There were no instances of failure to receive service in English anywhere in the province. However, a failure to receive service in French occurred in four of the seven regions (Table 20):
 - Moncton and South-East (2.9%),
 - Fundy Shore and Saint John (18.2%),
 - Restigouche (6.3%),
 - Miramichi (4.8%).
- At the provincial level, auditors who conducted audits in French received the service they were seeking from a program manager 73.4 % of the time. This rate rose to 78.8% for audits conducted in English (Table 17).

E-MAIL AUDITS

- As for the quality of language observed for e-mail service audits, standard French was reported in 81.8% of written responses and fair French was observed in 17.6% of cases at the provincial level. A failure rate of 0.6% was observed for e-mail service audits in French (Table 22).
- In terms of the quality of English observed during the e-mail service audits, standard English was reported in 97.8% of written responses and fair English was observed in 2.2% of cases. No failures were noted with respect to written English (Table 23).
- At the provincial level, auditors who conducted audits in French received the service they were seeking from a program manager 70.9% of the time. The rate was 65.4% for audits in English (Table 25).

Background

The investigations carried out by the Office of the Commissioner of Official Languages make it possible to identify the causes of non-compliance with the OLA and propose solutions to prevent their reoccurrence. However, these investigations are generally not sufficient to identify systemic problems with the application of the OLA. Moreover, they do not provide a full picture of OLA compliance by various groups of institutions, nor do they allow for comparisons to be made over time.

In order to conduct a thorough examination of the delivery of bilingual government services, the Office of the Commissioner developed a pilot project to conduct compliance audits. These audits focused on Part I departments and agencies, mainly provincial departments, Service New Brunswick, and public libraries (see complete list on page 20).

In order to conduct this pilot project, the Office of the Commissioner applied for financial assistance under the Canada – New Brunswick Agreement on the Provision of French-Language Services. The funding application was approved in July 2015 by the provincial minister responsible for official languages.

The Office of the Commissioner called upon the services of the Centre de recherche et de développement en éducation (CRDE) of the Université de Moncton to support it in developing and carrying out this pilot project. The CRDE was given a mandate to design the sampling method, conduct the audits, compile the data, and present the results.

In January 2016, the Commissioner of Official Languages wrote to the Clerk of the Executive Council and head of the public service to inform her that the Office of the Commissioner would be conducting audits. However, the written notice did not specify the Part I offices and the programs or services that would be audited.

Methodology

Three types of audits were done: in-person audits in offices, telephone audits, and e-mail audits.

Two audits* were done for each office and targeted program, one in English and one in French, in order to be able to compare the delivery of services in both official languages. A total of 1,384 audits were conducted consisting of:

- 272 in-person audits,
- 556 telephone audits,
- 556 e-mail audits.

The offices and programs audited were randomly selected on the basis of two target groups: 238 government offices with contact information on the GNB.ca website (including SNB offices and public libraries) and 950 government programs and services as posted on the GNB.ca website.

The sampling took into account the number of programs offered by each department and agency. Also, it was established so as to include a representative number of services available in all regions of the province.

The margin of error for the three types of audits was 5%, 19 times out of 20.

* Except for libraries sampled in bilingual areas, in-person audits of libraries were conducted only in the minority language of the area served. This decision was made to limit travel-related costs and to avoid redundancy of the information collected.

Elements audited

The audits assessed various elements of service in the official language of choice:

- active offer of service (i.e. verbal active offer: greetings in both official languages by employees),
- compliance with audit language at first contact (the employee responds in the same language as the auditor),
- employees' quality of language upon first contact and during service delivery,
- the level of expertise of the employee when delivering the desired service,
- the ability to obtain the desired service in the audit language.

Quality of language

The quality of language was assessed during the audits because it is central to the quality of information communicated to citizens and therefore to the quality of service. The following categories were used:

- Standard: No problem in understanding the information given by the employee.
- Fair: Some errors in syntax and vocabulary that do not significantly affect the ability to understand the information given by the employee.
- Failure: Major errors in syntax and vocabulary that prevent a clear comprehension of the information given by the employee.

Auditors

The CRDE recruited and trained two teams of auditors: one for English audits, the other for French audits. Auditors conducted audits in their first official language spoken.

The audits were designed and carried out in a way that simulated the experience of a member of the public seeking to obtain information about a government program or service. Also, the auditors were given an information sheet for each audit they were to conduct. The sheet provided a description of the government service or program targeted by the audit. It also provided a fictitious scenario which served as a lead-up to the auditor's questions.

The auditors were instructed not to inform government employees that they were auditing the delivery of services in one of the two official languages unless exceptional circumstances dictated otherwise.

Audits

The audits were conducted in a way that minimized disruption of the regular delivery of services to the public. The questions asked by the auditors were constructed to be relatively simple so as not to require much research on the part of employees. As soon as the elements being audited had been verified, the auditor ended the exercise. It should be noted that the auditors were instructed to request service in the audit language even if the employee failed to make an active offer of service in both languages.

Audit Calendar

- In-person audits: January 18 to March 18, 2016.
- Telephone audits: January 18 to April 4, 2016.
- E-mail audits: March 21 to May 6, 2016.

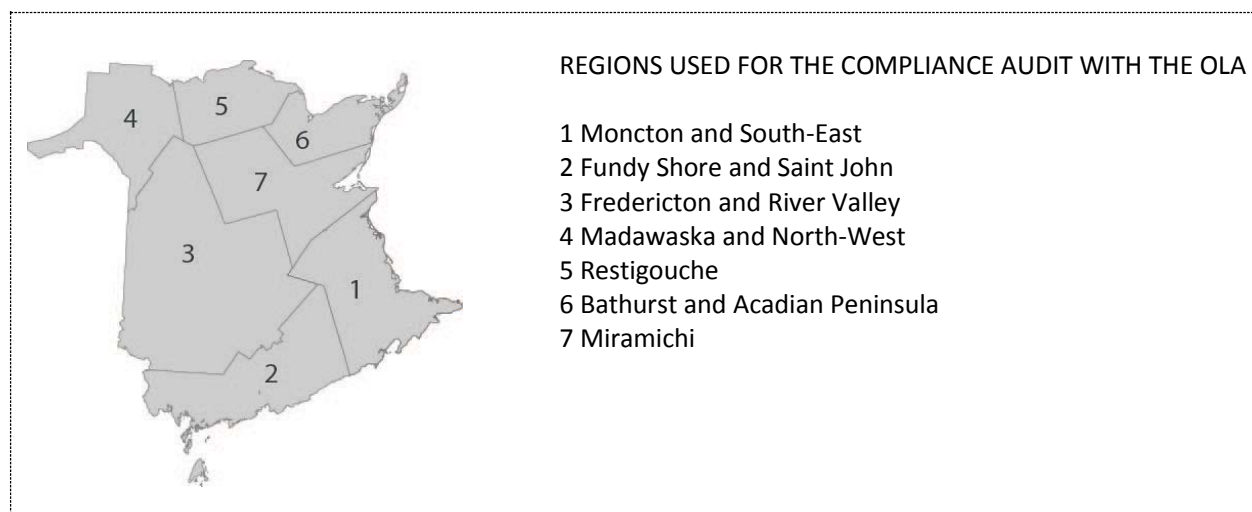
Audits not completed by these deadlines were considered to be "Incomplete".

Results by region

The aim of the pilot project was to compare the delivery of government services in both languages, at the regional and provincial levels. The exercise was not intended to compare or rank the departments. It should be noted that departments

and public agencies are often restructured and it is therefore difficult to compare them over time.

The map of the health regions was used to present the results by region. This map provides a reasonable number of regions, which are located around the main urban centres in the province.



List of Part I departments and agencies included in the compliance audit with the OLA

- Agriculture, Aquaculture and Fisheries
- Economic and Social Inclusion Corporation
- Education and Early Childhood Development (excluding the English and French sections)
- Energy and Mines
- Environment and Local Government
- Executive Council Office
- Finance
- Health (Department)
- Human Resources
- Justice
- Kings Landing Historical Settlement
- New Brunswick Museum
- Natural Resources
- New Brunswick Police Commission
- Office of the Attorney General
- Post-Secondary Education, Training and Labour
- Public Libraries
- Public Safety
- Regional Development Corporation
- Service New Brunswick
- Social Development
- Tourism, Heritage and Culture
- Transportation and Infrastructure
- Workers' Compensation Appeals Tribunal

IN-PERSON AUDITS IN OFFICES

During the in-person audits, a verbal active offer (greetings in both official languages by employees) was the exception rather than the rule in New Brunswick. The rates of verbal active offer during audits in French and audits in English were 19.3% and 17.7%, respectively. The rates of a visual active offer were higher, with a rate of 75.9% reported by all auditors.

In terms of compliance with the audit language at first contact (the employee responds in the same language as the auditor), an overall rate of 84.3% was observed in French and 99.2% was observed in English.

In terms of the quality of French at first contact, standard French was reported in 83.3% of audits and fair French in 13.6% of the audits. A failure rate of 3.4% was observed during the service audits in French. As for the quality of English at first contact, the rates were slightly higher, with a standard English rate of 95.3% and a fair English rate in 4.7% of the audits. No failures were reported in English.

The auditors who conducted audits in French received the service they were seeking from a program manager (government employee, manager, or specialist) for 56.0% of audits conducted. That rate rose to 65.4% for audits in English. In both cases, access to the program manager was either direct or through another employee providing interpretation.

In terms of the quality of French observed during in-person service delivery, standard French was reported in 86.4% of audits, fair French was observed in 5.0% of cases, and a failure rate of 8.6% in French was noted. As for the quality of English during service delivery in person, a standard English rate of 93.8% and a fair English rate of 6.2% were noted. No failures were reported in English.

In-person service delivery was better in English than in French. A failure rate of 9.9% was observed in terms of in-person service delivery in French for the audited programs, whereas no failures were noted for services in English.

Active offer of service

The active offer refers to the obligation of a provincial government institution under section 28.1 of the OLA to “ensure that appropriate measures are taken to make it known to members of the public that its services are available in the official language of their choice.” During the in-person service audits, three aspects of the active offer were evaluated:

- verbal active offer (greetings in both official languages by employees);
- visual active offer (the presence or absence of a sign clearly indicating that services are available in French and English); and
- the presence of other signs and documentation in both languages.

TABLE 1
Verbal active offer (greetings in both official languages) during in-person audits by region

n: number of cases observed / Total: sample total / %: percentage of cases observed

AREA	AUDIT IN ENGLISH			AUDIT IN FRENCH		
	n	Total	%	n	Total	%
1 Moncton and South-East	4	13	30.8	4	13	30.8
2 Fundy Shore and Saint John	0	16	0.0	3	16	18.8
3 Fredericton and River Valley	9	45	20.0	12	55	21.8
4 Madawaska and North-West	1	13	7.7	0	11	0.0
5 Restigouche	2	9	22.2	5	9	55.6
6 Bathurst and Acadian Peninsula	3	17	17.6	2	17	11.8
7 Miramichi	4	17	23.5	1	19	5.3
TOTAL	23	130	17.7	27	140	19.3

TABLE 2
Visual active offer during in-person audits by region

n: number of cases observed / Total: sample total / %: percentage of cases observed

AREA	n	Total	%
1 Moncton and South-East	21	26	80.8
2 Fundy Shore and Saint John	15	32	46.9
3 Fredericton and River Valley	79	100	79.0
4 Madawaska and North-West	17	24	70.8
5 Restigouche	13	18	72.2
6 Bathurst and Acadian Peninsula	28	34	82.4
7 Miramichi	32	36	88.9
TOTAL	205	270	75.9

TABLE 3
Signage and available documentation in both official languages during in-person audits by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	YES		NO		IN PART		NOT APPLICABLE		TOTAL
	n	%	n	%	n	%	n	%	N
1 Moncton and South-East	15	57.7	2	7.7	6	23.1	3	11.5	26
2 Fundy Shore and Saint John	5	15.6	6	18.8	14	43.8	7	21.9	32
3 Fredericton and River Valley	42	42.0	12	12.0	26	26.0	20	20.0	100
4 Madawaska and North-West	12	50.0	4	16.7	6	25.0	2	8.3	24
5 Restigouche	15	83.3	3	16.7	0	0.0	0	0.0	18
6 Bathurst and Acadian Peninsula	22	64.7	5	14.7	3	8.8	4	11.8	34
7 Miramichi	26	72.2	3	8.3	5	13.9	2	5.6	36
TOTAL	137	50.7	35	13.0	60	22.2	38	14.1	270

In Part: Signage and documentation were partially available in both official languages.

Not applicable: No signage or documentation (e.g.: pamphlets) on site.

Compliance with and quality of language at first contact

Compliance with the audit language means that a response (attempted or successful) was received exclusively in the audit language. Thus, a unilingual Francophone receptionist who attempts to respond to a request made in English with “One moment, please” rather than “Un moment s’il vous plaît” despite an inability to continue the interaction in English would be an example of respect for the audit language.

TABLE 4
Compliance with the audit language used at Reception by region

n: number of cases observed / Total: sample total / %: percentage of cases observed

AREA	AUDIT IN ENGLISH				AUDIT IN FRENCH		
	n	Total	%		n	Total	%
1 Moncton and South-East	13	13	100.0		10	13	76.9
2 Fundy Shore and Saint John	16	16	100.0		13	16	81.3
3 Fredericton and River Valley	45	45	100.0		41	55	74.5
4 Madawaska and North-West	12	13	92.3		11	11	100.0
5 Restigouche	9	9	100.0		9	9	100.0
6 Bathurst and Acadian Peninsula	17	17	100.0		16	17	94.1
7 Miramichi	17	17	100.0		18	19	94.7
TOTAL	129	130	99.2		118	140	84.3

TABLE 5
Quality of **French** at Reception by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	STANDARD		FAIR		FAILURE		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	9	90.0	1	10.0	0	0.0	10
2 Fundy Shore and Saint John	7	53.8	6	46.2	0	0.0	13
3 Fredericton and River Valley	35	85.4	3	7.3	3	7.3	41
4 Madawaska and North-West	11	100.0	0	0.0	0	0.0	11
5 Restigouche	6	66.7	3	33.3	0	0.0	9
6 Bathurst and Acadian Peninsula	16	100.0	0	0.0	0	0.0	16
7 Miramichi	14	77.8	3	16.7	1	5.6	18
TOTAL	98	83.1	16	13.6	4	3.4	118

Standard: No problem in understanding the information given by the employee

Fair: Some errors in syntax and vocabulary that do not significantly affect the ability to understand the information given by the employee

Failure: Major errors in syntax and vocabulary that prevent a clear comprehension of the information given by the employee

TABLE 6
Quality of **English** at Reception by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	STANDARD		FAIR		FAILURE		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	13	100.0	0	0.0	0	0.0	13
2 Fundy Shore and Saint John	16	100.0	0	0.0	0	0.0	16
3 Fredericton and River Valley	45	100.0	0	0.0	0	0.0	45
4 Madawaska and North-West	10	83.3	2	16.7	0	0.0	12
5 Restigouche	8	88.9	1	11.1	0	0.0	9
6 Bathurst and Acadian Peninsula	14	82.4	3	17.6	0	0.0	17
7 Miramichi	17	100.0	0	0.0	0	0.0	17
TOTAL	123	95.3	6	4.7	0	0.0	129

Standard: No problem in understanding the information provided by the employee

Fair: Some errors in syntax and vocabulary that do not significantly affect the ability to understand the information given by the employee

Failure: Major errors in syntax and vocabulary that prevent a clear comprehension of the information given by the employee

Effective delivery of audited program

This section is designed to answer the basic question with respect to the OLA compliance audit, i.e., whether New Brunswickers can obtain the on-site service they are seeking in the official language of their choice. Also, are there any differences with respect to access to services in English and in French?

TABLE 7
Obtaining service from a government employee, program manager, or specialist, by region

n: number of cases observed / Total: sample total / %: percentage of cases observed

AREA	AUDIT IN ENGLISH			AUDIT IN FRENCH		
	n	Total	%	n	Total	%
1 Moncton and South-East	7	13	53.8	6	13	46.2
2 Fundy Shore and Saint John	8	16	50.0	6	15	40.0
3 Fredericton and River Valley	37	45	82.2	28	53	52.8
4 Madawaska and North-West	6	13	46.2	6	10	60.0
5 Restigouche	7	9	77.8	8	9	88.9
6 Bathurst and Acadian Peninsula	10	17	58.8	12	17	70.6
7 Miramichi	10	17	58.8	9	17	52.9
TOTAL	85	130	65.4	75	134	56.0

TABLE 8
Language quality when obtaining service in **French** during in-person service audits by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	STANDARD		FAIR		FAILURE		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	12	92.3	1	7.7	0	0.0	13
2 Fundy Shore and Saint John	11	68.8	3	18.8	2	12.5	16
3 Fredericton and River Valley	44	80.0	3	5.5	8	14.5	55
4 Madawaska and North-West	11	100.0	0	0.0	0	0.0	11
5 Restigouche	9	100.0	0	0.0	0	0.0	9
6 Bathurst and Acadian Peninsula	17	100.0	0	0.0	0	0.0	17
7 Miramichi	17	89.5	0	0.0	2	10.5	19
TOTAL	121	86.4	7	5.0	12	8.6	140

Standard: No problem in understanding the information provided by the employee

Fair: Some errors in syntax and vocabulary that do not significantly affect the ability to understand the information given by the employee

Failure: Major errors in syntax and vocabulary that prevent a clear comprehension of the information given by the employee

TABLE 9
Language quality when obtaining service in **English** during in-person service audits by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	STANDARD		FAIR		FAILURE		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	13	100.0	0	0.0	0	0.0	13
2 Fundy Shore and Saint John	16	100.0	0	0.0	0	0.0	16
3 Fredericton and River Valley	45	100.0	0	0.0	0	0.0	45
4 Madawaska and North-West	11	84.6	2	15.4	0	0.0	13
5 Restigouche	8	88.9	1	11.1	0	0.0	9
6 Bathurst and Acadian Peninsula	12	70.6	5	29.4	0	0.0	17
7 Miramichi	17	100.0	0	0.0	0	0.0	17
TOTAL	122	93.8	8	6.2	0	0.0	130

Standard: No problem in understanding the information provided by the employee

Fair: Some errors in syntax and vocabulary that do not significantly affect the ability to understand the information given by the employee

Failure: Major errors in syntax and vocabulary that prevent a clear comprehension of the information given by the employee

TABLE 10
Obtaining service in **French** on-site by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	SERVICE OBTAINED		SERVICE INCOMPLETE		NOT APPLICABLE		FAILURE		TOTAL
	n	%	n	%	n	%	n	%	N
1 Moncton and South-East	11	84.6	0	0.0	1	7.7	1	7.7	13
2 Fundy Shore and Saint John	14	87.5	0	0.0	0	0.0	2	12.5	16
3 Fredericton and River Valley	37	67.3	9	16.4	0	0.0	9	16.4	55
4 Madawaska and North-West	11	91.7	0	0.0	1	8.3	0	0.0	12
5 Restigouche	9	100.0	0	0.0	0	0.0	0	0.0	9
6 Bathurst and Acadian Peninsula	17	100.0	0	0.0	0	0.0	0	0.0	17
7 Miramichi	16	84.2	1	5.3	0	0.0	2	10.5	19
TOTAL	115	81.6	10	8.6	2	1.4	14	9.9	141

Service incomplete: Audits could not be completed because the necessary call back to obtain the desired service had not been received by the end of the audit period.

Not applicable: The audit could not be conducted (office closed, service not available, etc.).

TABLE 11
Obtaining service in **English** on-site by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	SERVICE OBTAINED		SERVICE INCOMPLETE		NOT APPLICABLE		FAILURE		TOTAL
	n	%	n	%	n	%	n	%	N
1 Moncton and South-East	12	92.3	0	0.0	1	7.7	0	0.0	13
2 Fundy Shore and Saint John	13	81.3	3	18.8	0	0.0	0	0.0	16
3 Fredericton and River Valley	43	95.6	2	4.4	0	0.0	0	0.0	45
4 Madawaska and North-West	13	92.9	0	0.0	1	7.1	0	0.0	14
5 Restigouche	9	100.0	0	0.0	0	0.0	0	0.0	9
6 Bathurst and Acadian Peninsula	17	100.0	0	0.0	0	0.0	0	0.0	17
7 Miramichi	17	100.0	0	0.0	0	0.0	0	0.0	17
TOTAL	124	94.7	5	3.8	2	1.5	0	0.0	131

Service incomplete: Audits could not be completed because the necessary call back to obtain the desired service had not been received by the end of the audit period.

Not applicable: The audit could not be conducted (office closed, service not available, etc.).

Note about failure to obtain service

The inability to obtain service in the audit language (Failure) can be observed in two instances:

- at first contact - after two consecutive failures to be greeted in the audit language or a total absence of staff on site able to interact in the audit language;
- during service delivery – failure in terms of the quality of the audit language by a government employee, manager, specialist, or other program manager and no means or attempt made to have responses interpreted in the audit language.

TELEPHONE AUDITS

The active offer is common practice over the telephone, and failure rates are low: 3.6% in French and 7.8% in English.

In terms of respect for the audit language when greeted over the phone, an overall rate of 98 % was observed during audits in French and a perfect rate of 100% was observed during audits in English.

In terms of the quality of French at first contact, greetings in standard French were reported in 87.5% of audits and greetings in fair French were noted in 8.2% of audits. A failure rate of 4.3% was observed during the audits in French. As for the quality of English during greetings, a standard English rate of 94.7% and a fair English rate of 5.3% were observed. No failures were reported in English.

The auditors who did telephone service audits in French received the service they were seeking from

a program manager (government employee, manager, or specialist) 73.4% of the time. This rate rose to 78.8% for the audits conducted in English.

As for the quality of language observed during service delivery over the telephone, a standard French rate of 91.1%, a fair French rate of 6.6%, and a failure rate of 2.2% were observed. In terms of the quality of English during service delivery over the telephone, a standard English rate of 91.6% and a fair English rate of 8.4% were noted. No failures were reported in English.

Although comparable rates of effective service delivery over the telephone were noted in both languages (92.1% and 94.6% in French and English, respectively), a failure rate of 2.5% was observed in French. No failures were reported in English.

The active offer of service

The active offer refers to the obligation of a provincial government institution under section 28.1 of the OLA to “ensure that appropriate measures are taken to make it known to members of the public that its services are available in the official language of their choice.”

TABLE 12 Verbal active offer (greetings in both official languages) made during audits in French via telephone and by region n: number of cases observed / %: percentage of cases observed / N: sample total							
AREA	NOT APPLICABLE		YES		NO		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	12	35.3	19	55.9	3	8.8	34
2 Fundy Shore and Saint John	16	72.7	6	27.3	0	0.0	22
3 Fredericton and River Valley	25	16.2	126	81.8	3	1.9	154
4 Madawaska and North-West	4	36.4	7	63.6	0	0.0	11
5 Restigouche	7	43.8	9	56.3	0	0.0	16
6 Bathurst and Acadian Peninsula	8	42.1	10	52.6	1	5.3	19
7 Miramichi	7	35.0	10	50.0	3	15.0	20
TOTAL	79	28.6	187	67.8	10	3.6	276
Not applicable: Choice of language already noted by an automated call distribution system.							

TABLE 13 Verbal active offer (greetings in both official languages) made during audits in English via telephone and by region n: number of cases observed / %: percentage of cases observed / N: sample total							
AREA	NOT APPLICABLE		YES		NO		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	2	6.1	29	87.9	2	6.1	33
2 Fundy Shore and Saint John	8	36.4	12	54.5	2	9.1	22
3 Fredericton and River Valley	18	12.1	119	79.9	12	8.1	149
4 Madawaska and North-West	3	27.3	6	54.5	2	18.2	11
5 Restigouche	6	40.0	9	60.0	0	0.0	15
6 Bathurst and Acadian Peninsula	3	16.7	13	72.2	2	11.1	18
7 Miramichi	3	14.3	17	81.0	1	4.8	21
TOTAL	43	16.0	205	76.2	21	7.8	269
Not applicable: Choice of language already noted by an automated call distribution system.							

Compliance with and quality of language at first contact

Compliance with the audit language means that a response (attempted or successful) was received exclusively in the audit language. Thus, a unilingual Francophone receptionist who attempts to respond to a request made in English with “One moment, please” rather than “Un moment s’il vous plaît” despite an inability to continue the interaction in English would be an example of respect for the audit language.

TABLE 14
Compliance with the audit language used at Reception on the telephone by region

n: number of cases observed / Total: sample total / %: percentage of cases observed

AREA	AUDIT IN ENGLISH			AUDIT IN FRENCH		
	n	Total	%	n	Total	%
1 Moncton and South-East	32	32	100.0	30	30	100.0
2 Fundy Shore and Saint John	22	22	100.0	20	21	95.2
3 Fredericton and River Valley	144	144	100.0	146	149	98.0
4 Madawaska and North-West	11	11	100.0	10	10	100.0
5 Restigouche	15	15	100.0	13	13	100.0
6 Bathurst and Acadian Peninsula	18	18	100.0	19	19	100.0
7 Miramichi	20	20	100.0	17	18	94.4
TOTAL	262	262	100.0	255	260	98.0

TABLE 15
Quality of **French** at Reception on the telephone by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	STANDARD		FAIR		FAILURE		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	29	96.7	1	3.3	0	0.0	30
2 Fundy Shore and Saint John	16	80.0	3	15.0	1	5.0	20
3 Fredericton and River Valley	127	87.6	11	7.6	7	4.8	145
4 Madawaska and North-West	10	100.0	0	0.0	0	0.0	10
5 Restigouche	13	100.0	0	0.0	0	0.0	13
6 Bathurst and Acadian Peninsula	17	89.5	1	5.3	1	5.3	19
7 Miramichi	11	61.1	5	27.8	2	11.1	18
TOTAL	223	87.5	21	8.2	11	4.3	255

Standard: No problem in understanding the information provided by the employee

Fair: Some errors in syntax and vocabulary that do not significantly affect the ability to understand the information given by the employee

Failure: Major errors in syntax and vocabulary that prevent a clear comprehension of the information given by the employee

TABLE 16
Quality of **English** at Reception on the telephone by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	STANDARD		FAIR		FAILURE		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	28	87.5	4	12.5	0	0.0	32
2 Fundy Shore and Saint John	22	100.0	0	0.0	0	0.0	22
3 Fredericton and River Valley	142	98.6	2	1.4	0	0.0	144
4 Madawaska and North-West	8	72.7	3	27.3	0	0.0	11
5 Restigouche	14	93.3	1	6.7	0	0.0	15
6 Bathurst and Acadian Peninsula	15	83.3	3	16.7	0	0.0	18
7 Miramichi	19	95.0	1	5.0	0	0.0	20
TOTAL	248	94.7	14	5.3	0	0.0	262

Standard: No problem in understanding the information provided by the employee

Fair: Some errors in syntax and vocabulary that do not significantly affect the ability to understand the information given by the employee

Failure: Major errors in syntax and vocabulary that prevent a clear comprehension of the information given by the employee

Effective delivery of audited program

This section is designed to answer the basic question with respect to the OLA compliance audit, i.e., whether New Brunswickers can obtain the service they are seeking in the official language of their choice. Also, are there any differences with respect to access to services in English and in French?

TABLE 17
Obtaining service over the telephone from a government employee, program manager, or specialist, by region

n: number of cases observed / Total: sample total / %: percentage of cases observed

AREA	AUDIT IN ENGLISH			AUDIT IN FRENCH		
	n	Total	%	n	Total	%
1 Moncton and South-East	25	33	75.8	23	33	69.7
2 Fundy Shore and Saint John	17	22	77.3	18	21	85.7
3 Fredericton and River Valley	127	152	83.6	113	152	74.3
4 Madawaska and North-West	7	11	63.6	7	11	63.6
5 Restigouche	11	16	68.8	12	16	75.0
6 Bathurst and Acadian Peninsula	11	18	61.1	13	19	68.4
7 Miramichi	17	21	81.0	13	19	68.4
TOTAL	215	273	78.8	199	271	73.4

TABLE 18
Quality of **French** when obtaining service over the telephone by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	STANDARD		FAIR		FAILURE		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	31	93.9	2	6.1	0	0.0	33
2 Fundy Shore and Saint John	17	81.0	2	9.5	2	9.5	21
3 Fredericton and River Valley	137	90.1	13	1.3	2	1.3	152
4 Madawaska and North-West	11	100.0	0	0.0	0	0.0	11
5 Restigouche	15	93.8	0	0.0	1	6.3	16
6 Bathurst and Acadian Peninsula	19	100.0	0	0.0	0	0.0	19
7 Miramichi	17	89.5	1	5.3	1	5.3	19
TOTAL	247	91.1	18	6.6	6	2.2	271

Standard: No problem in understanding the information provided by the employee

Fair: Some errors in syntax and vocabulary that do not significantly affect the ability to understand the information given by the employee

Failure: Major errors in syntax and vocabulary that prevent a clear comprehension of the information given by the employee

TABLE 19
Quality of **English** when obtaining service over the telephone by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	STANDARD		FAIR		FAILURE		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	26	78.8	7	21.2	0	0.0	33
2 Fundy Shore and Saint John	22	100.0	0	0.0	0	0.0	22
3 Fredericton and River Valley	149	97.4	4	2.6	0	0.0	153
4 Madawaska and North-West	6	54.5	5	45.5	0	0.0	11
5 Restigouche	15	93.8	1	6.3	0	0.0	16
6 Bathurst and Acadian Peninsula	13	72.2	5	27.8	0	0.0	18
7 Miramichi	20	95.2	1	4.8	0	0.0	21
TOTAL	251	91.6	23	8.4	0	0.0	274

Standard: No problem in understanding the information provided by the employee

Fair: Some errors in syntax and vocabulary that do not significantly affect the ability to understand the information given by the employee

Failure: Major errors in syntax and vocabulary that prevent a clear comprehension of the information given by the employee

TABLE 20
Obtaining service in **French** over the telephone by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	SERVICE OBTAINED		SERVICE INCOMPLETE		FAILURE		TOTAL
	n	%	n	%	n	%	
1 Moncton and South-East	31	91.2	2	5.9	1	2.9	34
2 Fundy Shore and Saint John	17	77.3	1	4.5	4	18.2	22
3 Fredericton and River Valley	146	94.2	9	5.8	0	0.0	155
4 Madawaska and North-West	11	100.0	0	0.0	0	0.0	11
5 Restigouche	15	93.8	0	0.0	1	6.3	16
6 Bathurst and Acadian Peninsula	18	94.7	1	5.3	0	0.0	19
7 Miramichi	18	85.7	2	9.5	1	4.8	21
TOTAL	256	92.1	15	5.4	7	2.5	278

Service incomplete: Audits could not be completed because the necessary call back to obtain the desired service had not been received by the end of the audit period.

TABLE 21
Obtaining service in **English** over the telephone by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	SERVICE OBTAINED		SERVICE INCOMPLETE		FAILURE		TOTAL
	n	%	n	%	n	%	
1 Moncton and South-East	33	97.1	1	2.9	0	0.0	34
2 Fundy Shore and Saint John	21	95.5	1	4.5	0	0.0	22
3 Fredericton and River Valley	144	92.9	11	7.1	0	0.0	155
4 Madawaska and North-West	11	100.0	0	0.0	0	0.0	11
5 Restigouche	16	100.0	0	0.0	0	0.0	16
6 Bathurst and Acadian Peninsula	18	94.7	1	5.3	0	0.0	19
7 Miramichi	20	95.2	1	4.8	0	0.0	21
TOTAL	263	94.6	15	5.4	0	0.0	278

Service incomplete: Audits could not be completed because the necessary call back to obtain the desired service had not been received by the end of the audit period.

Note about failure to obtain service

The inability to obtain service in the audit language (Failure) can be observed in two instances:

- at first contact - after two consecutive failures to be greeted in the audit language or a total absence of staff able to interact in the audit language;
- during service delivery – failure in terms of the quality of the audit language by a government employee, manager, specialist, or other program manager and no means or attempt made to have responses interpreted in the audit language.

E-MAIL AUDITS

The number of audits that remained incomplete at the conclusion of the audit period was high, despite the 10 business days to respond to e-mail service requests. Therefore, response rates are low: 59.4% for the e-mail service audits in French, and 64.4% in English.

In terms of respect for the audit language observed in written replies, an overall rate of 100% was observed in both French and English.

As for the quality of written language for e-mail service audits, a standard French rate of 81.8% and a fair French rate of 17.6% were reported in written responses. A failure rate of 0.6% was observed for e-mail service audits in French. In terms of the quality of written English observed for e-mail service

audits, a standard English rate of 97.8% and a fair English rate of 2.2% were observed. No failures were noted with respect to written responses in English.

The auditors received the service they were seeking in French from a program manager (government employee, manager, or specialist) for 70.9% of the programs reviewed. That rate was 65.4% for the audits in English.

With respect to being able to obtain a service by e-mail, service delivery rates were 58.6% and 64.4% respectively in French and English. Only one failure to obtain service in French was reported.

TABLE 22
Quality of written **French** by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	STANDARD		FAIR		FAILURE		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	8	72.7	3	27.3	0	0.0	11
2 Fundy Shore and Saint John	12	85.7	1	7.1	1	7.1	14
3 Fredericton and River Valley	89	81.7	20	18.3	0	0.0	109
4 Madawaska and North-West	9	81.8	2	18.2	0	0.0	11
5 Restigouche	*	*	*	*	*	*	3
6 Bathurst and Acadian Peninsula	8	80.0	2	20.0	0	0.0	10
7 Miramichi	7	100.0	0	0.0	0	0.0	7
TOTAL	135	81.8	29	17.6	1	0.6	165

Note: The symbol "*" is used where total sample size is too small to permit reporting of results (n<5)

Standard: No mistakes

Fair: Minor mistakes that do not significantly affect ability to understand the answer

Failure: Major errors that negatively impact ability to understand the answer

TABLE 23
Quality of written **English** by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	STANDARD		FAIR		FAILURE		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	11	100.0	0	0.0	0	0.0	11
2 Fundy Shore and Saint John	16	100.0	0	0.0	0	0.0	16
3 Fredericton and River Valley	112	99.1	1	0.9	0	0.0	113
4 Madawaska and North-West	11	84.6	2	15.4	0	0.0	13
5 Restigouche	6	100.0	0	0.0	0	0.0	6
6 Bathurst and Acadian Peninsula	8	88.9	1	11.1	0	0.0	9
7 Miramichi	11	100.0	0	0.0	0	0.0	11
TOTAL	175	97.8	4	2.2	0	0.0	179
Standard: No mistakes Fair: Minor mistakes that do not significantly affect ability to understand the answer Failure: Major errors that negatively impact ability to understand the answer							

TABLE 24
Timeframe for obtaining service via e-mail by region

Average : number of days / SD: Standard deviation : the amount of variation of data relative to the average / Total: sample total

AREA	AUDIT IN ENGLISH				AUDIT IN FRENCH		
	Average	SD	Total		Average	SD	Total
1 Moncton and South-East	3.18	5.67	11		1.09	2.07	11
2 Fundy Shore and Saint John	3.50	5.24	16		3.64	4.38	14
3 Fredericton and River Valley	3.10	4.05	113		3.18	4.30	109
4 Madawaska and North-West	3.08	3.07	13		1.82	1.60	11
5 Restigouche	2.17	2.79	6		*	*	*
6 Bathurst and Acadian Peninsula	6.67	9.50	9		6.30	8.35	10
7 Miramichi	4.91	4.11	11		6.43	6.83	7
TOTAL	3.40	4.59	179		3.28	4.60	165
Note: The symbol "*" is used where total sample size is too small to permit reporting of results (n<5)							

TABLE 25

Obtaining service via e-mail from a government employee, program manager, or specialist, by region

n: number of cases observed / Total: sample total / %: percentage of cases observed

AREA	AUDIT IN ENGLISH				AUDIT IN FRENCH		
	n	Total	%		n	Total	%
1 Moncton and South-East	8	11	72.7		10	11	90.9
2 Fundy Shore and Saint John	8	16	50.0		5	14	35.7
3 Fredericton and River Valley	81	113	71.7		83	109	76.1
4 Madawaska and North-West	6	13	46.2		8	11	72.7
5 Restigouche	5	6	83.3		*	*	*
6 Bathurst and Acadian Peninsula	6	9	66.7		6	10	60.0
7 Miramichi	3	11	27.3		3	7	42.9
TOTAL	117	179	65.4		117	165	70.9

Note: The symbol "*" is used where total sample size is too small to permit reporting of results (n<5)

TABLE 26

Obtaining service in French via e-mail by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	SERVICE OBTAINED		SERVICE INCOMPLETE		FAILURE		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	11	47.8	12	52.2	0	0.0	23
2 Fundy Shore and Saint John	13	54.2	10	41.7	1	4.2	24
3 Fredericton and River Valley	108	65.5	57	34.5	0	0.0	165
4 Madawaska and North-West	11	61.1	7	38.9	0	0.0	18
5 Restigouche	3	33.3	6	66.7	0	0.0	9
6 Bathurst and Acadian Peninsula	10	47.6	11	52.4	0	0.0	21
7 Miramichi	7	38.9	11	61.1	0	0.0	18
TOTAL	163	58.6	114	41.0	1	0.4	278

Service incomplete: Audits could not be completed because the e-mail response had not been received by the end of the audit period.

TABLE 27
Obtaining service **in English** via e-mail by region

n: number of cases observed / %: percentage of cases observed / N: sample total

AREA	SERVICE OBTAINED		SERVICE INCOMPLETE		FAILURE		TOTAL
	n	%	n	%	n	%	N
1 Moncton and South-East	11	47.8	12	52.2	0	0.0	23
2 Fundy Shore and Saint John	16	66.7	8	33.3	0	0.0	24
3 Fredericton and River Valley	113	68.5	52	31.5	0	0.0	165
4 Madawaska and North-West	13	72.2	5	27.8	0	0.0	18
5 Restigouche	6	66.7	3	33.3	0	0.0	9
6 Bathurst and Acadian Peninsula	9	42.9	12	57.1	0	0.0	21
7 Miramichi	11	61.1	7	38.9	0	0.0	18
TOTAL	179	64.4	99	35.6	0	0.0	278
Service incomplete: Audits could not be completed because the e-mail response had not been received by the end of the audit period.							

The Commissioner recommends expanding and strengthening the role of the Translation Bureau

In August 2015, the New Brunswick government published a request for information designed to look at other translation service delivery models, including recourse to a single private-sector provider. The Commissioner suggested another possibility to the government: expanding and strengthening the role of the New Brunswick Translation Bureau.

The New Brunswick Translation Bureau provides the departments and other government organizations with translation and interpretation services, without which official bilingualism would not be possible. Since it was established in 1967, the Bureau has developed expertise in government translation that meets the needs of government departments and agencies extremely well. Furthermore, the existence of the Bureau has fostered the development of a language industry in New Brunswick.

When the Commissioner learned that the government was looking at the possible privatizing of translation services, she reminded the government that the Translation Bureau is a cornerstone of official bilingualism and that recourse to a private service provider would pose risks. Instead, she suggested that the government consider another possibility: strengthening and expanding the mandate of the Translation Bureau to provide further support for the vitality of the two official languages in the province. To do this, the Commissioner suggested that all organizations subject to the *Official Languages Act* (OLA) be invited to use the services of the Translation Bureau. This would allow for better control over the quality of texts published by organizations subject to the OLA. In addition, the increase in the volume of words translated by the Bureau would enable it to increase its revenues. The Bureau could therefore play a greater role in encouraging a more balanced use of the two official languages within government.

At the moment, only the departments and certain public agencies are required to use the Translation Bureau's services. Crown corporations, municipalities subject to the OLA, and other public bodies can opt to have their translation done by private companies in New Brunswick or elsewhere in Canada. It should be noted that, as of July 1, 2016, more than 40 professional associations will be subject to the OLA. This represents significant potential for the Translation Bureau, and the timing is right for the government to seize this opportunity.

Translation of government documents is the Translation Bureau's area of expertise. In fact, texts translated for the Bureau by the private sector are revised by Translation Bureau staff to ensure that they are consistent with government terminology and accurately reflect New Brunswick realities. This clearly demonstrates the fundamental role of the Translation Bureau. Furthermore, the services provided by the Bureau go well beyond translation and revision of texts. In fact, the Bureau has developed bilingual government terminology for the entire public service. Translation Bureau staff also provide valuable language advice for public servants to help them write in English and in French. It should be noted that the OLA now requires the provincial government to adopt measures enabling public servants to work in the official language of their choice.

The Commissioner believes that recourse to a single private translation service provider is a risky model. Such an approach could put the government in an untenable position if the provider were to experience financial difficulties or cease operations. According to the Commissioner, the government's constitutional obligations in terms of official languages are such that it cannot rely solely on the private sector for translation services.

The Translation Bureau has greatly increased its efficiency over the past few years. It now has a pre-translation system that enables employees to use a data bank to find sentences and sentence fragments already translated by the Bureau, greatly accelerating the translation process. Also,

production standards have been set for translators to ensure a satisfactory level of production from all employees. Lastly, the rate the Bureau charges per word for translation still compares favourably with that of private companies.

Ensuring quality government communications in both official languages requires an efficient and dynamic government translation service. The Translation Bureau is this cornerstone of official bilingualism in New Brunswick. The Commissioner therefore believes that expanding and strengthening the mandate of the Translation Bureau can only serve the interests of the two official linguistic communities.

Professional associations to serve their members and the public in both official languages

In the spring of 2015, the Legislative Assembly of New Brunswick adopted Bill 49 – *An Act to Amend an Act Respecting Official Languages*. As a result, starting on July 1, 2016, professional associations will be subject to the OLA and required to provide all of their communications and services in both official languages to their members as well as to the general public. As of July 1, 2016, the Commissioner's mandate will be expanded to include oversight of these professional associations.

Background

During the review of the OLA in June 2013, the members of the Legislative Assembly decided that professional associations should be subject to the OLA. There would be a two-year transition period before their obligations came into effect. However, the Commissioner and other stakeholders noted a problem: the scope of the obligations imposed upon associations was limited. In fact, associations would be required to provide bilingual services only to their members:

A professional association shall provide the services prescribed by regulation to its members in both official languages.¹

Since the primary role of a professional association is to protect the public, why would it not be legally required to provide bilingual services to the general public?

In 2014, Commissioner d'Entremont wrote² to the Premier, responsible for the application of the OLA, asking him to take steps to eliminate this limitation on the linguistic obligations of associations.

In the spring of 2015, Bill 49, *An Act to Amend an Act Respecting Official Languages* remedied the situation.

A broader mandate for the Commissioner's office

As of July 1, 2016, members of the public will have the right to communicate with and receive services from a professional association in the official language of their choice. If this right is not respected, they can file a complaint with the Office of the Commissioner of Official Languages for New Brunswick.

What is a professional association?

Bill 49 defines a professional association as follows: "an organization of persons that, by an Act of the Legislature, has the power to admit persons to or suspend or expel persons from the practice of a profession or occupation or impose requirements on persons with respect to the practice of a profession or occupation."

¹ Bill 72 – *An Act Respecting Official Languages*, New Brunswick Legislative Assembly

² 2014-2015 Annual Report of the Office of the Commissioner of Official Languages for New Brunswick

Excerpt from Bill 49 – *An Act to Amend an Act Respecting Official Languages*

Professional associations

41.1(1) In this section, “professional association” means an organization of persons that, by an Act of the Legislature, has the power to admit persons to or suspend or expel persons from the practice of a profession or occupation or impose requirements on persons with respect to the practice of a profession or occupation.

41.1(2) When a professional association exercises a power referred to in subsection (1), the professional association

(a) shall provide services and communications related to the exercise of that power in both official languages, and

(b) with respect to its power to impose requirements, shall ensure that a person is able to fulfil those requirements in the official language of his or her choice.

41.1(3) No person shall be placed at a disadvantage by reason of exercising his or her right to choose an official language in which to fulfil requirements imposed by a professional association.

41.1(4) A professional association shall offer its services and communications to members of the public in both official languages.

Professional Associations

The following is a list of professional associations that will have obligations under the OLA starting on July 1, 2016. This list was provided by the Executive Council Office of the New Brunswick Government in April 2016 and is subject to change.

- Architects’ Association of New Brunswick (AANB)
- Association of New Brunswick Land Surveyors (ANBLS)
- Association of New Brunswick Licensed Practical Nurses (ANBLPN)
- Association of Professional Engineers and Geoscientists of New Brunswick (APEGNB)
- Association of Registered Interior Designers of New Brunswick (ARIDNB)
- Association of Registered Professional Foresters of New Brunswick (ARPFNB)
- Chartered Professional Accountants New Brunswick (CPANB)
- College of Physicians and Surgeons of New Brunswick (CPSNB)
- College of Physiotherapists of New Brunswick (CPTNB)
- College of Psychologists of New Brunswick (CPNB)
- Corporation of Translators, Terminologists and Interpreters of New Brunswick (CTINB)
- Cosmetology Association of New Brunswick (CANB)
- Law Society of New Brunswick (LSNB)
- New Brunswick Association of Dietitians (NBAD)
- New Brunswick Association of Medical Radiation Technologists (NBAMRT)
- New Brunswick Association of Occupational Therapists (NBAOT)
- New Brunswick Association of Optometrists (NBAO)
- New Brunswick Association of Real Estate Appraisers (NBAREA)

- New Brunswick Association of Respiratory Therapists, Inc. (NBART)
- New Brunswick Association of Social Workers (NBASW)
- New Brunswick Association of Speech-Language Pathologists and Audiologists (NBASLPA)
- New Brunswick Building Officials Association (NBBOA)
- New Brunswick College of Dental Hygienists (NBCDH)
- New Brunswick Chiropractors' Association (NBCA)
- New Brunswick Dental Society (NBDS)
- New Brunswick Dental Assistants Association (NBDAA)
- New Brunswick Denturists Society (NBDS)
- Board for Registration of Embalmers, Funeral Directors and Funeral Providers of New Brunswick
- New Brunswick Home Economics Association (NBHEA)
- New Brunswick Institute of Agrologists (NBIA)
- New Brunswick Pharmaceutical Society (NBPS)
- New Brunswick Podiatry Association (NBPA)
- New Brunswick Registered Barbers' Association (NBRBA)
- New Brunswick Society of Cardiology Technologists (NBSCCT)
- New Brunswick Society of Certified Engineering Technicians and Technologists (NBSCETT)
- New Brunswick Society of Medical Laboratory Technologists (NBSMLT)
- New Brunswick Veterinary Medical Association (NBVMA)
- Nurses Association of New Brunswick (NANB)
- Opticians Association of New Brunswick
- Paramedic Association of New Brunswick (PANB)
- New Brunswick Real Estate Association (NBREA)
- New Brunswick Planners Association (NBPA)
- Association of New Brunswick Massage Therapists (ANBMT)

EXTRA-MURAL PROGRAM AND TELE-CARE

Commissioner expresses concerns to the Minister of Health

In February 2016, the Commissioner expressed concerns regarding the plan to transfer management of the Extra-Mural Program and Tele-Care to Medavie EMS.

In a news release published on February 15, 2016, the Commissioner stated:

Medavie EMS manages Ambulance New Brunswick (ANB). Since its creation in 2007, ANB has had considerable difficulty respecting its language obligations. I am therefore quite concerned about the plan to transfer the management of other public programs to Medavie EMS.

The *Official Languages Act* applies to companies providing services on behalf of the government. However, the Commissioner notes that it does not guarantee the respect of citizens' language rights.

In the news release, the Commissioner stated the following:

Despite the fact that these companies have clear linguistic obligations, there is often a lack of concrete steps to ensure that these obligations are met. Nearly a decade later, ANB acknowledges having less than half of the bilingual employees they say they need to serve citizens in both official languages. Such a situation could have been avoided if ANB, in the beginning, had adopted an effective plan to conform with its language obligations.

On March 24, 2016, the Commissioner met with the Minister of Health to voice concerns in regard to this matter and to remind him that the government must ensure that all models of public-private service delivery guarantee the respect of New Brunswickers' language rights.

Bilingualism: A key competency for the Chief Medical Officer of Health

In early 2016, the Department of Health issued a press release announcing the departure of New Brunswick's Chief Medical Officer of Health. The Commissioner then wrote to the Minister of Health to stress how important it is for the next Chief Medical Officer of Health to be bilingual.

The Commissioner outlined five reasons why the person appointed to this position must, at the time

of his or her appointment, be able to speak and understand clearly both official languages.

Communicating with members of both linguistic communities

The Chief Medical Officer of Health performs duties that require a regular dialogue with the members of both linguistic communities, including the boards of directors and staff of the health networks.

Therefore, bilingualism will be an essential skill that will permit such communication without an intermediary and comply with the internal language of operation of each health network.

Communicating with Anglophone and Francophone employees

The Chief Medical Officer of Health manages a significant number of employees. In order to respect the right of public servants to work in the official language of their choice, the Chief Medical Officer of Health must speak both English and French.

Communicating with Anglophone and Francophone media

The media is a key partner of all public health offices because it relays important notices about health to the public.

During media events, the Chief Medical Officer of Health and the organization he or she represents are one and the same. Thus, the incumbent must be able to speak directly to both linguistic communities without relying on spokespersons.

Although simultaneous interpretation may be used during press conferences, such an option is certainly not feasible for one-on-one, studio or telephone interviews.

Embodying a fundamental value: respect of both official languages

Like other senior officials, the Chief Medical Officer of Health represents New Brunswick, the only officially bilingual province in Canada, and must therefore embody one of this province's main characteristics, official bilingualism.

Improving the bilingual capacity of senior management in the public service

Under the OLA, the Government has prepared a plan setting out how it will meet its obligations under this Act. This plan must include "measures to improve the bilingual capacity of senior management in the public service." In light of this obligation, it is clear that the Department of Health must make bilingualism a requirement for the recruitment of a new Chief Medical Officer of Health.

Immigration and official languages

One of the responsibilities of the Commissioner of Official Languages for New Brunswick is to promote the advancement of English and French in the province. In this regard, it is important to note that immigration plays an increasing role in the vitality of the two official languages. The Commissioner's actions with respect to immigration are therefore aligned with this promotional role. Also, it should be emphasized that the *Canadian Charter of Rights and Freedoms* affirms that New Brunswick's Anglophone and Francophone linguistic communities have equality of status. Government immigration policies and programs must therefore benefit both communities equally.

The Commissioner recently met with the provincial minister responsible for immigration, Francine Landry, in order to emphasize the importance of a federal-provincial framework agreement on Francophone immigration to New Brunswick. A similar message has been addressed to the new federal minister of Immigration, Refugees and Citizenship, John McCallum. In a letter to the federal Minister, the Commissioner pointed out that if such a framework agreement already existed, it would have enabled more Syrian refugees to be directed to the province's Francophone communities. Moreover, the Commissioner also commended the federal minister for the inception of a new program

to attract skilled Francophone workers to communities outside Quebec.

Provincial immigration results

On July 3, 2014, the provincial government released its first Francophone Immigration Action Plan. The aim of the plan is for immigration to better reflect the linguistic makeup of the province. New Brunswick will therefore try to ensure that 33% of newcomers under the New Brunswick Provincial Nominee Program are Francophones or Francophiles by 2020. To do this, an annual increase of 3% is planned, with an intermediate target of 23% for 2017.

The New Brunswick Provincial Nominee Program (NBPNP) is the main provincial immigration program. It is made possible through an agreement with the Government of Canada. Through the NBPNP, New Brunswick selects and nominates qualified business people and skilled workers from around the world who want to live in New Brunswick and contribute to the local economy.

The table below presents the number of nominee certificates delivered through the NBPNP, broken down according to the official language(s) spoken by candidates over the last three years.

<p>New Brunswick Provincial Nominee Program NUMBER OF NOMINEE CERTIFICATES DELIVERED (By official language(s) spoken and year)</p>

<p>French-Speaking Candidates</p>
--

<p>2013-2014: 1.3%</p>

<p>2014-2015: 7.4%</p>

<p>2015-2016: 18 %</p>

<p>Bilingual Candidates (English and French)</p>

<p>2013-2014: 6.9%</p>

<p>2014-2015: 5.3%</p>

<p>2015-2016: 2 %</p>

<p>English-Speaking Candidates</p>

<p>2013-2014: 91.8%</p>

<p>2014-2015: 87.3%</p>

<p>2015-2016: 80 %</p>

<p>Source: Government of New Brunswick</p>
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CHAPITRE O-0.5

CHAPTER O-0.5

Loi sur les langues officielles

Sanctionnée le 7 juin 2002

Official Languages Act

Assented to June 7, 2002

Sommaire

Chapter Outline

COMPLIANCE WITH THE OFFICIAL LANGUAGES ACT

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Introduction

Role of the Commissioner as regards compliance with the *Official Languages Act*

The Commissioner conducts and carries out investigations with respect to the application of the OLA, either pursuant to a complaint made to the Commissioner or on her own initiative. If the Commissioner determines that a complaint is founded, she may make recommendations in her investigation report to improve compliance with the OLA. The Commissioner makes every effort to follow up on complaints as soon as possible by first determining of admissibility of each complaint and then, when appropriate, intervene with the institutions concerned.

The Commissioner works discreetly and in a spirit of co-operation with the institutions concerned and favours a supportive and collaborative approach. However, the Commissioner will not, if confronted by a blatant lack of co-operation on the part of an institution, shy away from publicly denouncing such resistance.

Filing of Complaints

Anyone wishing to file a complaint may do so either in person, in writing, or by phone. The Office of the Commissioner's website describes the procedure for filing a complaint. All complaints received are considered confidential, and the Office of the Commissioner takes all necessary steps to safeguard the anonymity of complainants.

Under subsection 43(11) of the OLA, the Commissioner may refuse to investigate or cease to investigate any complaint if, in her opinion, the complaint

- is trivial, frivolous, or vexatious;
- is not made in good faith;
- does not involve a contravention or failure to comply with the Act;
- does not come within the authority of the Commissioner.

In such cases, the Commissioner must provide the complainant with reasons for such a decision.

If the complainant is not satisfied with the Commissioner's findings after carrying out an investigation, he or she may seek a remedy before the Court of Queen's Bench of New Brunswick. A judge may decide on the remedy that he or she deems fair and appropriate in the circumstances. It should be noted that nothing in the OLA precludes a complainant from applying directly to the Court of Queen's Bench instead of filing a complaint with the Commissioner of Official Languages. However, such a process entails costs for the person initiating it.

Complaints received between April 1, 2015, and March 31, 2016

Between April 1, 2015, and March 31, 2016, the Office of the Commissioner received 240 complaints. Of that number, 63 were admissible, with 41 based on lack of service in French and 22 on lack of service in English. A total of 177 complaints were deemed inadmissible on the grounds that they did not come under the Commissioner's authority or did not concern an institution within the meaning of the

OLA. In addition, the Commissioner's office received 311 requests for information.

Investigation initiated by the Commissioner

During the same period, the Commissioner initiated one systemic investigation into security services in government buildings.

Main steps in the complaint-handling process

- The Office of the Commissioner receives the complaint and determines if it is admissible for investigation.
- If the complaint is admissible for investigation, the Commissioner notifies the institution concerned of her intention to investigate. It should be noted that the Commissioner may, when she considers it appropriate, attempt to resolve a complaint informally. (See Complaints resolved informally.)
- The investigation is carried out.
- At the end of her investigation, the Commissioner forwards her report to the Premier, the administrative head of the institution concerned, and the complainant. The Commissioner may include in her report any recommendations she deems appropriate as well as any opinion or reasons supporting her recommendations.
- If the Commissioner considers it to be in the public interest, the Commissioner may publish a report on the results of her investigation and on any recommendations made as a result of the investigation.

Complaints resolved informally

Since the changes made to the OLA in 2013, the Commissioner may resolve complaints informally, i.e., without conducting an investigation. Various situations may lend themselves to such an approach. For example, the Office of the Commissioner may use it in the cases that have already been investigated by the Office of the Commissioner and resulted in the institution taking

corrective action. This approach can also be used in cases when typical investigation timelines might be prejudicial to complainants.

Use of this approach is made on a case-by-case basis. Also, the institution's co-operation and willingness to act is central to the process of resolving a complaint informally.

Inadmissible complaints

Each year, the Office of the Commissioner of Official Languages for New Brunswick receives a number of complaints that are not admissible for investigation because they do not involve a contravention or failure to comply with the Act or do not come within the authority of the Commissioner. These complaints are grouped in the following categories:

General Comments

These complaints are not admissible on the basis that the subject-matter of the complaint does not involve a contravention or failure to comply with the Act or does not come within the authority of the Commissioner.

Management of Human Resources in the Public Sector

Complaints reported in this category are not deemed admissible on the basis, among others, that the language requirements for positions do not constitute a failure to comply with the OLA and thus, do not fall under the authority of the Commissioner.

Private Sector

The OLA does not apply to private-sector enterprises, except in cases where they offer services to the public on behalf of a body which has obligations under the OLA. Therefore, it is not within the authority of the Commissioner to conduct an investigation targeting a private enterprise that, for example, distributes flyers or has signs in one official language.

Education Sector

The OLA does not apply to distinct educational institutions. Therefore, school districts, public schools, community centres, community colleges, and universities do not have to offer services in both official languages. Moreover, the OLA does not

apply to the English and French sections of the Department of Education and Early Childhood Development.

Excluded Municipalities

Under the OLA, only the eight cities in the province (Bathurst, Campbellton, Dieppe, Edmundston, Fredericton, Miramichi, Moncton and Saint John) and municipalities with an official language minority of at least 20% of the population (Atholville, Charlo, Dalhousie, Eel River Crossing, Rexton, Richibucto, Shediac, and Tide Head) have language obligations. Thus, complaints targeting municipalities without obligations under the Act are not deemed admissible.

Federal Institutions

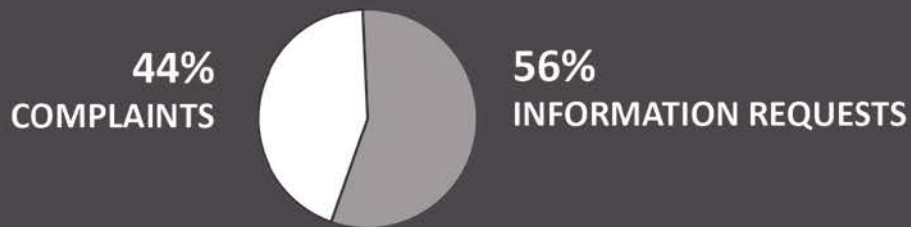
Federal institutions are subject to the federal *Official Languages Act*; it is not within the mandate of the Commissioner of Official Languages for New Brunswick to investigate complaints with respect to those institutions.

Professional Associations

Until July 1, 2016, professional associations do not have obligations under the OLA. However, after this date, they will have obligations under the Act. The Commissioner will then be able to receive complaints regarding these associations. This change resulted from Bill 49, adopted by the Legislative Assembly in June 2015.

STATISTICS 2015-2016

551 Communications



ADMISSIBLE COMPLAINTS: 63



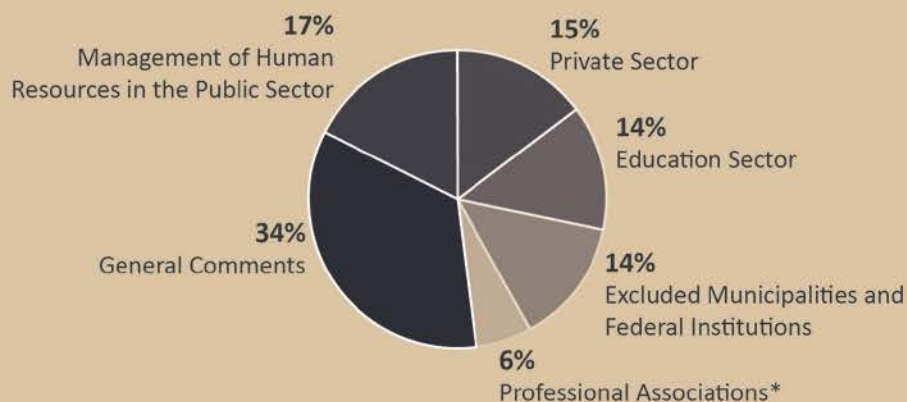
1/3 (Approx.)
Services in English

2/3 (Approx.)
Services in French

Admissible complaints by service type



Inadmissible complaints by category of elements excluded from the OLA



* Beginning July 1, 2016, professional associations will be subject to the OLA.

Status of admissible complaints (From April 1, 2015 to March 31, 2016)

Status	Services in French	Services in English	Total
Complaints under investigation, completed or resolved informally	32	4	36
Investigations not initiated (pending additional information from the complainant or from the institution)	6	10	16
Complaints withdrawn by the complainant	3	8	11
Total	41	22	63

Status of complaints handled (From April 1, 2015 to March 31, 2016)

Number of admissible complaints				Status of admissible complaints				Conclusion	
Institution	Complaints received in 2015-2016	Complaints carried over from the previous year		Investigations under way	Investigations completed	Resolved informally		Complaints founded	Complaints unfounded
Ambulance New Brunswick	1	2		0	3	0		3	0
Atlantic Lottery Corporation	0	1		0	1	0		0	1
Fredericton (City)	4	1		0	5	1		5	0
Government House	0	1		0	1	0		1	0
Horizon Health Network	6	1		3	4	1		4	0
Justice	1	1		0	2	1		2	0
Legislative Assembly	1	1		0	2	0		1	1
Miramichi (City)	0	1		0	1	0		1	0
Natural Resources	1	0		0	1	0		1	0
New Brunswick Legal Aid Services Commission	1	0		0	1	0		0	1
NB Liquor	2	1		0	3	0		3	0
NB Power	3	0		0	3	1		3	0
Office of the Premier	2	0		0	2	0		2	0
Public Safety	3	0		1	2	0		0	2
Service New Brunswick	2	2		0	4	0		4	0
Social Development	1	0		1	0	0		0	0
Transportation and Infrastructure	3	0		0	3	0		3	0
Vitalité Health Network	5	1		1	5	0		5	0
Total	36	13		6	43	4		38	5

GOVERNMENT PLAN ON OFFICIAL LANGUAGES

A comprehensive review is recommended

Since 2013, the provincial government has had a legal obligation to have a plan to ensure compliance with the *Official Languages Act*. In addition, the OLA specifies the objectives and measures this plan must contain. Following an investigation of the plan, the Commissioner is of the opinion that the objectives and measures it contains cannot ensure that the goals set out in the OLA will be achieved. The Commissioner therefore recommends a comprehensive review of the plan to ensure that it complies with the Act. Below is a summary of the Commissioner's analysis of the plan. The full investigation report can be consulted on the website of the Office of the Commissioner (Publications section).

CONTEXT

On June 21, 2013, following a compulsory review process, the Legislative Assembly made significant amendments to the *Official Languages Act*. These included, notably, the addition of subsection 5.1(1), which requires that the Province of New Brunswick develop an implementation plan for the OLA. That subsection came into effect on December 5, 2013.

Two complaints concerning the lack of an implementation plan for the OLA (subsection 5.1(1) of the OLA) were filed with the Office of the Commissioner in May and July 2015. The Commissioner then launched an investigation.

On August 5, 2015, the Office of the Premier sent the Commissioner a copy of the *Plan on Official Languages – Official Bilingualism: A Fundamental Value 2015* (the Plan).

Since subsection 5.1(1) of the OLA specifies the elements that must be included in the implementation plan, the Commissioner's investigation also had to examine the content of the Plan to determine whether it complied with the Act.

ANALYSIS

Elements that must be contained in the Plan

Subsection 5.1(1) of the OLA states that the implementation plan must include six categories of measures:

- (b) *measures to ensure the equality of status of the two linguistic communities;*
- (c) *measures to ensure the equality of use of the English and French language in the public service;*
- (d) *measures to ensure that language of work is considered when identifying work groups within the public service and when developing language profiles for positions in the public service;*
- (e) *measures to improve the bilingual capacity of senior management in the public service;*
- (f) *measures to provide for the review and the improvement, when necessary, of the public signage policies of the Province, which policies shall include consideration of the two linguistic communities and of the linguistic composition of a region; and*
- (g) *performance measures for evaluating the effectiveness of the measures implemented under the plan and time frames within which they must be implemented.*

The Plan is not structured according to these six categories of measures. Rather, it reiterates the four focuses that were found in the old government Plan on Official Languages of 2011. However, on the basis of the analysis of the plan, it can be concluded that the document reflects most of the measures set out in paragraphs (b), (d), (e), (f) and (g) of the OLA.

It must be pointed out, however, that it is more difficult to find in the plan measures that relate specifically to paragraph 5.1(1)(c), i.e., those “to ensure the equality of use of the English and French language in the public service.” In fact, the words “equality of use” do not appear in the plan.

According to government representatives, measures relating to language of work in the plan serve to promote precisely this “equality of use.” Thus, the Act already provides that the plan must contain measures for ensuring that language of work be taken into consideration.

The Commissioner believes that the objective of ensuring “the equality of use of the English and French language in the public service” is a far broader goal that is more consistent with the objective of creating a public service that is truly bilingual. In that regard, it is appropriate to quote an excerpt from the report of the Select Committee on the Revision of the OLA. That report served as the basis for the amendments made to the OLA in 2013. Here is the excerpt:

The committee believes that it is important to confirm in the Act the government’s obligation to provide itself with a comprehensive plan for ensuring compliance with the Official Languages Act. The plan should present a series of instruments for meeting challenges and should contain novel measures to promote the creation of a bilingual culture in the public service and progress toward the true equality of the two official language communities.

The excerpt from the report of the Select Committee explains why the plan must contain specific measures “to ensure the equality of use of the English and French language in the public service.”

The Commissioner believes that a “bilingual culture in the public service” means a work environment where civil servants can use, without restriction, either of the two official languages to perform their work, subject to respect for the right of members of the public to receive services in the official language of their choice.

NON-COMPLIANT ELEMENT

Following its analysis of the measures contained in the four sectors of activity of the Plan, the Commissioner can conclude that these will not ensure the “equality of use of the English and French language in the public service,” and therefore the Plan violates paragraph 5.1(1)(c) of the OLA.

THE FOUR FOCUSES OF THE PLAN

FOCUS 1: LANGUAGE OF SERVICE

The plan defines the language of service focus as: “Active offer and provision of all provincial government services in English and French throughout the province. New Brunswickers have a legal right to receive provincial government services in the official language of their choice.”

This first focus of the plan contains several innovative measures and activities for improving the delivery of bilingual services to the public. These relate to the determination, evaluation, and maintenance of the language skills of employees who are required to know both official languages.

- *Departments and agencies will put measures in place to ensure that the linguistic capacity of employees in the other official language is maintained or improved.* (p. 11)
- *Departments will evaluate the linguistic capacity of all employees that are part of the Bilingual Essential complement every two years.* (p. 22)
- *Departments will determine the acceptable language level for each linguistic team and the status / level of the individual's evaluation certificate for future reporting.* (p. 22)

Although these measures are of interest, the Plan provides very little detail on their implementation. For example, the Plan does not explain how [the government] will “ensure that the linguistic capacity of employees in the other official language is maintained or improved.” The Plan also does not specify how “the acceptable language levels” for each linguistic team will be determined.

Unfortunately, the Plan pays little attention to the findings and recommendations contained in the Commissioner’s study on bilingual staffing and second-language training within the provincial public service (see the Office of the Commissioner’s 2013-2014 Annual Report). In fact, that study revealed fundamental problems that are seriously compromising the delivery of services of equal quality in both official languages. Just one of the recommendations in the study has been integrated into the plan, i.e., the one dealing with the determination of acceptable language levels on the teams. This is clearly insufficient to allow the government to fully meet its obligation to provide services of equal quality in both official languages across the province.

The provincial government provided the following clarifications to the Office of the Commissioner:

A number of documents and studies of all sorts were considered when developing the Plan, including the 2013-2014 Annual Report of the Office of the Commissioner (study on bilingual staffing and language training). While they were not all adopted, the recommendations contained in that Annual Report will continue to be considered during the implementation of the Plan. [Translation]

RECOMMENDATION

The Commissioner recommends that the objectives and measures in the Plan with respect to language of service be reconsidered in light of the recommendations made in the Office of the Commissioner’s study on bilingual staffing and second-language training within the public service.

Bilingualism of senior and middle management

Paragraph 5.1(1)(e) of the OLA states that the Plan must contain “measures to improve the bilingual capacity of senior management in the public service.”

The Plan addresses this issue and, it is worth noting, broadens it to include middle management.

- *The government will develop mechanisms to strengthen the bilingual capacity of middle management in the provincial public service to better serve the public.* (p. 11)
- *The government will develop mechanisms to strengthen the bilingual capacity of senior management in the provincial public service to better serve the public.* (p. 11)

However, no target has been set in regard to the level of bilingualism of management. Further on in the plan (Action Plan Template), it is stated that a target will be set during the second year of the plan's implementation following an exercise designed to determine the current number of bilingual managers. It should be noted that the "Evaluation method" of the template provides information about what seems to be the ultimate goal of this exercise.

The number of bilingual employees in middle management positions is balanced with the overall number of civil servants who report to them. (p. 25)

A meeting with government representatives did not offer an understanding of what "balanced with the overall number of civil servants who report to them" means concretely in practice. Moreover, in a letter, the government states, "We agree that this wording is not clear and we are committed to reviewing it." [Translation]

Paragraph 5.1(1)(e) of the OLA requires that the government improve the bilingual capacity of senior management. This is an ongoing obligation, because the OLA does not set any limits. However, the Plan seeks to establish a balanced ratio. The Commissioner believes that this "balanced ratio" objective is contrary to the OLA, for three reasons:

1. It may maintain the status quo in the event that a department or agency already has a balanced ratio.
2. It may allow for a reduction of bilingual requirements in the event that a department or agency already has a high ratio within its senior management.
3. It may make it possible to achieve a balanced ratio through a simple reorganization of administrative units.

The Province's position on the bilingualism of management seriously compromises the objective set out in paragraph 5.1(1)(c) of the OLA, namely to "ensure the equality of use of the English and French language in the public service."

RECOMMENDATION

The Commissioner recommends that the objectives and measures with respect to the bilingual capacity of senior management be redefined to ensure their consistency with the wording of paragraph 5.1(1)(e), i.e., directed at continuous improvement of the bilingual capacity of senior management.

Mechanisms for improving bilingual capacity

Although the Plan clearly states that "the government will develop mechanisms to strengthen the bilingual capacity of senior management," these "mechanisms" are not set out anywhere in the document. The only concrete element is the exercise designed to determine the current number of bilingual managers. With the 2013 amendments to the OLA, the provincial government knows it will have to improve the bilingual capacity of senior management. It is therefore concerning that the Province is still unable to determine the bilingual capacity of its senior managers.

NON-COMPLIANT ELEMENT

Paragraph 5.1(1)(e) of the OLA requires that the government take measures to improve the bilingual capacity of senior management. Since no measures to achieve this objective could be identified, the Commissioner must conclude that the Plan does not meet the requirements of this provision of the OLA.

Level of second-language proficiency sought

The only element of the Plan that relates specifically to bilingualism among senior officials is the minimum level of second-language proficiency sought. That level is Intermediate Plus (2+), a level that the Commissioner considers to be far too low.

It should be noted that in 2011, the provincial government commissioned a study on second-language training. The report prepared by Goss Gilroy Inc. management consultants looks at the issue of the second-language proficiency level required for civil servants. The report is very clear: “key respondents indicate that level 3 is the norm when staffing bilingual positions.”

This finding is not particularly surprising, particularly since communication is at the heart of the work of senior managers. Indeed, every day, they must analyze complex information, explain in detail their organization’s policies and programs, advise political leaders, negotiate contracts, manage labour relations, and effectively defend the interests of their organization to various audiences.

A review of the descriptions of the Intermediate Plus (2+), Advanced (3), Advanced Plus (3+), and Superior (4) levels, as presented in the documents of the Department of Post-Secondary Education, Training and Labour, shows clearly that the Advanced (3) level should be the minimum level of bilingualism for senior civil servants.

RECOMMENDATION

The Commissioner recommends that the Advanced (3) oral communication level be the minimum benchmark to ensure that measures implemented in accordance with paragraph 5.1(1)(e) of the OLA for the purpose of improving the bilingual capacity of senior management are effective.

Second-language training

Bilingual staffing and second-language training are key elements to ensure the delivery of government services in English and French throughout the province. It is therefore not surprising that the Plan includes measures to improve the quality of government second-language programs:

1.4 The government will strengthen the quality of the current second-language training program with proactive involvement at student and provider levels.

- *Language progression of employees in language training will be assessed.*
- *The determination of participants for second-language training will be made on the basis of a priority model.*
- *Guidelines will be developed to address critical areas of the program.*
- *Official Languages Community of Practice will be established. (p. 11)*

The Commissioner notes that the plan makes no reference to the recent findings of two studies commissioned by the provincial government on this issue, i.e., the *Report on the Review of the New Brunswick Second Language Services* and the document entitled *Final Report: Review of the Language Training Program of the New Brunswick Public Service*.

The Commissioner believes that the government’s efforts with respect to second-language training will be compromised unless the findings of these two studies are taken into account.

RECOMMENDATION

The Commissioner recommends that the government take into account the findings of the *Report on the Review of the New Brunswick Second Language Services* and the *Final Report: Review of the Language Training Program of the New Brunswick Public Service* in its efforts aimed at improving the second-language training program.

Public signage

Paragraph 5.1(1)(f) of the OLA states that the Plan must include measures “to provide for the review and the improvement, when necessary, of the public signage policies of the Province, which policies shall include consideration of the two linguistic communities and of the linguistic composition of a region.”

It is only in Appendix 2 of the Plan that a measure is found that refers to this legal obligation: “The government will develop a signage policy.” However, it is not specified that this policy will reflect the linguistic composition of a region.

In its letter, the government states the following:

The government is reviewing its public signage policies with a view to improving them, taking into account the two linguistic communities and the linguistic composition of a region. We did not consider it necessary for the wording of the measure used in the plan to be an exact copy of the text of paragraph 5.1(1)(f), but be assured that the objectives are consistent with the OLA, as is the work that is being done. [Translation]

RECOMMENDATION

The Commissioner recommends that the Plan clarify the obligation with respect to public signage, so as to fulfil the requirements of paragraph 5.1(1)(f) of the OLA.

FOCUS 2: LANGUAGE OF WORK

The language of work is defined as the oral and written language used by civil servants in their offices to prepare documents, confer with their colleagues, their superiors and their juniors. It is the language used in acquiring their competence and carrying out their duties. It is the language in which they are evaluated.

Report of the Advisory Committee on Official Languages of New Brunswick, 1986

On the basis of this definition, two options are possible to enable all civil servants to work and be supervised in the official language of their choice:

- requiring that all supervisors be bilingual;
- creating work teams that operate in French, in English, and in both languages.

Those two options are not part of the government plan. Furthermore, the Plan does not propose any practical measures that would allow both Anglophone and Francophone civil servants to work and be supervised in the official language of their choice.

Bilingualism of senior and middle management

Most departments offer their staff the right to work in their language of choice, but they are the first to admit that, in some situations, it is very difficult, if not impossible, to work in one's language of choice if that language is French. The reasons for this include time constraints and the presence of unilingual senior officials in a particular department.

Plan on Official Languages (p. 12)

That excerpt from the Plan describes the situation with respect to language of work in Part I. Although the unilingualism of senior management is clearly presented as an obstacle to the opportunity for civil servants to work in the official language of their choice, this issue is not addressed in this section of the Plan.

According to government representatives, the measures related to the bilingualism of senior management were placed in the “Language of Service” focus, as it was in that area that the unilingualism of managers would cause the most problems. Moreover, the drafters felt it was not relevant to repeat these measures in the “Language of Work” focus.

At the very least, this explanation reveals a lack of understanding of the reality in the field. In fact, working in the official language of one’s choice implies the ability of supervisors to communicate in the language of their employees.

It is therefore inconceivable that measures related to the bilingual capacity of senior officials and middle managers are not presented in this focus of the Plan either.

Choice of language of work

The following measures, taken from the Plan, are worthy of interest:

- *The Department of Human Resources will prepare a standard letter of offer and an orientation guide for identifying the preferred language of work of all new employees.*
- *Each department will send an information sheet to all current employees seeking information about their preferred language of work and the language of their performance review, which will then be added to their file. (p. 27)*

It has to be agreed that merely allowing employees to work in their language of choice is insufficient for them to avail themselves of that option. A work environment that actively supports the use of English and French is just as important in order for progress to be made in this regard.

The Plan indicates that “the employer will implement the necessary measures to develop a work climate and environment conducive to the introduction of the language of work policy.” However, the Plan contains very few practical measures for addressing the following challenges in regard to language of work:

- pressure exerted on Francophone employees by an organizational culture that favours English (close to 90% of the documents sent to the New Brunswick Translation Bureau by provincial departments are written in English);
- constraints related to the use of French (presence of unilingual Anglophone managers, presence of unilingual Anglophone employees on teams, translation deadlines for documents, lack of knowledge of specialized terms in French, etc.);
- the phenomenon of linguistic insecurity (belief that they do not have a good grasp of their mother tongue), which can push Francophone civil servants to use English.

The lack of substantive measures that would make it possible to develop mechanisms that address the aforementioned challenges leads the Commissioner to conclude that the Plan cannot “ensure the equality of use of the English and French language in the public service,” as required by paragraph 5.1(1)(c) of the OLA.

Work teams

The Plan contains the following means for enabling all civil servants to work in the official language of their choice:

- *All departments and agencies will review their linguistic profiles and determine how to enable all employees to work in the language of their choice. (p. 28)*

The language profiles describe the linguistic composition of work teams, i.e., the number of bilingual employees, unilingual English employees, and unilingual French employees found on each team who are trained to provide bilingual services for the public.

Although the Plan provides for the review of linguistic profiles, government representatives have indicated that this does not ensure that teams will be reconfigured to ensure that public servants can work in the official language of their choice. These representatives explained that these linguistic teams were established to enable institutions to provide bilingual services to the public, not to provide civil servants with the right to work in the official language of their choice. The Commissioner therefore questions how the measure to review linguistic profiles will improve the situation.

A meeting with government representatives did not make it possible to obtain a clear description of how employees would be able to work and be supervised in the official language of their choice.

In its letter, the government stated the following:

We agree with you that the opportunity to work in their language of choice is closely linked with the unilingualism/bilingualism of the immediate supervisor. We must continue to address the inherent challenges of the unilingualism of the immediate supervisor. [Translation]

The public service: An influential employer

One of the most important factors when it comes to the vitality of a language is the use of that language in the workplace. This is not surprising considering the time that people spend at work. Measures designed to increase the use of a language in the workplace will help raise the status, recognition, and influence of that language.

The Plan does not take sufficient account of the role of government as a lever for the vitality of the French language in New Brunswick. However, paragraph 5.1(1)(b) of the OLA provides that the plan must include measures “to ensure the equality of status of the two linguistic communities.”

NON-COMPLIANT ELEMENT

After detailed analysis of the measures concerning language of work, the Commissioner concludes that these will not guarantee the implementation of mechanisms enabling provincial public servants to work and be supervised in the official language of their choice. Consequently, the Plan does not fulfil the requirements of paragraph 5.1(1)(d) of the OLA.

RECOMMENDATION

The Commissioner recommends that the objectives and measures concerning language of work be reviewed in order to implement mechanisms that will ensure respect for the right of public servants to work and be supervised in the language of their choice.

FOCUS 3: DEVELOPMENT OF THE TWO OFFICIAL LINGUISTIC COMMUNITIES

The focus on the development of the two linguistic communities is defined as follows: “All provincial government efforts, including legislation, distribution of public resources, and development of policies and programs, to encourage, via positive measures, the cultural, economic, educational, and social development of the two official linguistic communities.”

Given the scope of this strategic objective, the number of measures supporting its attainment is very limited.

However, the Commissioner welcomes the measures concerning the content of briefs submitted to the Executive Council.

- *Briefs submitted to the Executive Council will contain a section discussing the potential impact of the program or policy on Anglophone and Francophone communities.*
- *A practical guide will be developed for writing MECs concerning official languages.* (p. 13)

The Commissioner also welcomes the objective of taking “advantage of official bilingualism for the purposes of economic development and job creation.” However, the measures for achieving this objective are very vague. Moreover, the Commissioner notes that the Plan does not reflect the findings of the study *Two Languages, It's Good For Business*, produced by the Office of the Commissioner of Official Languages for New Brunswick.

FOCUS 4: KNOWLEDGE OF THE ACT AND OTHER OBLIGATIONS

This focus contains very few innovative measures. The Plan brings back a measure that was in the first Plan on Official Languages, i.e., the one related to the official languages coordinator. There have been no developments on this front in recent years. The Commissioner hopes that, this time, progress will be made.

Implementation and accountability

How will the government ensure the implementation of the Plan on Official Languages? What financial and human resources will be involved? What accountability mechanisms will be established to ensure progress towards the objectives of the Plan?

The relevance of these questions is clear from a reading of this excerpt from the first Plan on Official Languages, which is reproduced on page 4 of the new plan:

The implementation of the plan started off promisingly, but a common theme soon emerged in the form of inconsistent support within the area of leadership. This served to undermine the accountability process, which, in turn, impeded any chance of genuine success for the plan.

The content of the plan provides little reassurance in terms of accountability, particularly with respect to deputy ministers.

RECOMMENDATION

The Commissioner recommends that deputy ministers play a central role in the implementation of the Plan.

Evaluation of the Plan

According to the Plan, departments must report annually on progress made in implementing the Plan. However, the Commissioner believes that the deadline for a comprehensive evaluation of the Plan (in five years) is far too long.

RECOMMENDATION

The Commissioner recommends that the government undertake a complete review of the Plan every three years.

The contract does not contain any provision regarding the OLA

On March 2, 2016, the Commissioner of Official Languages for New Brunswick published a systemic investigation report on security services in government buildings. The report highlights several examples of non-compliance with the *Official Languages Act*. It also reveals that the contract between the provincial government and the security company, the Canadian Corps of Commissionaires, does not contain a provision on the obligation to provide bilingual services.

To ensure compliance with the Act, the Commissioner recommends that contracts between the government and security companies contain a provision clearly stating the obligation to provide service of equal quality in both official languages. The Commissioner also recommends that the government conduct regular compliance audits to ensure that security companies comply with the Province's linguistic obligations.

The investigation into security services was undertaken in May 2015 when the Commissioner became aware that bilingual services were not available at the security/reception position at Chancery Place, one of the main provincial government office buildings in Fredericton.

Since 2004, the Office of the Commissioner has conducted 10 investigations into the lack of service provided in French by security officers. The Commissioner launched a systemic investigation to determine whether the provincial government was taking the necessary steps to comply with the *Official Languages Act*. The findings of the investigation were revealing: the contract between the government and the Canadian Corps of Commissionaires does not contain any provision pertaining to official languages.

The report states that the special nature of a security officer's duties, and the fact that he or she generally works alone, means that the government must make bilingualism a requirement for any officer serving the public. The Commissioner considers that members of the public must be able to receive services in English or French immediately from these officers as they control access to government buildings.

The report presents a list of investigations on security services conducted by the Office of the Commissioner since 2004. Following one such investigation in 2006, the Premier of New Brunswick wrote to all ministers and deputy ministers directing them to include a provision on linguistic obligations in all service contracts with private security companies. The Commissioner's investigation reveals that, 10 years later, this directive was not followed. The investigation report also presents a 2011 government tender call for security services on behalf of the Horizon and Vitalité Health networks in which bilingualism was not listed as a requirement for most locations.

The Commissioner believes that, had the 2006 directive been followed and had the government carried out its responsibilities with respect to such a contract provision, many violations could have been avoided.

The Commissioner also points out that the government maintains full responsibility for compliance with the Act when it entrusts a company with the delivery of a service on its behalf. Section 30 of the Act specifies that the government has an obligation to ensure that the third party honours the Province's linguistic obligations, which means that the government cannot divest itself of its responsibility if the third party does not comply with the Act.

In the news release announcing the publication of the Investigation Report, the Commissioner stated: "Our two official languages have equal status; consequently, service must be of equal quality in

English and French. It is not acceptable for an Anglophone to receive service in English immediately while a Francophone must wait for someone to be free to help a unilingual security officer. We must also be mindful of emergency situations that could arise in government buildings. Clearly, a unilingual security officer should never be placed in a situation by the employer of attempting to serve the public in such a critical front-line function."

(The full investigation report can be consulted on the website of the Office of the Commissioner under Publications section.)

Recommendations made by the Commissioner on security services in government buildings

- THAT to ensure compliance with section 30 of the *Official Languages Act*, all future contracts for the provision of security and reception services between institutions and a third party include a provision detailing the linguistic obligations of the third party;
- THAT to ensure compliance with section 30 of the *Official Languages Act*, all contracts for security and reception services in effect between institutions and third parties be revised to include a provision detailing the linguistic obligations of the third party;
- THAT the minister responsible for the application of the *Official Languages Act* remind ministers and deputy ministers of the province's linguistic obligations when institutions engage a third party to provide services on their behalf; and see to it that ad hoc audits are carried out to ensure compliance with section 30 of the *Official Languages Act*.

Response by Department of Transportation and Infrastructure

In a letter dated March 23, 2016, the Deputy Minister of Transportation and Infrastructure acknowledged receipt of the Investigation Report on security services in government buildings. The Deputy Minister wrote:

The Department of Transportation and Infrastructure is committed to ensuring we meet our obligations under the Act. In an effort to ensure compliance with section 30 of the OLA, and as identified in our Official Languages Action Plan, the Department is in the process of reviewing all third-party contracts which would include the provision of security and reception services under our responsibility.

The Department takes its responsibility to protect the confidentiality of information related to investigations seriously and will continue to ensure that complaints processed by our department are handled in an appropriate manner.

List of investigations on security services conducted by the Office of the Commissioner since 2004

- 2004 Legislative Assembly
- 2004 Legislative Assembly
- 2005 Public Health Regional Office (Moncton)
- 2006 Legislative Assembly
- 2009 Legislative Assembly
- 2012-2016 Victoria Health Centre
- 2014 Government House
- 2015 Legislative Assembly
- 2015 Chancery Place
- 2015 Mental Health Centre (Moncton)

Excerpt from Premier Bernard Lord's memorandum to Ministers and Deputy Ministers regarding security services (January 2006)

[...] the Official Languages Commissioner has suggested that service contracts, signed between departments and a third party to provide building security services, contain a specific provision that clearly outlines the responsibilities and obligations to ensure that service in both official languages is available in accordance with the Act.

I concur with the Commissioner's suggestion and ask that you ensure this be done in all future contracts for such services.

Selected investigations conducted by the Commissioner's office

The following are summaries of some of the investigation reports prepared in 2015-2016. They reflect the wide range of complaints filed with the Commissioner's office. The full investigation reports pertaining to these summaries can be consulted on the website of the Commissioner's office (Publications section).

Vitalité has to step up its efforts

Institution concerned: Vitalité Health Network

Brief summary of complaint

This investigation involved three complaints concerning the Grand Falls General Hospital, the Edmundston Regional Hospital and the Dr. Georges L. Dumont University Hospital Centre in Moncton, respectively. In the case of the first institution, the complaint had to do with unilingual French signage in various parts of the hospital. The complainant also reported having received a unilingual French telephone message from the hospital's scheduling unit. With regard to the Edmundston Regional Hospital, the complainant deplored the fact that the nursing staff was unable to provide him with information in English about a patient's condition. Lastly, in the case of the Dr. Georges L. Dumont University Hospital Centre, the complaint involved announcements in French only over the public address system notifying Emergency Department patients to report to the examination rooms.

Key issue

Complying with the OLA requires that staff in every hospital department be aware of their linguistic obligations and that work teams have the bilingual capacity to provide service in both official languages at all times.

Outcome of investigation

Although Vitalité Health Network is taking steps to correct deficiencies in the provision of services in English, the investigation showed that progress is slow. The Commissioner is disappointed that most of the recommendations she made in a previous investigation have yet to be implemented. Furthermore, the Commissioner is concerned that there are no procedures in place at the Edmundston Regional Hospital to assist personnel who are not able to provide service in both official languages.

The Commissioner makes the following recommendations:

- THAT Vitalité ensure that all signs posted by or for Vitalité in all its health establishments be in both official languages.
- THAT the institution step up efforts to revise its sign replacement schedule to ensure full compliance with the OLA and provide our office with a copy.
- THAT the institution provide our office with a status report at the end of June 2016 at the latest on the implementation of the four recommendations mentioned earlier and made in March 2015 pertaining to a previous investigation.

Excerpts from investigation report

From the institution's response, we are able to conclude that, at the present time, there are no procedures in place to assist personnel who do not have the linguistic capacity to provide service in both official languages.

What is more, with respect to our question regarding the institution's comprehensive signage replacement plan and associated timelines for each hospital under the Vitalité Health Network, the institution failed to provide us with a detailed answer, choosing instead to limit its signage

commitment to the Dr. Georges-L.-Dumont University Hospital Centre.

As well, the institution did not provide us with a detailed answer to our question regarding the current requirements for bilingual and unilingual staff at the Edmundston Regional Hospital and the current complement of bilingual and unilingual staff. The institution's response confirmed, however, that assessment of the personnel in its various facilities is in progress and that, in the coming year, it is anticipated that the second language skills of employees in the clinical sectors of the Edmundston Regional Hospital will be evaluated.

Be proactive, not reactive

Institution concerned: Horizon Health Network (Moncton Hospital)

Brief summary of complaint

The triage nurse in the Emergency Department at the Moncton Hospital did not actively offer service to a patient. In addition, the patient did not receive any services in French from her. It should be noted that a similar incident had occurred the year before.

Key issue

This investigation highlighted the importance for institutions to be proactive in complying with the OLA and in adopting control measures to prevent problems in the first place.

Outcome of investigation

During a previous investigation dealing with the same kind of problem at the Moncton Hospital, Horizon Health Network had said that it would be taking steps to remind staff about their obligations and conducting compliance checks.

During this new investigation, the Office of the Commissioner requested a report on the implementation of these measures. The Office of the Commissioner subsequently learned that just 15% of the Emergency Department staff had taken part in training in employee obligations under the OLA.

In response to this low participation rate, Horizon Health Network indicated that compulsory training would be provided to Emergency Department staff at the Moncton Hospital. This training would explain the principles of active offer and include the program known as H.E.L.P.: Hello/Bonjour, Explain, Listen, Professionalism. The program focuses on customer service, empathy, and effective communication.

Horizon Health Network also reported that it had conducted active-offer checks in the Emergency Department, and that once all of the employees in question had received the necessary training, it would be conducting random checks at the two identified points of contact, namely triage and reception. If active offer is deficient, the manager

will follow up with the employees concerned immediately. If the deficiency persists, appropriate disciplinary action will be taken, according to the institution.

The Commissioner wishes to draw attention to the steps taken by the institution to ensure that members of the public have access to quality service in both official languages. However, following the analysis presented, the Commissioner deems it

appropriate to make the following recommendation:

- THAT employees receive the training provided by the institution concerning active offer and H.E.L.P. on commencement of employment, i.e., on orientation day.

Three ambulance rides... with no service in French

Institution concerned: Ambulance New Brunswick (Department of Health)

Brief summary of complaint

During three transfers between hospitals in Moncton, Saint John, and Sussex, a patient was not able to receive service in French once, even though he had indicated his language of preference to the Moncton Hospital and bilingual paramedics were available.

Key issue

The *Official Languages Act* requires that institutions actively offer their services in both official languages. This means that members of the public should not have to ask for service in their language. The institution has a duty to provide it. Once the member of the public has made his or her preference known, it must be respected throughout the service continuum.

Outcome of investigation

The investigation established that the paramedics did not actively offer service and did not respect the patient's linguistic rights. It should be noted in this regard that some of the paramedics expected the patient to request service in French. Others believed that it was up to the paramedics to choose which language to use if their patient was bilingual. The investigation also showed that Ambulance NB's procedure for determining and recording patients' language choice prior to transfer to another institution had not been followed. This contributed greatly to depriving the patient of service in French. It should also be noted that an Ambulance NB document pertaining to patients' choice of language during inter-institutional transfers is contradictory. According to the document, Ambulance NB dispatchers are required to ascertain the patient's choice of language from the institution. They also have to inquire if the patient can communicate in French, in English or in both languages. This second aspect is clearly in violation of the OLA, since the patient's choice of language alone should determine in which language he or she will be served.

The Commissioner makes the following recommendations:

- THAT the Department require that ANB reinforce among its paramedics the need to make an active offer of service at the start of each interaction.
- THAT the Department require that ANB:
 - a) clarify its memos concerning inter-facility patient transfers to dispel any confusion and ensure consistency with the OLA; and
 - b) ensure that its directives are followed.
- THAT the Department require that ANB continue its efforts to achieve balanced coverage of its services to ensure that these services comply with the OLA throughout the province.

Excerpts from investigation report

Clearly, the paramedics involved in this investigation did not uphold their obligations under the OLA in that they did not make an active offer of service to the complainant and, seeing that the patient spoke English without difficulty, settled on communicating with the complainant in that language. Moreover, the Medical Communications Management Centre neglected on two occasions to inquire as to the patient's preferred language, thereby failing to follow the ANB procedure applicable to transfers, hence the need for the active offer of service. Finally, we find that in asking the patient whether the complainant agreed to be transported by an Anglophone crew, the MCMC gave the complainant little choice other than to say "yes" under the circumstances.

If a customer asks for service in French, show your card

Institution concerned: NB Power

Brief summary of complaint

A customer expressly asked NB Power for service in French from the subcontracting company that was to replace his water heater. He found out that service in French is not guaranteed. And when he insisted that the subcontractor provide service in French, his request was snubbed.

Key issue

Pursuant to the OLA, where an institution uses a subcontractor (third party) to provide services on its behalf, the subcontractor has the same linguistic obligations as the institution. In addition, the OLA states that the institution has to ensure that the third party fulfils its obligations under the Act.

Outcome of investigation

This investigation highlighted an NB Power practice that runs counter to the principle of the equality of both official languages. The institution allows technician subcontractors who do not speak its customers' preferred language to perform work at their homes. In such instances, the technician has to show a bilingual pocket card to the customer that states that the technician will contact NB Power for assistance in order to serve the customer in the language of his or her choice. The Commissioner disapproves of this practice, as it does not provide service of equal quality to the members of the two linguistic communities.

The Commissioner recommended that NB Power

- Add a clause in its service contracts with its subcontractors requiring that third parties be able to provide bilingual service.

- Stop distributing bilingual cards to its users.
- Issue a reminder to its employees and third parties to ensure that a positive attitude toward linguistic rights prevails when service is provided.

[Translation] *show a bilingual pocket card to the customer [....] This card indicates that the technician will contact NB Power for assistance in order to serve the customer in the official language of his or her choice.*

Excerpts from investigation report

When asked about the procedure in place to ensure that third parties are able to provide service in both official languages (by telephone and in person), the institution referred to the program, which indicates that active offer of service must be made at all times to inform the public that services are available in both official languages. However, the institution went on to say that should the water heater technician be unable to serve the customer in the official language of his or her choice, the technician must

The Commissioner disapproves of this procedure because it is not synonymous with service of equal quality. Furthermore, this procedure is not functional, since sending a technician to a customer's home when that technician is unable to communicate in the customer's preferred language amounts to differentiation in the service that is provided compared to a customer who chooses to communicate in the technician's language. In addition, the option to communicate with a telephone agent does not guarantee that the agent will be able to accurately translate everything that the technician has said.

Misleading active offer

Institution concerned: New Brunswick Liquor Corporation (Vaughan Harvey Boulevard outlet in Moncton)

Brief summary of complaint

A clerk at a New Brunswick Liquor Corporation (ANBL) outlet approached a customer and actively offered service by greeting her in both languages with *"Hello, Bonjour."* When the customer continued in French, the clerk replied in English that he did not speak French. Furthermore, the clerk did not fetch a bilingual co-worker to continue the conversation. The customer then voiced her dissatisfaction to the manager of the outlet, in vain.

Key issue

There were several bilingual employees at the outlet when the incident occurred. Why, then, did the clerk not turn to his bilingual co-workers? This complaint shows that staff need to have a better understanding of the rationale behind active offer and to know how to follow through on customers' language of choice.

Outcome of investigation

In this investigation, ANBL informed the Office of the Commissioner that measures would be implemented and that it would follow up with the employees concerned. The corporation explained "[Translation] Active offer of service is regularly

discussed at start-of-shift meetings to convey ANBL's expectations." ANBL also said that "[Translation] The manager of this outlet will be reviewing the issue more formally and will include this aspect in his on-the-floor professional support sessions."

Excerpts from investigation report

It should be noted that the employee mentioned in the complaint did indeed engage in the active offer of service with the complainant by greeting in both languages with "Hello, bonjour," thereby fulfilling the obligation stemming from section 28.1. The problem, however, is that the employee failed to continue providing service in the language chosen by the complainant, i.e., French. This leads us to believe that the active offer is done mechanically, and that the employee in question does not understand the rationale for it. Engaging in the

active offer is one thing, but providing a service in the official language chosen by customers is another. The Assistant Manager's disregard for the complainant's concerns also says a lot about the lack of understanding of the obligations set out in the OLA.

In response to our question concerning the linguistic profile of the staff at the outlet at issue in the complaint, ANBL indicated that it has more bilingual staff than the established profile requires. Furthermore, the information provided by the institution shows that at the time of the incident reported by the complainant, all the staff, with the exception of one person, were present at the outlet. Since more than half of the staff is bilingual, it should have been possible for the complainant to be served in the official language of her choice. It is unfortunate that the complainant's choice was not respected.

Is English Okay?

Institution concerned: Department of Justice

Brief summary of complaint

The complainant, an articling student, would go to the Fredericton Courthouse frequently to file papers at the clerk's office. He noted that Sheriff Services' staff assigned to the main entrance of the building was not actively offering service on a regular basis. In addition, when the complainant indicated that he wished to be served in French, he had to wait several minutes for a bilingual officer. Moreover, the complainant was sometimes asked, "Is English okay?"

Key issue

This investigation highlighted the importance for institutions to put periodic control mechanisms into place to ensure that their employees are fulfilling the institution's linguistic obligations at all times.

Outcome of investigation

Some measures have been taken by the Department of Justice. Among them, Court Services Division staff who are not known to Sheriff Services' staff make random trips to the Fredericton Courthouse to check whether the officers are fulfilling the obligation to actively offer service in both official languages.

Excerpt from investigation report

The active offer of service is of particular importance, as it allows members of the public to avail themselves of the right to be served in the official language of their choice. By responding to the active offer, the public makes its preference known and determines the language in which the

communication will take place. It is therefore unacceptable to ask someone “Is English okay?” when the person would prefer to receive service in French. However, we note with satisfaction the awareness efforts conducted by the Department with Sheriff Services’ staff in the Fredericton region in that regard, and we would hope that the measures taken will be effective.

Selected complaints resolved informally

The *Official Languages Act* allows the Commissioner to resolve complaints informally, i.e., without conducting an investigation. Various situations may lend themselves to such an approach. For example, the Office of the Commissioner may use it in cases that have already been investigated by the Office of the Commissioner and resulted in the institution taking corrective action. This approach can also be used in cases when typical investigation timelines could be prejudicial to complainants.

Following is a summary of three complaints that were resolved informally by the Office of the Commissioner during the fiscal year.

TIME IS OF THE ESSENCE

At the end of June 2015, a teacher at a French school sent a form to the Extra-Mural Program so one of her students could receive rehabilitation services in September. A few days later, the student's mother received a form in connection with this request. However, the document was in English. Since the mother was having difficulty filling out the form, she contacted the Extra-Mural Program. She was advised that she would be receiving the form in French. A dozen or so days later, the mother still had not received the form. She then contacted the Office of the Commissioner of Official Languages.

The Office of the Commissioner's staff decided to bring the situation directly to the attention of Horizon Health Network's Official Languages Coordinator to stress how important it was for the student to receive rehabilitation services starting in September.

The steps taken in this case resulted in the student having access to a bilingual occupational therapist and adaptive equipment at the start of the school year.

THE DIRECTOR TAKES MATTERS IN HAND

In November 2015, a former complainant contacted the Office of the Commissioner to report a situation similar to the one that had occurred in 2009: the absence of service in French on the part of sheriffs at the Miramichi Courthouse.

Following the first complaint, the Office of the Commissioner had produced a report setting out three recommendations. One of the recommendations called on the Department to develop an official languages action plan focusing particularly on the linguistic composition of the staff. Given that the new incident was similar to the one in 2009 and that the institution had already agreed to conduct an in-depth review of its practices, the Office of the Commissioner decided to attempt to resolve the matter informally.

As soon as the situation was known, the Regional Director of Sheriff Services intervened. He revised the employee schedule to ensure that a bilingual sheriff would be on duty at all times. Additionally, the following week, the Director imposed mandatory training for all staff members so they became familiar with their linguistic obligations.

With the active co-operation of the institution, the Office of the Commissioner believed that the proposed measures were adequate to resolve the case without an official investigation being required.

WARNING SIGN IN ONE LANGUAGE ONLY

In January 2016, a motorist noticed that a NB Power vehicle had a warning sign in English only. The motorist therefore decided to file a complaint with the Office of the Commissioner of Official Languages.

Following discussions between the Office of the Commissioner's staff and the Official Languages Coordinator at NB Power, it was quickly determined that a manager had asked that a sign be placed on the truck in question. The manager was unaware, however, that signage on the trucks must be in both official languages.

The Official Languages Coordinator quickly understood that the incident, which might seem trivial at first glance, could be symptomatic of inadequate training or awareness of the employees regarding their obligations under the *Official Languages Act*.

This case was resolved quickly and efficiently, thanks to the good working relationship between the Official Languages Coordinator and our investigative staff. In fact, NB Power has issued a directive to all its employees concerning bilingual signage on its vehicles, and it has committed to ensuring that its employees are aware of their obligations under the *Official Languages Act*.



CHAPTER O-0.5

Official Languages Act

Assented to June 7, 2002

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LEGAL MATTERS

Bilingualism – More than just an asset

This chapter presents two cases from 2015 involving labour/management disputes that went through a formal adjudication process over the issue of bilingualism as a job requirement.

It should be noted that the Office of the Commissioner played no role in these disputes and that these cases are presented for information purposes only.

The case summaries illustrate the reasoning behind the decisions made by the adjudicators, who concluded in each case, for different reasons, that the bilingualism requirement was not unreasonable and was in fact necessary in order to, in one case, ensure employee safety and, in the other, enable the City of Moncton to provide members of the public with service in the official language of their choice.

First decision

Reference: Canadian Union of Public Employees, Local 1190 v New Brunswick (Transportation and Infrastructure), 2015 38685 (NB LA)

In this case, the complainant, a seasonal employee working for the Department of Transportation and Infrastructure (the “Department”), believed that his employer had violated the principle of seniority when he was not hired for the 2013 season. The complainant believed that despite his inability to communicate adequately in French with the other employees in his department, he should have obtained that job even though it required the ability to understand and speak English and French.

Local 1190 of the Canadian Union of Public Employees (the “union”), which represented the complainant in this matter, argued that seniority should have precedence over linguistic rights. For its part, the Department argued that it was up to the institution to establish, in a reasonable manner, the qualifications required for a job and that making bilingualism a requirement for certain positions was not out of order. The adjudicator analyzed the case by indicating that the applicable test to establish which rights should take precedence involved evaluating whether the decision of the employer was reasonable in the circumstances.

The adjudicator noted that, in this case, the evidence demonstrated that communication represented an essential skill for effectively performing the tasks associated with the job and that there was no evidence that the employer discriminated or acted in bad faith in making that decision. In paragraph 46, he wrote:

“an employee should be able to receive and understand instructions regarding work to be performed and to engage in everyday communication with other employees, particularly when safety is a concern.”

The adjudicator said that the complainant was not selected in 2013 for the positions requiring competence in English only, as other seasonal candidates had accumulated more seniority than he had. The adjudicator wrote the following in paragraph 48:

“Official language skills are to be implied as a relevant skill and ability qualification in every job posting and classification specification. Not being bilingual, Deleavey was only eligible for English essential positions. It is an exercise of management rights to establish linguistic profiles for its employees.”

The adjudicator was careful to specify that at the level of the individual, it was an unfortunate situation for the complainant; however, at the collective level, this case highlighted the peculiarity that distinguishes New Brunswick society as Canada's only officially bilingual province. He indicated that unilingual Anglophone seasonal workers got jobs thanks in part to their additional years of experience, but also because they met the other selection criteria; that the complainant was not selected for one of those jobs was strictly related to the fact that he had accumulated fewer years of employment with the Department in comparison to his colleagues. Additionally, the fact that he was not selected for a job requiring bilingualism was because he did not have the language skills required for that position. In paragraph 51, the adjudicator wrote:

"Official bilingualism has existed in New Brunswick for decades. Taking judicial notice, there is both a constitutional and a statutory obligation on the provincial government to provide services to members of the public in the official language of their choice [...] Neither the Charter nor the Act expressly declare an individual right to employment with a government department or agency and to work in the official language of one's choice. The right is held by members of the public and not the employees who provide services to them."

[Our emphasis]

The adjudicator went on to state that we find arbitration cases dating back to the 1980s that support the conclusion that bilingualism is a legitimate and reasonable requirement in order to apply for a job. In this case, the adjudicator arrived at the same conclusion and dismissed the grievance filed by the union stating that fluency in both official languages constituted a reasonable requirement.

Second decision

Reference: Moncton Firefighters Assn section locale 999 v Moncton (City), 2015 19678 (NB LA)

In this case, the Moncton Firefighters Association, Section Local 999 (the "union"), filed a policy grievance under the terms prescribed in Article 11 of the Collective Agreement (the "Agreement") in force between the union and the City of Moncton (the "City"). This case stems from the submission of a vacant position of a deputy fire prevention officer for the City of Moncton fire department. The job offer required that candidates be fluently bilingual and required that they be willing to undergo a language proficiency test to demonstrate their second-language proficiency.

The union claimed that in this case the requirement of bilingualism for this position contravened the Agreement then in effect, specifically, that the requirement was contrary to Article 11 of the Agreement which deals with job applications, vacancies, and promotions within the City of Moncton fire department. The union complained that the City, as an employer, did not have the authority to require an additional prerequisite for obtaining this promotion and that it was attempting to unilaterally prescribe requirements that went beyond the process of evaluation previously established through the Collective Agreement.

For its part, the City of Moncton argued that it was not in violation of the Agreement and, in addition, that it was acting only in order to comply with the legal and constitutional requirements imposed on it. It contended that the prerequisite was required in good faith because it is essential for the City of Moncton to offer a quality service to the Anglophone and Francophone communities. Among the legal arguments put forward, the City referred to paragraphs 35 and 36 of the *Official Languages Act* ("OLA") and to section 10 of Column I of Schedule "A" of Regulation 2002-63 under the OLA, which states the obligations of municipalities with respect to communications in both official languages:

10. Public notices, information, educational programs and responses to inquiries related to fire prevention services.

The City continued by relying on its own Official Languages Policy, adopted in April 1991, which recognizes the bilingual character of the City and aims to foster a respectful work environment in both official languages, to encourage employees to use their language of choice, and to offer members of the public service of equal quality in both official languages. It stated that the responsibilities of deputy officers are numerous and include, among others, conducting building inspections, presenting educational programs to members of the public, and responding in the community to emergencies, a community that includes a hospital, a university, schools, and many Francophone companies.

The City then revealed that for over a decade, only one bilingual deputy fire prevention officer had been working on a team of four officers, a situation that did not allow it to meet the needs of the City's Francophone community. In paragraph 154 of the decision, the arbitrator indicated that he considered that the team approach put forward by the City, i.e.,

of having two bilingual deputy officers for a team of four officers, is a reasonable measure; he also noted that this measure was reasonable and consistent with the legal trend in which arbitrators had to decide whether an approach implemented for “business purposes” by an employer was found to be legitimate, arbitrary, or unreasonable.

In the end, after analyzing the facts in this case, the arbitrator indicated in paragraph 133 of the decision that he accepted the argument that the City of Moncton, as an employer, had not violated Article 11 of the Collective Agreement. He also felt that through this approach, the City wanted, in good faith, to establish a working team that would allow the fire department to function properly and thus provide a quality service to the Anglophone and Francophone communities in the region in accordance with the obligations imposed under the OLA. The requirement of being fluent in both official languages in order to apply for the job of deputy fire prevention officer was deemed to be a reasonable skill and, in the light of the evidence presented by the parties, the policy grievance filed by the union was dismissed.



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Confidentiality of investigations

The investigation into security services in government buildings revealed a number of deficiencies in the manner in which the Department of Transportation and Infrastructure handled this matter. In fact, the formal notice of investigation, a confidential document addressed to the Deputy Head, found its way into the public domain. This is the first time in the 13-year history of the Office of the Commissioner that such a breach of confidentiality has occurred. This is a serious situation since a breach of this nature can

undermine the public's trust in government's ability to safeguard the confidentiality of complaints filed with the Office of the Commissioner. To prevent a reoccurrence of such situations, the Commissioner recommended that those responsible for provincial institutions ensure that they protect confidentiality at each stage of the investigation process so that members of the public can be confident that the complaints they file against an institution will be handled in a confidential manner by all parties involved.

Three years later, the OLA amendment to protect complainants from reprisal is still not in force

In June 2013, the Legislative Assembly of New Brunswick adopted many new provisions to the *Official Languages Act*. All of those have come into force (or will soon be in the case of professional associations) except for one: the provision to protect from reprisal complainants and people who cooperate in an investigation conducted by the Commissioner.

The Commissioner wrote to the Clerk of the Executive Council on January 23, 2015, to reiterate

the importance of implementing this section as soon as possible. On February 20, 2015, the Clerk informed the Commissioner that the government hoped to implement this provision prior to the fall of 2015. Unfortunately, this good intention has failed to produce results.

The Commissioner deplores the lack of progress by government in implementing this provision.

Commissioner welcomes reinstatement of forum with the Legislative Assembly

The Commissioner of Official Languages for New Brunswick is one of eight officers of the Legislative Assembly. Legislative Officers are independent of government, exercise oversight functions, and are mandated to assist the Legislative Assembly in holding government, ministers, and the bureaucracy to account. Legislative Officers protect the various kinds of rights of individual New Brunswickers and are appointed by and accountable to the Legislative Assembly.

In June 2015, seven Legislative Officers, including the Commissioner of Official Languages for New Brunswick, wrote a joint letter to the Chair of the newly formed Standing Committee on Procedure, Privileges and Legislative Officers of the Legislative Assembly expressing their interest in having an effective forum with the committee in the future.

In their letter, the Legislative Officers pointed out that the previous Standing Committee on Legislative Officers had not met with Legislative Officers since June 2011. The Legislative Officers also stated that an integral part of the mandate of the new committee was to provide a forum through which the Legislative Officers are accountable to the Legislative Assembly as well as to ensure that their offices function effectively and meet the objectives of their respective Acts.

On June 18, 2015, the Commissioner of Official Languages for New Brunswick presented the 2014-2015 Annual Report of the Office of the Commissioner of Official Languages for New Brunswick to a meeting of the Standing Committee on Procedure, Privileges and Legislative Officers. During this meeting, the Commissioner presented the highlights of the report and responded to all questions posed by members of the Committee. The Commissioner expressed hope that the new committee recognizes the importance of taking on a

more active role in ensuring that reports of legislative officers be used more effectively in the work of the Legislative Assembly. The Commissioner also stated that transparency and accountability would be improved by meeting with Legislative Officers at least once a year.

On November 12, 2015, Legislative Officers were invited to meet with the Standing Committee on Procedure, Privileges and Legislative Offices to be briefed on the respective role and mandate of their offices, and to receive input from Officers on how the Committee may serve as an effective forum in the future. At the November meeting, the Commissioner of Official Languages for New Brunswick stated that annual reports are key tools by which Legislative Officers are accountable to the Members of the Legislative Assembly, and that having a chance to present an annual report to the committee on the day it is published is a value-added feature for everybody. In response to a Member's question, the Commissioner stated: "It allows you to ask the questions right then. Later on, you are going to be asked by other people. If you have heard the presentation by an Officer firsthand, it is helpful to all of us. My recommendation would be to have regular and timely dialogue with respect to our annual reports."

At the time of going to press with this report, the Chair of the Standing Committee on Procedure, Privileges and Legislative Officers had called a meeting of the committee for June 21, 2016, in the Legislative Council Chamber for the Commissioner to present the Annual Report 2015-2016 of the Office of the Commissioner of Official Languages for New Brunswick. The Commissioner welcomes this opportunity and encourages a more frequent dialogue between Legislative Officers and the Legislative Committee through which legislative officers are accountable to the Legislative Assembly of New Brunswick.

Amendments to the *Official Languages Act* adopted in December 2015 are more than “purely housekeeping amendments”

The Commissioner of Official Languages for New Brunswick welcomes the amendments to the *Official Languages Act* introduced by government on December 2, 2015, as Bill 2, *An Act to Amend the Official Languages Act*.

During the Debate on Second Reading of Bill 2 on December 9, 2015, the Minister who introduced the Bill stated that the amendments were intended to address the inconsistency between the English and French versions of section 43 of the Act.

As provided for by section 2 of the *Official Languages Act*, the Premier is responsible for the administration of the *Official Languages Act*.

Subsection 43(17) of the Act requires the Commissioner to communicate the results of an own initiative investigation and any recommendations, including any opinion and the reasons for the recommendations, to the Premier and the deputy head or other administration head of the institution concerned. Similarly, section 43 (16) requires the Commissioner to communicate the results of an investigation pursuant to a complaint to the Premier, the deputy head or

other administration head of the institution concerned as well as to the complainant.

As a result of the changes made to the *Official Languages Act* in December 2015, in addition to the requirement for a deputy head or other administrative head to acknowledge in writing receipt of the results of an investigation as well as any recommendations made by the Commissioner, the Premier must now also acknowledge the same in writing.

The Commissioner received the first such acknowledgement of receipt by the Premier in a letter dated January 28, 2016, and continues to receive such acknowledgements of receipt from the Premier for all files for which an investigation report was completed.

The Commissioner believes this is a very positive step towards ensuring that the Minister responsible for the administration of the *Official Languages Act*, who, pursuant to section 2 of the OLA is the Premier, is fully apprised of the results of all of the Commissioner’s investigations as well as any recommendations made by the Commissioner.



CHAPTER O-0.5

Official Languages Act

Assented to June 7, 2002

Chapter Outline

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city — cité	
communication and communicate — communication et communiquer	
court — tribunaux	
Crown corporation — sociétés de la Couronne	
department — ministère	
institution — institution	
linguistic community — communauté linguistique	
municipality — municipalité	
official languages — langues officielles	
peace officer — agent de la paix	
publication and published — publication et publier	
public service — services publics	
Purpose.	1.1
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CHAPITRE O-0.5

Loi sur les langues officielles

Sanctionnée le 7 juin 2002

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agent de la paix — peace officer	
cité — city	
communauté linguistique — linguistic community	
communication et communiquer — communicate	
institution — institution	
langues officielles — official languages	
ministère — department	
municipalité — municipality	
publication et publier — publication and published	
services publics — public service	
sociétés de la Couronne — Crown Corporation	
tribunaux — court	
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PROMOTION



“Language is at the heart of quality healthcare”

Janine Doucet
Administrative Director
New Brunswick Heart Centre

Janine Doucet is the administrative director of the New Brunswick Heart Centre, located in the Saint John Regional Hospital. She is very familiar with the Heart Centre, because she has worked there since it opened in 1991. Every year, the Centre treats hundreds of patients from all across New Brunswick, both Anglophone and Francophone. Providing quality services in both official languages has always been one of Janine’s main concerns and not just in order to comply with the *Official Languages Act*; it is first and foremost a matter of patient well-being.

Why is it important for you to provide quality services in both official languages?

Effective communication is essential for ensuring optimum care and patient safety. If patients do not fully grasp what they are being told or if they are unable to clearly express their symptoms or concerns, there can be negative consequences. People who are sick are often stressed. Research shows that stress limits their ability to express their thoughts and feelings readily, particularly in a second or third language. Consequently, patients who can speak both official languages in most situations may find it difficult to use their second language when they are sick. Providing services in both official languages reduces communication barriers and associated patient risks.

How do you create a work culture that respects both official languages?

The key is making sure that employees understand “why” and then that they receive tools for moving on to “how.”

Health professionals are all driven by core values, which include providing safe, compassionate, and ethical patient care. When a link is made between language and patient well-being, those core values are activated, and a change can be made.

How do you go about motivating unilingual employees in order to achieve your goal of providing quality services in both official languages?

Unilingual employees may feel at a loss in the absence of support and tools. That is why we work with them so they feel comfortable making an active offer of service in both languages and then calling upon a bilingual colleague. Tools have been introduced, including mouse pads with removable flaps under which short French phrases can be placed to guide employees’ responses when they have to communicate with a Francophone.

How do you help bilingual staff maintain their proficiency in their second language?

Bilingual employees are assigned to patients who have indicated that they want to be served in French. This helps them maintain and strengthen their existing skills.

We have employees whose mother tongue is French, and they often provide support for other bilingual employees who want to expand their language skills. Training sessions in French are provided as well, and employees who want to take them receive support. The Café de Paris sessions, which are offered by the Official Languages Department of the Horizon Health Network, are by far the most popular with our employees. The sessions are individually sculpted to meet the specific needs of each participating employee, and those needs are bridged to the area of service in question. Employees who wish to gain additional competency in a particular

service will be able to practice vocabulary specific to that service.

How do you ensure continuity in the language of choice of patients?

A patient's stay in hospital often involves movement between departments and interactions with many employees. Patients have told us that they really prefer not to be asked their language of preference repeatedly. We therefore ensure that their language of choice is known and properly documented. To do this, we use different methods. For instance, when patients come in contact with program personnel, their language of preference is noted on their chart and in our databanks. Also, a sticker is placed on the front of the chart to indicate language preference. Flow sheets, which inform the different departments about patient visits, identify patients' language of choice as well.



QUESTION PERIOD AT THE LEGISLATIVE ASSEMBLY: 80% IN ENGLISH

The vitality of a language is not only related to the number of speakers. Several other factors play a role: its status (official language or not), its instruction in the schools, its use in the workplace, and its presence in the media. Also, public use of a language, particularly within large institutions, can have an influence on public perceptions with respect to its importance or place within society. We can therefore understand that a balanced use of both official languages in the Legislative Assembly is very important.

Question period is definitely one of the highlights of the Legislature's activities. Webcast and closely monitored by journalists, it has a direct impact on current affairs in the province. Although simultaneous interpretation is available during question period, the choice of languages used during a debate has a very symbolic value that cannot be underestimated.

A review of the question period transcripts from April 1, 2015, to March 31, 2016 (42 days), shows that, on average, debates were carried on 80% of the time in English. This result is slightly lower than the previous period (December 4, 2014 to March 2015), which was 82%.

It is interesting to note that question period debates were carried on in English, ranging from a high of 96% on April 7, 2015, to a low of 47% on April 30, 2015. In fact, April 30, 2015 was the only day among the 42 days of question period debates when the usage of French was higher than the usage of English.

The Commissioner recognizes and respects the right of MLAs to use their language of choice during debates. However, she notes the important role elected officials can play in the vitality of both official languages in the province. She therefore encourages all MLAs to strive for a more balanced use of English and French in the Legislature.

Presentations by the Commissioner

As part of her mandate, the Commissioner is often invited to speak and make presentations to different groups. Below is a list of events at which the Commissioner has given speeches or made presentations during the 2015-2016 fiscal year.

- French for the Future – Fredericton Forum
- Frye Festival
- International Association of Language Commissioners
- Consortium national de formation en santé
- French for the Future – National Ambassador Youth Forum
- Judges of the Court of Appeal of New Brunswick
- Executive and Board Members of the Association des enseignantes et des enseignants francophones du Nouveau-Brunswick
- Parliamentarians of the National Assembly of Bhutan
- Group of registrars and executive directors from professional associations in the area of health
- Fédération acadienne de la Nouvelle-Écosse
- Rendez-vous de fondation du Réseau des villes francophones et francophiles d'Amérique
- Standing Committee on Procedure, Privileges and Legislative Officers
- 6th Annual Meeting of the Language Rights Support Program (LRSP)
- Association francophone des municipalités du Nouveau-Brunswick – Mayors' Table of Concertation
- 13th Annual Michel-Bastarache Conference