

**OFFICE OF THE COMMISSIONER
OF OFFICIAL LANGUAGES
FOR NEW BRUNSWICK**



**COMMISSARIAT AUX
LANGUES OFFICIELLES DU
NOUVEAU-BRUNSWICK**

JANUARY 2014

INVESTIGATION REPORT

DEPARTMENT OF TOURISM, HERITAGE AND CULTURE

**SENT TO: THE PREMIER
THE DEPUTY MINISTER
THE COMPLAINANT**

**IN THE MATTER OF THE *OFFICIAL LANGUAGES ACT* OF NEW BRUNSWICK
R.S.N.B. 2002, CHAPTER O-0.5**

**Subject: Complaint pursuant to the *Official Languages Act*
Department of Tourism, Heritage and Culture – Mactaquac Golf Course
Allegations of deficiencies with respect to the provision of French communication**

INVESTIGATION REPORT

1. Complaint

On September 8, 2013, a complaint was filed at our office, the details of which are as follows:

On or around September 8, 2013, the complainant was at Mactaquac Golf Course with a friend from out of province and whose English is, according to the complainant, “very poor”.

Having had an issue on the course, the complainant’s friend went into the pro shop in order to talk to a manager about this. He started talking in French to a manager who had to stop him because she was unable to speak French. There was another manager, who also was a unilingual Anglophone. In fact, it seemed to the complainant there was no one at the pro shop that was able to speak French. Furthermore, the complainant noticed that all signs at the shop were in English only.

The complainant outlines the following: “This golf course is run by the Province of New Brunswick. Why is there only English speaking management? I thought that management had to be able to speak French and English. This is a problem that needs to be fixed.”

2. Investigation

The Commissioner of Official Languages’ mandate includes the fair and equitable investigation of public complaints. To fulfill that mandate, a preliminary determination must be made as to the admissibility of these complaints pursuant to the criteria set out in the *Official Languages Act* (“OLA”). To that end, the Commissioner’s authority to act in the matter must be established.

Since Mactaquac Golf Course falls within the management of the Department of Tourism, Heritage and Culture (“Department”) and the other criteria are satisfied, the complaint was deemed admissible and worthy of investigation. As such, pursuant to subsection 43(13) of the *Official Languages Act* (“OLA”), a letter conveying the complainant’s concerns was sent on September 24, 2013 to the Department.

On October 15, 2013, the Department contacted our office requesting further details as to the date and time of the incident reported by the complainant. This request was passed on to the complainant. In an email, the complainant wrote the following:

It should not matter the date and time, this is just their way of not dealing with the problem that their staff is not able to talk French. I find this a poor way to deal with the problem.

Later, the complainant indicated that the incident took place during the week of September 2nd to 8th, most likely on the 4th. This information was relayed to the Department on October 24, 2013.

On November 18, 2013, our office received a response letter from the Department which informed us of the following:

The acting Park Manager was immediately informed with respect to the complaint where the client felt there was no one at the pro shop who was able to speak French. The Manager of Client Services verified the staff schedule for the week of September 2nd to September 7th and confirmed there were bilingual personnel on site. It is unfortunate the client felt he was unable to continue in the language of his choice. The management team ensures there are bilingual personnel available at all times.

In addition, we received confirmation from the acting Park Manager that all signs at the pro shop will be translated and posted for the 2014 season.

In closing, the Department of Tourism, Heritage and Culture will continue to work closely with Mactaquac Golf Course to ensure staff is reminded of their responsibility to the public to provide quality service in both official languages.

This letter was sent to the complainant on December 3, 2013 for comments. In his reply, the complainant stated the following:

I understand that you can only act on the information that you are given. I do not agree with the information that you were given, so if this happens again I will just call the media, the acting manager does not speak French, anyone can answer the phone in both English and French, but when it comes to talking they need to be able to talk in both.

The above-noted information is sufficient to allow us to draw conclusions without the need to continue our investigation or invoke any additional powers such as those conferred on a commissioner under the *Inquiries Act*.

3. Observations, Analysis and Conclusions

The OLA stipulates the following with respect to communication with the public:

27 Members of the public have the right to communicate with any institution and to receive its services in the official language of their choice.

28 An institution shall ensure that members of the public are able to communicate with and to receive its services in the official language of their choice.

28.1 An institution shall 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.

29 Institutions shall publish all postings, publications and documents intended for the general public in both official languages.

Upon reading the complainant's allegations, it is our understanding that the source of this complaint was based on a specific incident. The complainant made no reference to his feeling of impression. Yet, in its response, the Department uses the expression "the client felt" in two instances:

1. The acting Park Manager was immediately informed with respect to the complaint where the client felt there was no one at the pro shop who was able to speak French.
2. It is unfortunate the client felt he was unable to continue in the language of his choice.

[Emphasis added]

In our view, these statements do not address the core issue. Instead, in writing this, the Department appears skeptical about the complaint. Nevertheless, we believe that it was not able to provide sufficient information showing that the incident did not happen as reported by the complainant.

According to the institution, "there were bilingual personnel on site" when the complainant and his friend visited Mactaquac Golf Course's pro shop. It is important to note that this information seems to be based only on the staff schedule for the relevant week. We are disappointed by the lack of thoroughness with which the Department dealt with this matter. Despite the fact that the complainant provided employee names, we were not advised of any effort having been made to follow up with the individuals involved in order to obtain their version of events, confirming or refuting the allegations. In this regard, the Department failed to address the actual incident and, if applicable, take the necessary action(s).

That said, since the Department did not clearly deny the allegations, we therefore conclude that this aspect of the complaint is founded.

With respect to the signage, the Department indicates that "all signs at the pro shop will be translated and posted for the 2014 season". This leads us to conclude that the signage described by the complainant did not comply with the OLA. Consequently, this aspect of the complaint is also founded.

In light of the above, we deem it necessary to make recommendations in this matter. Indeed, having bilingual personnel available on site, as may have been the case, does not in and of itself, mean that there is compliance with the OLA. Therefore, we encourage the Department to ensure that its employees at Mactaquac Golf Course are fully aware of their obligations under the OLA. Thus, we recommend the following:

Recommendation 1

That the Department:

- **ensure that its employees at Mactaquac Golf Course review the Official Languages – Language of Service Policy and Guidelines of the Government of New Brunswick;**
- **immediately upon hiring, make the *i-Learn* – Knowledge Centre module on official languages and language of service mandatory for its front-line employees at the pro shop; and**
- **establish a clear procedure that employees must follow in order to offer and provide services in the official language of the clients' choice.**

Regarding the signage, although the planned corrective action is satisfactory, we believe that a broader approach should be adopted. Our recommendation to that effect is the following:

Recommendation 2

That the Department:

- **conduct a comprehensive review of all signage currently in place at Mactaquac Golf Course in order to assess the situation; and**
- **ensure that, from now on, all postings, and not only at the pro shop, be translated in a systematic manner so that they are always available in both official languages at the same time.**

This report is respectfully submitted to the Premier, to the Deputy Minister of Tourism, Heritage and Culture and to the complainant pursuant to subsection 43(16) of the OLA.

[Original signed by]

Katherine d'Entremont, M.P.A.
Commissioner of Official Languages for New Brunswick

Signed at Fredericton,
in the Province of New Brunswick
this 21st day of January 2014