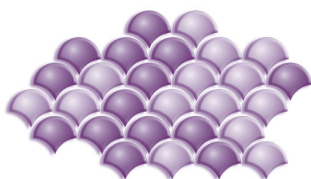


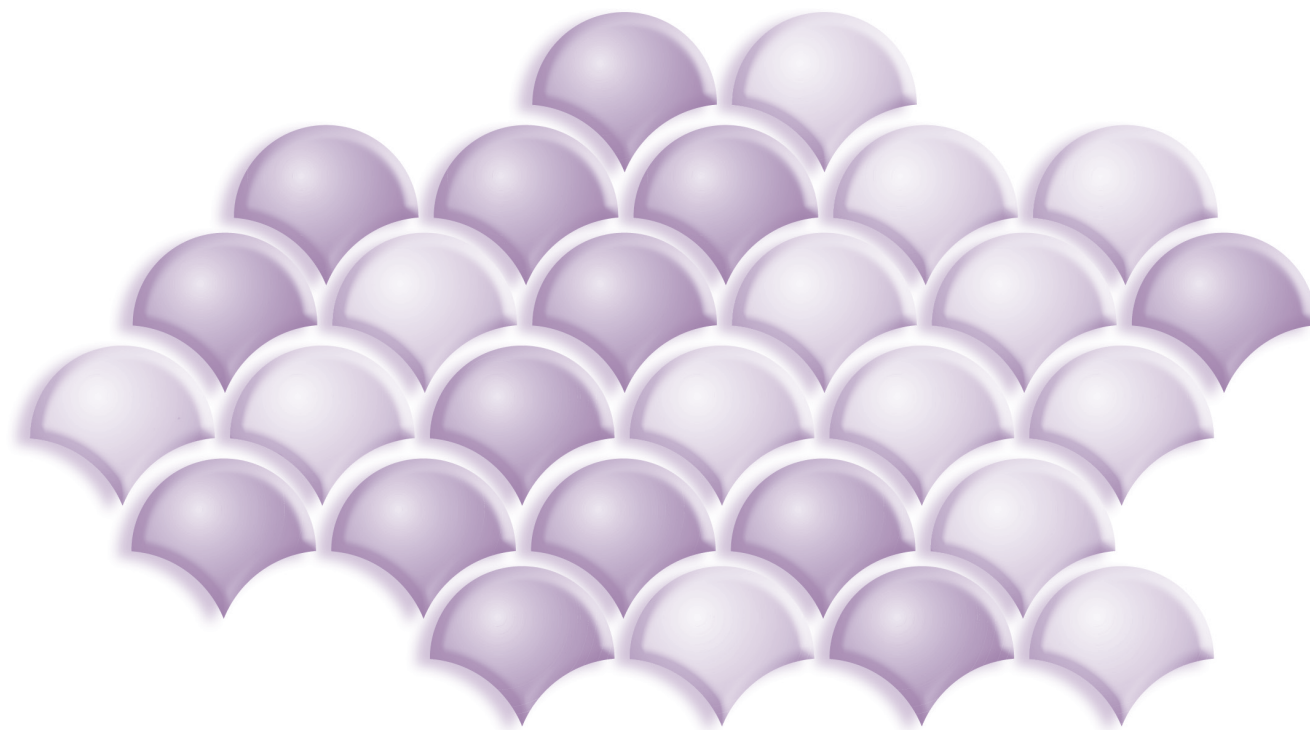
Annual Report of the Commissioner of Official Languages for New Brunswick

COMMISSIONER OF
OFFICIAL LANGUAGES
FOR NEW BRUNSWICK



COMMISSAIRE AUX
LANGUES OFFICIELLES DU
NOUVEAU-BRUNSWICK

The logo of the Office of the Commissioner of Official Languages is an artistic rendering of people gathered together and represents the relationship between New Brunswick's linguistic communities. It also represents the principles upon which the Office has been created, principles that are found in the preamble to the *Official Languages Act*.



2004 - 2005

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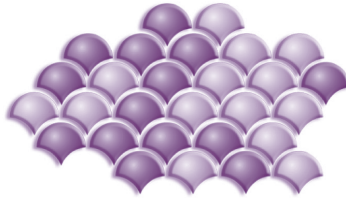
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**COMMISSIONER OF
OFFICIAL LANGUAGES
FOR NEW BRUNSWICK**



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

The Honourable Bev Harrison

Speaker of the Legislative Assembly of New Brunswick
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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 of April 1, 2004 to March 31, 2005.

Respectfully submitted,

Michel A. Carrier, Q.C.
Commissioner of Official Languages for New Brunswick

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FROM THE COMMISSIONER

The time has come already for the second annual report of the Commissioner of Official Languages to the Legislative Assembly of New Brunswick. What is the tenor of this report? Generally speaking, my report is favourable with respect to the prevailing mindset among the persons responsible for implementing the *Official Languages Act* (OLA) within their respective organizations. However, as one can see by perusing Chapter Two, there is still work to be done before we can say that we have an effective provision of services of equal value in both official languages everywhere in the province, especially services in French.

The *Official Languages Act* sets forth the principles on which institutional bilingualism is based and establishes the mechanisms for implementing that bilingualism in New Brunswick. However, that is not enough for bilingualism, overnight, to become a reality across the province. For that to happen, these principles of equality and linguistic inclusion must be adopted as fundamental values of a pluralist society, and the citizens of that society must incorporate those values into their day-to-day interactions with members of the other linguistic community, especially when that community is the minority one.

My role as Commissioner of Official Languages can be likened to that of an ombudsman ensuring compliance with the Act in terms of the services provided by the government and its institutions to the public, and to that of an advocate promoting the advancement of French and English in the province. It is therefore my duty to try to convince New Brunswickers of the benefits of being open-minded and inclusive with regard to official-language equality so that we may ultimately all view ourselves as full-fledged citizens of New Brunswick and Canada, whether we belong to the English-language or the French-language linguistic community.

Bilingualism yields added value not only for the province, but also for each and every one of us, regardless of our field of endeavour. Being proficient in both official languages of New Brunswick and Canada or being favourably disposed towards them brings with it personal and collective benefits enabling us to broaden our individual horizons in terms of both our intellectual and material growth and our receptiveness to others.

This year I focused on working with senior officials in government departments and institutions in an on-going manner to promote the establishment of practices aimed at producing better results in the provision of quality services in both of the province's official languages. I was able to examine and resolve a number of complaints that did not require extensive investigations because the leaders of the government institutions in question were willing to take corrective action shortly after having been notified of the subject-matter of the complaint.

My action was not confined to government institutions alone. I also devoted a great deal of energy interacting with some segments of the business community with a view to encouraging its members to serve their Francophone and Anglophone patrons in the language of their choice. I also worked to build bridges with social organizations to promote French and English in the province, one of the objectives contained in the *Official Languages Act*. Accordingly, my goal is to involve as many stakeholders as possible in our mission of promotion.

During the year, I impressed upon the government the need for it to adopt a strategic master plan for implementing the OLA that is as specific as possible and includes performance criteria for measuring the degree of success obtained. Following amendments to the government's Official Languages Policy in December, I decided to review that policy and its guidelines and make appropriate recommendations in this report.

I wish to take this opportunity to honour the 250th anniversary of the tragedy of the Deportation of the Acadians that began in 1755. As our Lieutenant-Governor so aptly put it, the Deportation was a seminal event not only for the Acadian people, but also for our community as a whole. That event has marked us all, Francophones and Anglophones alike, because it is part of our common history. Today, we cannot but admire the resilience, tenaciousness, and will to survive of the Acadian people who, despite their dispersion and the trials and tribulations they had to endure, managed to preserve their language and culture.

Thanks to New Brunswick's *Official Languages Act*, among other things, we are all richer today because the French linguistic community in the province is fully engaged in the social, economic, and cultural growth of New Brunswick and Canada and because the French and English linguistic communities in our province have equality of status and equal rights and privileges, including the right to the distinct educational and cultural institutions needed to protect and promote them. That is no small accomplishment on our part.



Michel A. Carrier, Q.C.

COMMISSIONER'S INTENTION TO MAKE RECOMMENDATIONS IN HIS ANNUAL REPORTS

The Commissioner took advantage of his first annual report to clarify his interpretation of the mandate given him under the *Official Languages Act* (OLA), namely, to ensure compliance with the Act and to promote the advancement of both official languages in the province. His aim above all was to clarify his stance with regard to the aspect of "promotion." He believes that activities aimed at promoting the advancement of both official languages in the province consist of three separate elements: promoting the OLA, celebrating our achievements in the area of official languages and language rights, and encouraging the government to do more in the area of official languages.

The Commissioner, as an official agent independent from government, sees himself as both an ombudsman of language rights and an agent of change with regard to official languages in the province. That general philosophy provides the basis for his dealings with government and its institutions, the public, and various societal institutions. Wherever possible, he works collaboratively and openly when interacting with government institutions, whether it be during his formal investigations or in his actions aimed at ensuring compliance with the Act and promoting the advancement of both official languages. His initiatives are always designed to achieve mutually acceptable solutions to effect positive change in line with the intent and spirit of the Act.

In adopting the *Official Languages Act*, the Legislative Assembly decided on a blueprint for society in that this Act reflected the legislators' firm commitment to concerted action and a commitment by government to ensure the effective implementation of the Act. Through this decision, members of the public were also invited to take individual and collective action in order to promote the advancement of the principles of equality contained in the Act.

The inclusion in the Act of operative sections and the provision for the establishment of the position of Commissioner of Official Languages shows that the Legislative Assembly wished to breathe new life into the advancement of linguistic rights and the concept of equality in the province, i.e., to create a vibrant environment marked by interaction between the public, the government, and the Legislative Assembly, enhanced by the presence of a Commissioner of Official Languages.

Subsection 43(21) of the Act stipulates that the Commissioner must submit an annual report of his activities to the Legislative Assembly. This annual report must include not only a summary of the Commissioner's activities during the previous year but also his thoughts and comments on implementation of the OLA. This subsection of the Act is silent regarding the possibility of making recommendations to the Legislative Assembly. However, in the Commissioner's opinion, this section must be interpreted in the light of the overall intent of the Act, which is to promote advancement of real linguistic equality in the province. Accordingly, it is important for his report to include his findings and his opinions on all matters that come under his jurisdiction and to contain recommendations stemming from his reflections in that regard.

The public expects the Commissioner to take a proactive stance on promotion of the principles contained in the *Official Languages Act*, full implementation of the Act, and its universal application. To do otherwise would be to betray this expectation on the part of the public as well as the members of the Legislative Assembly. Consequently, the Commissioner will make recommendations for the Legislative Assembly, when he considers it appropriate, in submitting his annual activity reports.

SUMMARY

This second annual report of the Commissioner will not dwell on the administrative intricacies of the organization of the Office of the Commissioner of Official Languages, as was the case in the first annual report. However, it continues a practice established in the Commissioner's first report, namely the systematic inclusion of chapters devoted specifically to the main decisions of courts impacting on linguistic rights in the province or the interpretation of the *Official Languages Act*, the handling of complaints, governance of official languages, and the promotion of both official languages in the province. Accordingly, the Commissioner hopes that his annual reports will provide an opportunity for the Legislative Assembly and the general public to learn more about the work accomplished by the Office of the Commissioner during the previous year and to get a sense of how things are evolving in terms of the advancement of linguistic equality in New Brunswick.

This year, the Office of the Commissioner of Official Languages handled 150 complaints and 26 requests for information. Some 81 complaints were admissible, 72 of which (88.9%) reported a lack of services in French and 9 (11.1%), a lack of services in English. Fifty-two complaints (29.5%) were deemed inadmissible because they did not come under the Commissioner's authority or did not concern an institution within the meaning of the Act. Seventeen (9.7%) complaints were referred to other institutions for consideration.

Rather than investigate one by one the complaints received in connection with the recent provincial election and the triennial elections (municipal and school board elections and elections within the regional health authorities), the Commissioner chose to undertake a single investigation. Following numerous contacts and meetings with the Office of the Chief Electoral Officer, the Commissioner expects that its staff will act on the suggestions and recommendations he makes. The Commissioner is to submit his final report on those elections sometime during the fall of 2005.

The Commissioner devotes a significant portion of his annual report to the need for the government to engage in comprehensive strategic planning in the area of official languages by adopting a master plan for implementation of the *Official Languages Act*. With that in mind, the Commissioner analyzes in detail the steps taken by the government to implement the Act from the standpoint of his own fundamental stance on the subject, and he also drafts specific recommendations on aspects of that planning.

In general, the Commissioner recognizes the efforts being made by the government to comply with the *Official Languages Act* since, for all intents and purposes, the government has developed a strategy to implement the Act through amendments to the "language of service" section of its Official Languages Policy and the establishment of guidelines to carry out that policy. However, the Commissioner sees this master plan as incomplete and believes it should cover the entire strategy for implementing the Act, including performance criteria and the systematic assessment of programs for implementing the *Official Languages Act*, both province wide and in the regions. The Commissioner also notes the fact that the "language of work" section of the Official Languages Policy was not re-examined with a view to its gradual implementation in the Civil Service and that the government decided to decentralize funding for its employee language training programs within each department at a time when such a program would have been a major asset in improving government services. Enrolment in such training appears to have fallen sharply since that decision was made, much to the Commissioner's dismay.

In the Commissioner's view, the passage of the first *Official Languages Act* and the adoption of the principle of duality in the field of education are forms of language planning in New Brunswick. In light of the progress achieved in the area of linguistic rights in the province and the new challenges stemming from those very significant changes, the Commissioner recommends that the Government of New Brunswick stay the course by setting up a language planning board. Such a board would rely on committees of experts consisting of specialists in geographical names and language planning who would undertake studies on

request and submit recommendations based on those studies. This advisory structure would become the sole official vehicle for making formal recommendations to the government with regard to geographical names and language planning in the province.

The Commissioner defines language planning as: *By “language planning” we mean all of the strategies for implementing the Act and the government’s language policy, which for the government constitute the course it has set to attain the objectives contained in the Official Languages Act.*

This report of the Commissioner of Official Languages also highlights the initiatives undertaken by his office to promote the advancement of both official languages in the province. The Commissioner devoted a great deal of energy interacting with some segments of the business community and social organizations and took a proactive approach with government institutions to achieve his objectives in relation to compliance with the Act and the promotion of French and English in the province. The Commissioner also undertook to reach out to youth through a very dynamic program designed especially for them. The aim of this program is to promote positive attitudes among young people with respect to both official languages in the province and the learning of those languages.

The Commissioner is generally optimistic about the outlook for official languages and language rights in New Brunswick. He notes in particular the level of goodwill among municipalities and regional health authorities, even in areas where the provision of services in both official languages poses a significant challenge. He sees great vitality on the part of the French linguistic community, which is taking on responsibility for itself and becoming organized in all areas of endeavour, be it culturally, socially, or economically. He also observes in the English linguistic community a positive and reassuring attitude towards the French community’s growth and the principle of linguistic equality in the province. The Commissioner is convinced that the French and English linguistic communities are benefiting from New Brunswick’s bilingual status and that they are increasingly coming to accept that government services and even business services, regardless of where they are provided, should be available in the public’s language of choice.

CHAPTER ONE

LEGAL EVOLUTION OF LANGUAGE RIGHTS: ONE STEP CLOSER TO EQUALITY OF STATUS AND USE OF FRENCH AND ENGLISH

In our first annual report to the Legislative Assembly, we identified the legislation adopted in New Brunswick and at the federal level with regard to language rights, specifically the *Official Languages of New Brunswick Act*, the *Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*, and the *Canadian Charter of Rights and Freedoms*. We also apprised the Legislative Assembly of the steps taken to ensure the smooth functioning of our office and the administration of those facets of the Act that concern us, particularly our interpretation of the Commissioner's role and mandate and the procedures for submitting complaints to the Commissioner.

This year we will not be discussing legislation because there have been no major changes in that area. Nor will we be reviewing the structure of our office since, for all intents and purposes, everything we need to discharge our obligations regarding compliance with the Act and promotion of the province's two official languages is in place.

In this chapter, therefore, we plan to review the chief court decisions having a significant impact on language rights in the province.

We have selected five cases heard by the Supreme Court of Canada, the Federal Court of Canada, or the New Brunswick Court of Appeal involving issues of great significance to the advancement of official languages in the province. Some of the rulings in question affect how language rights are interpreted, while others serve to clarify the interpretation of specific sections of New Brunswick's *Official Languages Act*.

Section 22 of the Official Languages Act (OLA)

In *Charlebois v. the City of Saint John*, to be heard by the Supreme Court of Canada in the fall, the justices will have to determine whether cities are subject to section 22 of the OLA when they appear before courts in the province in civil matters as parties to a dispute involving a citizen. New Brunswick's Court of Appeal ([2005] NBCA 49) decided that the term "institution" defined by section 1 of the OLA does not include municipalities nor the City of Saint John and that it is not therefore subject to section 22 of the Act. The applicant has appealed this decision and the Supreme Court will hear the case this fall.

The definition of "institution" under section 1 of the OLA reads as follows:

"institution" means an institution of the Legislative Assembly or the Government of New Brunswick, the courts, any board, commission or council, or other body or office, established to perform a governmental function by or pursuant to an Act of the Legislature or by or under the authority of the Lieutenant-Governor in Council, a department of the Government of New Brunswick, a Crown corporation established by or pursuant to an Act of the Legislature or any other body that is specified by an Act of the Legislature to be an agent of Her Majesty in right of the Province or to be subject to the direction of the Lieutenant-Governor in Council or a minister of the Crown.

Section 22 of the Act reads as follows:

Where Her Majesty in right of the Province or an institution is a party to civil proceedings before a court, Her Majesty or the institution concerned shall use, in any oral or written pleadings or any process issuing from a court, the official language chosen by the other party.

Section 22 of the Act is one of a series of sections under the part of the Act entitled "the administration of justice," which deals with the rights of citizens when they appear before the courts. This section deals specifically with the conditions that must prevail when the

Province or one of its institutions is a party to civil proceedings before a court. Moreover, the specific obligations of municipalities are spelled out in sections 35 to 38 of the Act.

The applicant maintains that the City of Saint John is subject to section 22 of the OLA when it appears in civil proceedings before the courts since it meets the definition of “institution” in section 1 of the Act. For its part, the City of Saint John maintains that it is not subject to section 22 because the definition of “institution” does not apply to it and that its obligations are framed in sections 35 to 38 of the Act.

Section 43 of the Official Languages Act (OLA)

Must members of the public who believe their language rights have been infringed upon first exhaust the procedures for filing a complaint with the Commissioner of Official Languages, contained in section 43 of the Act, before seeking remedy before the courts? That issue was considered by the Court of Appeal of New Brunswick ([2005] NBCA 34) in legal proceedings undertaken by the Town of Caraquet against the Department of Health and Wellness following the closure of the Hôpital de l’Enfant-Jésus in Caraquet.

The Town of Caraquet applied to the Court of Queen’s Bench in connection with legal action against the Department of Health and Wellness in a bid to have New Brunswick’s Provincial Health Plan quashed with respect to the Hôpital de l’Enfant-Jésus in Caraquet. It also filed a complaint with the Commissioner of Official Languages after taking that step. The Commissioner refused to consider the complaint given that remedy was already being sought before the Court of Queen’s Bench.

The Department of Health and Wellness maintained that the Town of Caraquet could not seek remedy before the courts until it had exhausted the complaints procedure established under the OLA.

The trial judge ruled that the Town of Caraquet had put the “cart before the horse” by initiating legal proceedings prior to having filed a complaint with the Commissioner of Official Languages. Accordingly, he dismissed the petition/statement of claim by the Town of Caraquet.

The Town of Caraquet appealed this decision to the Court of Appeal of New Brunswick, which ruled in its favour on the grounds that subsection 43(20) of the OLA stipulates that section 43 of the Act does not affect any other right of action. Consequently, it is not necessary to exhaust the procedures for filing a complaint with the Commissioner of Official Languages before turning to the courts when individuals believe their language rights have been infringed upon.

Subsections 43(18), 43(19), and 43(20) of the Act read as follows:

43(18) *If a complainant is not satisfied with the conclusions of the Commissioner received under subsection (16) or with the resolution of the complaint, the complainant may apply to The Court of Queen’s Bench of New Brunswick for a remedy.*

43(19) *The judge of a court referred to in subsection (18) may grant such remedy as he or she considers appropriate and just in the circumstances.*

43(20) *This section does not affect any other right of action that a person may have.*

Minority Language Education Rights

The Supreme Court ([2005] S.C.R. 201) added to the interpretation of section 23 of the *Canadian Charter of Rights and Freedoms* in a case brought before it from Quebec. Among other things, it laid down the factors to be considered when a school authority has to decide whether or not parents have the right to enrol their children in a school where the language of the minority official language community is taught. It defined what constitutes the “major part” of school instruction received in the minority language as a criterion for

determining the eligibility of students who, pursuant to the Charter, have the right to be enrolled at a school of instruction in the language of the minority, particularly with regard to continuity of language instruction for that student and his or her intent to continue in the minority language.

Two Quebec parents, Canadian citizens since 1997, who wanted to enrol their children in an English-language public secondary school requested certificates of eligibility to allow their children to attend English-language public schools in Quebec. The requests were denied by the Minister of Education's designated official on the ground that their children had not completed the "major part" of their instruction in English as required by subsection 73(2) of Quebec's *Charter of the French Language*. This decision was upheld by the review committee on language instruction and the Administrative Tribunal of Quebec. Concurrently with the proceeding before the Administrative Tribunal and at the request of one of the parties, the Quebec Superior Court declared subsection 73(2) to be inconsistent with subsection 23(2) of the *Canadian Charter of Rights and Freedoms*. The Attorney General of Quebec appealed that decision, and the Quebec Court of Appeal set aside the Superior Court's decision, finding that the "major part" requirement set out in subsection 73(2) of the *Charter of the French Language* was constitutional. This decision was appealed to the Supreme Court of Canada.

The Supreme Court held that the appeal should be allowed in part. The children were eligible for English education in Quebec. Properly interpreted, subsection 73(2) of Quebec's *Charter of the French Language* is constitutional.

This Supreme Court decision will definitely serve as a guide to officials having to decide the eligibility of applications to register children in minority schools elsewhere in Canada since it spells out, in particular, the factors to be considered in such situations:

- How much time was spent in each program?
- At what point in the child's studies was the choice of language of instruction made?
- Which programs are being or were being offered?
- Does the child have learning problems or other problems?

Determination of Federal Electoral Districts

The Federal Court ([2004] FC 679) ruled on an issue of capital importance to official language communities in New Brunswick, namely, determination of the boundaries of federal electoral districts that take their linguistic and cultural specificity into account.

Following each decennial census, there is a process for taking demographic change into account to make the necessary adjustments with a view to balancing the number of voters between districts.

The Federal Court of Appeal overturned a decision of New Brunswick's Electoral Boundaries and Representation Commission transferring the parish of Allardville and part of the parishes of Saumarez and Bathurst from the federal electoral district of Acadie-Bathurst to that of Miramichi. In so doing, the Court ruled that it was necessary to attach just as much, if not more, importance to respecting the community of interest or community of identity of an electoral district in the province, as well as its historical pattern, than to demographic data alone.

Pursuant to the recommendation of a commission chaired by The Honorable Joseph Daigle and consisting of two additional members, namely, Lorio Roy and Pierre Foucher, the Parliament of Canada passed Bill C-36 providing for a return to the situation that prevailed prior to the initial report of the Electoral Boundaries and Representation Commission. The Bill was passed by the Senate of Canada on February 23, 2005.

RCMP Services in the Amherst Area in Nova Scotia (Doucet v. Canada [2004] FC 1444)

Once the appropriate amendments to the *Official Languages (Communications with and Services to the Public) Regulations* have been adopted, the RCMP will be required to provide service in French in the Amherst area of Nova Scotia.

The Federal Court of Canada has established that, in addition to taking into account the percentage of Francophones in a census subdivision, it is also necessary to consider the number of Francophones who avail themselves or who might avail themselves of the services of the RCMP on Highway 104 in Amherst.

The Federal Court declared that the section of the Trans-Canada Highway crossing the service area of the RCMP detachment in Amherst, Nova Scotia, is an area of significant demand for services in French within the meaning of paragraph 20(1) of the Charter. It also declared that subparagraph (5)(1)(h)(1) of the *Official Languages (Communications with and Services to the Public) Regulations*, adopted pursuant to section 32 of the OLA, does not comply with paragraph (20)(1)(a) of the Charter. The Court stated further that these Regulations do not constitute a reasonable limit on constitutional rights in a free and democratic society within the meaning of section 1 of the Charter.

The Court ordered that as long as the area continues to be an area of significant demand within the meaning of paragraph 20(1)(a) of the Charter, the Governor in Council shall remedy the infringement and fulfil her constitutional obligations within 18 months of the date of this judgment.

CHAPTER TWO

FILING AND HANDLING OF COMPLAINTS

Filing a Complaint

The new *Official Languages Act* differs from its predecessor in that it has more clout in the area of language rights: it requires government institutions to make sure that services are actively offered in both official languages and that those services are effectively provided in the public's language of choice across the province; it provides for the establishment of the Office of the Commissioner of Official Languages headed by a Commissioner of Official Languages; and it allows members of the public to file complaints under the Act.

Being able to file a complaint means that members of the public may take action personally and directly if they believe their language rights under the *Official Languages Act* have been infringed.

Anyone wishing to file a complaint may do so either in person, in writing, or by e-mail. The Office of the Commissioner's Web site (<http://www.officiallanguages.nb.ca>) describes the procedure for filing a complaint and provides some helpful hints. The Web site can also be used to reach the Office of the Commissioner in order to address any other issue relating to official languages.

Complaints-Handling Process

- Complaint filed by complainant alleging non-compliance with the *Official Languages Act*.
- All complaints received are considered confidential, and every effort is made to keep the complainant's identity confidential.
- The Commissioner may refuse to investigate or cease to investigate any complaint if, in his opinion, it is trivial, frivolous, or vexatious or is not made in good faith, or if the subject matter of the complaint is unfounded. If the Commissioner refuses to investigate or ceases to investigate, he must provide the complainant with reasons for his decision.
- The Commissioner notifies the institution concerned of his intention to investigate.
- At the end of his investigation, the Commissioner forwards the results of the investigation solely to the Premier, the administrative head of the institution concerned, and the complainant. He may include in his report any recommendations he deems appropriate as well as any opinion or reasons supporting his recommendations.
- If the complainant is not satisfied with the Commissioner's findings, he or she may seek redress before the Court of Queen's Bench of New Brunswick. A judge may decide on the redress that he or she deems fair and appropriate with regard to the circumstances.
- There is nothing in the Act that precludes a complainant from seeking redress directly with the Court of Queen's Bench instead of filing a complaint under the *Official Languages Act*. However, such a process entails costs for the person initiating it.

Role and Conduct of the Commissioner as Regards Compliance with the Official Languages Act

Under the Act, it is the role of the Commissioner to conduct investigations, either after receiving complaints or on his own initiative, and to submit reports and make recommendations with a view to ensuring compliance with the Act. The complaint process is therefore a way to trigger an investigation by the Commissioner where there is an alleged infringement of the Act. The Commissioner makes every effort to follow up on complaints as speedily as possible by first ascertaining the relevance of each complaint and then, if necessary, dealing with the institutions concerned.

Without jeopardizing his independence, the Commissioner, in his capacity as language-rights ombudsman with respect to the *Official Languages Act*, gives himself sufficient latitude to intercede informally with the institutions concerned in order to encourage them to change practices that are counter to the spirit or letter of the Act. While the Commissioner must investigate where complaints are admissible, he can also take informal action when a complaint that is technically inadmissible nonetheless signals a problem that could affect the quality or nature of the services offered. In fact, since the establishment of the Office of the Commissioner, the Commissioner has interceded many times with government institutions to ensure that the requisite measures are effectively in place to guarantee the active offer of services and the provision of those services in the public's official language of choice.

The complaints-handling process is a means for the Commissioner to identify areas in which there are problems with compliance with the Act and an opportunity for him to take action to have those problems rectified. In a way, it is a form of partnership between the Commissioner and the public designed to ensure compliance with the OLA. He works discreetly and in a spirit of co-operation with the institutions concerned. He does not seek to lay blame. While the Commissioner favours a transparent approach characterized by support and collaboration in his dealings with institutions, he will not, if confronted by a blatant lack of co-operation on the part of an institution, shy away from publicly denouncing such resistance in his annual report to the Legislative Assembly.

Follow-Up on Complaints from 2003-2004

Obviously, the constraints of the Commissioner's annual reporting deadlines do not apply to the complaints he receives. Accordingly, any annual report may make mention of complaints that will not be resolved until the following fiscal year. From year to year, therefore, the annual reports will follow up on select complaints from the year before.

Complaints Received Between April 1, 2003 and March 31, 2004

The statistics below concern complaints that were received between April 1, 2003 and March 31, 2004 but were not resolved during that period. These complaints were therefore handled during the current fiscal year, that is, between April 1, 2004 and March 31, 2005.

Table 1

	French	English	Total
Number of communications	45 (80.4%)	11 (19.6%)	56
Number of admissible complaints*	38 (78%)	11 (22%)	49 (87.5%)
Number of inadmissible complaints	7 (100%)	0 (0%)	7 (12.5%)
Number of complaints referred elsewhere**	0	0	0
Number of requests for information	0	0	0

*An investigation on a matter potentially forming the basis of a complaint was initiated by the Commissioner himself.

**These complaints were referred to the Ombudsman, the Human Rights Commission, the federal Commissioner of Official Languages, or to other appropriate institutions.

Table 2

Admissible Complaints by Main Category

	French	English	Total
Number of admissible complaints	38 (78%)	11 (22%)	49 (87.5%)
Automated systems	0 (0%)	0 (0%)	0 (0%)
In person	15 (83%)	3 (17%)	18 (36.7%)
Signage	4 (100%)	0 (0%)	4 (8.2%)
Telephone communications	5 (71.4%)	2 (28.5%)	7 (14.3%)
Web sites	1 (50%)	1 (50%)	2 (4.1%)
Documentation	8 (89%)	1 (11%)	9 (18.4%)
Other	5 (56%)	4 (44%)	9 (18.4%)

Table 3**Admissible Complaints - Handling**

	French	English	Total
Number of admissible complaints	38 (78%)	11 (22%)	49 (87.5%)
A. Notice of investigation issued under subsection 43(13) of the OLA	28	6	34
B. Awaiting further information (pending additional information from the complainant and/or the institution in order to determine whether or not an investigation may be launched).	1	0	1
C. Files closed under subsection 43(11) of the OLA without the issuance of a notice of investigation under subsection 43(13) of the OLA or pursuant to withdrawal of the complaint by the complainant.	9	5	14

Table 4**Notices of Investigation Issued Under Subsection 43(13) of the OLA**

Institution	No. of Complaints	Under Investigation	Founded	Unfounded	Open Files	Closed Files
Legislative Assembly	2	2			2	
Office of the Chief Electoral Officer	11		11		11	
Beaubassin Planning Commission	1		1			1
New Brunswick Board of Commissioners of Public Utilities	1			1		1
Labour and Employment Board	1			1		1
NB Power	1		1			1
Department of Supply and Services	2		2			2
Department of Education	1			1		1
Department of Training and Employment Development	1			1		1
Department of Justice	4	4			4	
Department of Health and Wellness*	3	2	1		2	1
Department of Public Safety	2		2			2
Department of Natural Resources	2		1	1		2
Department of Transportation	2		2		1	1
TOTAL	34	8	21	5	20	14

* These complaints related to the services of certain Regional Health Authorities (South-East and River Valley) rather than those of the Department.

Complaints Received During 2004-2005

As of March 30, 2005 the Office of the Commissioner had received 150 complaints and 26 requests for information. A total of 81 of those complaints were admissible, with 72 based on lack of service in French (88.9%) and 9 on lack of service in English (11.1%). Fifty-two complaints (29.5%) 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 Act. Seventeen complaints (9.7%) were referred to other institutions for consideration.

Most of the complaints centred on the failure to actively offer services in French or the lack or inadequacy of services in French, be it in person, over the telephone, or in writing. There were also complaints that road signs and other signage were not always in the province's two official languages. The other complaints cited deficiencies in communications by certain towns and cities with their citizens and in communications by certain institutions with the public, in particular voice-mail messages, surveys, and telephone communications. These complaints were based mostly on the use of French as language of service.

Problems were also noted in some regional health authorities located in predominantly Anglophone regions. The complaints show that despite their efforts, these institutions are still encountering difficulties in actively offering services and in particular in effectively providing services of equal quality and in communications with patients and the public.

The problems identified do not seem to indicate a lack of goodwill on the part of the institutions concerned. However, these issues can be rectified or lessened only if these institutions take the necessary steps to ensure that their various operational teams are able to guarantee at all times the active offer of services and the effective provision of these services in both official languages. Members of their respective staffs must be clearly informed about and aware of their employer's obligations with respect to the requirements of the OLA and their own obligations in that regard.

The Commissioner is convinced of the need for the government to adopt a master plan for implementing the *Official Languages Act* that would be universally applicable to all the institutions concerned and take into account all aspects of language planning with regard to its obligations under the Act.

Provincial and Triennial Elections

Since the follow-up of the investigation into the last provincial election was still incomplete as of March 30, 2005, and the Commissioner had received other complaints concerning the last triennial elections, i.e., the municipal and school board elections and regional health authority elections, he decided to open a single investigation into all of the complaints rather than investigate each one separately.

The Commissioner's 2003-2004 annual report referred to 11 complaints that had been received regarding the last provincial election. In his remarks at that time, the Commissioner took care to point out that the limited number of complaints did not necessarily mean that citizens had encountered few problems at polling stations in terms of the active offer of services in both official languages and the effective provision of those services. Rather, he saw it as more indicative of a systemic problem in those areas, something that was borne out in his investigation.

Upon completion of his first investigation into the provincial election, the Commissioner tabled a provisional report containing 13 recommendations for the Chief Electoral Officer on December 22, 2003. He gave her three months to respond to his report.

Given the importance of this file, the Commissioner made this information public by way of a press release which, among other things, stated the following:

Although the Commissioner was informed and took note of substantial improvements in the election procedures, he concluded that, during the last election, the right to language of choice of the persons concerned was not complied with as required by the Official Languages Act. In fact, the Commissioner's investigation clearly identified notable deficiencies in the electoral process, particularly as it relates to the establishment of an environment and a framework conducive to this government institution's meeting its obligation to serve members of the public in the language of their choice and to clearly and specifically inform them of this obligation.

The Commissioner identified several areas of non-compliance with the Official Languages Act, notably the active offer of service in both official languages, equality of access to services, the selection criteria for election officers, the selection of election officers where there is a lack of competent staff in the language concerned, communications with the offices of returning officers, the lists of potential election officers, and the obligation to publish in both official languages.

The Commissioner's investigation showed that the public's right to language of choice had not been complied with at all times as required by the Act. Deficiencies were noted in the following areas: the active offer of services in both official languages, the selection criteria for election officers, mechanisms guaranteeing bilingual staff where there is a lack of competent staff, communications with the offices of returning officers, the lists of potential election officers, and the obligation to publish in both official languages.

At the request of the Chief Electoral Officer in March 2004, the Commissioner granted her more time to respond to his preliminary report since she had to oversee the smooth operation of the upcoming triennial elections. Despite those impending elections, the Commissioner felt that the Chief Electoral Officer could nonetheless implement immediately several of the recommendations contained in the report in question.

As of the date of writing of this report, the Commissioner was in ongoing communication with the Office of the Chief Electoral Officer and perceived on its part a positive response to the suggestions he had made. The Commissioner is to table the findings of his investigation into the elections this fall.

Complaints Received Between April 1, 2004 and March 31, 2005

Table 1

	French	English	Total
Number of communications	124 (70.5%)	52 (29.5%)	176
Number of admissible complaints*	72 (88.9%)	9 (11.1%)	81 (46%)
Number of inadmissible complaints	28 (54%)	24 (46%)	52 (29.5%)
Number of complaints referred elsewhere**	7 (41.2%)	10 (58.8%)	17 (9.7%)
Number of requests for information	17 (65.4%)	9 (34.6%)	26 (14.8%)

* Four investigations, including one into the triennial elections were initiated by the Commissioner himself.

** These complaints were referred to the Ombudsman, the Human Rights Commission, the federal Commissioner of Official Languages, or other appropriate institutions.

Table 2
Admissible Complaints by Main Category

	French	English	Total
Number of admissible complaints	72 (88.9%)	9 (11.1%)	81 (46%)
Automated systems	2 (100%)	0 (0%)	2 (2.5%)
In person	31 (94%)	2 (6%)	33 (41%)
Signage	6 (85.7%)	1 (14.3%)	7 (8.6%)
Telephone communications	11 (85%)	2 (15%)	13 (16%)
Web sites	2 (100%)	0 (0%)	2 (2.5%)
Documentation	12 (80%)	3 (20%)	15 (18.5%)
Other	8 (88.9%)	1 (11.1%)	9 (11.1%)

Table 3
Admissible Complaints - Handling

	French	English	Total
Number of admissible complaints	72 (88.9%)	9 (11.1%)	81 (46%)
A. Notice of investigation issued under subsection 43(13) of the OLA	51	5	56
B. Awaiting further information (pending additional information from the complainant and/or the institution in order to determine whether or not an investigation may be launched).	5	0	5
C. Files closed under subsection 43(11) of the OLA without the issuance of a notice of investigation under subsection 43(13) of the OLA or pursuant to withdrawal of the complaint by the complainant.	16	4	20

Table 4**Notices of Investigation Issued Under subsection 43(13) of the OLA**

Institution	No. Of Complaints	Under Investigation	Founded	Unfounded	Open Files	Closed Files
Legislative Assembly	2		2			2
Office of the Chief Electoral Officer	13		13		13	
Workplace Health, Safety and Compensation Commission of New Brunswick	1	1			1	
Communications New Brunswick	1	1			1	
NB Power	1		1			1
Department of Supply and Services	1	1			1	
Department of Education	1	1			1	
Department of the Environment and Local Government*	3		3			3
Department of Justice	4	1	3		1	3
Department of Health and Wellness**	8	6	2		6	2
Department of Public Safety	6	2	4		2	4
Department of Finance	1	1			1	
Department of Intergovernmental and International Relations	1		1			1
Department of Natural Resources	2	1		1	1	1
Department of Family and Community Services	2	2			2	
Department of Transportation	2	1	1		2	
Department of Tourism and Parks	2	1	1		1	1
Service New Brunswick	5	2	2	1	2	3
TOTAL	56	21	33	2	35	21

* These complaints related to the services of a particular municipality (City of Fredericton) rather than those of the Department.

** These complaints related to the services of certain Regional Health Authorities (Acadie-Bathurst, Miramichi, South-East and River Valley) rather than those of the Department.

Some Interesting Cases: Founded and Resolved Complaints

Institution: Public Safety

Complaint summary: The Basic Emergency Planning course offered by the Department of Public Safety was not available in French owing to an insufficient number of registrations by French-language participants. The Department therefore did not offer service of equal quality in both official languages in its training program.

Corrective action taken following the Commissioner's intervention: To resolve the problem, the Department proposed the use of CD-ROM based training as an alternative teaching method. This is an effective and less costly training method for a limited number of participants. Moreover, the Department plans to step up its efforts to recruit more Francophone participants likely to benefit from training in French.

Institution: Justice

Complaint summary: The only communications specialist (communications officer) on staff at the Department of Justice and the Attorney General was a unilingual Anglophone. This situation was prejudicial to the concept of equality in the quality of services offered.

Corrective action taken following the Commissioner's intervention: The Department notified the Commissioner that it had hired a new communications officer able to provide bilingual service and that it planned to set up a new linguistic team to ensure the Communications section meets the requirements of the OLA.

Institution: Health and Wellness, South-East Regional Health Authority, The Moncton Hospital

Complaint summary: Deficiency in frontline communications and service in French in the neurosurgeons' offices.

Corrective action taken following the Commissioner's intervention: Following the incident in question, the Health Authority took the necessary steps to ensure the continuous staffing of the neurosurgeons' offices with bilingual support staff to avoid similar problems in future. It also recruited a sufficient number of medical transcribers who could draft medical reports in French on request.

Institution: NB Power

Complaint summary: The test administered by NB Power to prospective applicants was available in English only.

Corrective action taken following the Commissioner's intervention: The institution rectified the situation by having the test in question translated into French.

Institution: Service New Brunswick

Complaint summary: Forms at the Service New Brunswick centre in Fredericton were not available in French, and the time required to obtain them was unacceptable. Moreover, there were deficiencies in the provision of services in French.

Corrective action taken following the Commissioner's intervention: The Commissioner strongly recommended that Service New Brunswick make sure that the requisite bilingual staff was on duty at all times to meet the demand for service in French. In response to the Commissioner's intervention, the president of Service New Brunswick informed the Commissioner that the French and English versions of all the forms in question are available on the Intranet site and that a state-of-the-art computer system allows staff to print the forms on the spot in the customer's language of choice. Should the Intranet be down, copies of each form in use will be available at a designated location at the centre, and the

inventory of these forms will be checked regularly. The manager of the service centre and the team leaders will also ensure adequate staffing so that bilingual service can be provided at all times.

Institution: Family and Community Services, Moncton office

Complaint summary: Deficiency in the provision of services in French over the telephone and by mail.

Corrective action taken following the Commissioner's intervention: Management sent a memorandum to all administrative staff at the Moncton office, reminding them of their obligation to ensure the active offer of services in both languages to all departmental clients. Moreover, the person who was the subject of the complaint was advised that if she could not communicate with a client in the language of his or her choice, she was to refer that client to a bilingual staff member immediately.

Management took the necessary steps to ensure that all written communications from the Department are drafted in both official languages in cases where it is uncertain of the language preference of the clients in question.

Institution: Beaubassin Planning Commission

Complaint summary: Minutes of Commission meetings were compiled so as to reflect the language in which variance requests were dealt with at public meetings and in the official language used between the applicant and the Commission. While the Commission went beyond the requirements of the OLA in terms of the language of use at its public meetings, it was contravening the Act nonetheless by producing minutes written only in the language in which presentations were made during the meetings.

Corrective action taken following the Commissioner's intervention: The Commission asked the Executive Director of the institution to develop an action strategy and present an action plan aimed at resolving the administrative, financial, and other challenges preventing the Commission from discharging its obligations under the OLA. The minutes in question were translated by a certified translator, and the earlier non-conforming minutes were quickly translated as well. The Commission assigned the requisite staff for the timely production in both official languages of the documents covered by the regulation.

Institution: Supply and Services

Complaint summary: Deficiency in civic address signage in French at the Miramichi Court House.

Corrective action taken following the Commissioner's intervention: The Department immediately took the necessary steps to have the sign changed in order to ensure compliance with the OLA.

Institution: Health and Wellness, River Valley Regional Health Authority

Complaint summary: The French version of an information form given to patients prior to cataract surgery was not an accurate rendering of the English version of the form.

Corrective action taken following the Commissioner's intervention: The form in question was updated and duly translated. The River Valley Regional Health Authority has enlisted the services of a full-time translator to meet translation requirements. Managers of the various departments must ensure that documents intended for patients have been reviewed, updated and translated and that they carry the current River Valley Regional Health Authority logo. The Health Authority also employs an individual who handles complaints and receives feedback from patients and their families with regard to the care and services it provides.

Institution: Legislative Assembly

Complaint summary: Deficiency in the provision of services in French by the Canadian Corps of Commissionaires at the Legislative Assembly building.

Corrective action taken following the Commissioner's intervention: To prevent such situations from recurring, the authorities in question reminded the commissionaires of the importance of the active offer of services. To ensure the quick provision of service in the official language chosen, the commissionaires will henceforth be equipped with communications equipment in the galleries and in other key areas where an immediate need to provide services in the public's official language of choice is identified. The commissionaires have attended information sessions on the obligation to actively offer services and on the provision of services of equal quality in both of the province's official languages. The Legislative Assembly Secretariat has adopted a linguistic profile for personnel assigned to the Legislative Assembly building to ensure a satisfactory level of bilingual services for Members, Legislative Assembly staff, civil servants, and the general public.

Institution: Public Safety, Madawaska Correctional Centre

Complaint summary: Deficiency in the provision of services in French by a security officer.

Corrective action taken following the Commissioner's intervention: The Department notified the Office of the Commissioner of Official Languages that the employee in question was no longer in the Correctional Centre's employ and that it had asked the managers to inform all new casual staff that they are required under the OLA and related policy to ensure the active offer of services.

Institution: Health and Wellness, Regional Health Authority 7 (Miramichi) – Outpatient Services

Complaint summary: Deficiency in the provision of services in French by a receptionist and three nurses at the Miramichi Hospital.

Corrective action taken following the Commissioner's intervention: All staff will henceforth be informed of the obligation to ensure the active offer of services when communicating with the public by telephone. The Outpatient Services office will indicate on each patient's record his or her official language of choice so that hospital staff are aware of the language of communication chosen by the patient.

Institution: Justice, Rentalsman and Consumer Affairs, Moncton

Complaint summary: Deficiency in the active offer and delivery of receptionist services in French at the Office of the Rentalsman and Consumer Affairs in Moncton.

Corrective action taken following the Commissioner's intervention: The office will maintain the automated telephone system allowing clients to choose service in either French or English. It has advised the Office of the Commissioner that it will make sure the Anglophone employee in question receives adequate training in certain standard phrases to be used in French. It will also make sure that there is always a French-speaking person on hand at lunch hour to serve the public in both official languages and that, in case of need, staff is able to transfer calls to another regional office with bilingual capability.

Institution: Tourism and Parks

Complaint summary: Deficiency in signage in French at Anchorage Provincial Park in Grand Manan.

Corrective action taken following the Commissioner's intervention: The unilingual sign in question was removed, and a bilingual version of the sign has been ordered for the 2005 season.

Institution: Public Safety, Motor Vehicle Branch

Complaint summary: Deficiency in the active offer of services by telephone.

Corrective action taken following the Commissioner's intervention: The Department reminded the Motor Vehicle Branch staff members concerned that they must ensure the active offer of services in accordance with the OLA and related policy. It also informed them of their obligation to greet clients in both of the province's official languages and to provide the requisite services in the language chosen by the client in question.

Institution: Justice, Legal Aid, Fredericton

Complaint summary: Deficiency in the active offer of services by telephone.

Corrective action taken following the Commissioner's intervention: The provincial director broached the issue with the employee in question and reminded her of the importance of always ensuring the active offer of services in both official languages to let members of the public know that services are available in the official language of their choice. He sent a memorandum to all Legal Aid offices in New Brunswick to remind them of the importance of bilingual services and their obligation to apply the Official Languages Policy in their respective regions.

Institution: Justice, Small Claims Court, Campbellton

Complaint summary: A complainant had filed a claim with the Small Claims Court in Campbellton and paid the filing fees by credit card. The complainant noticed that his electronic statement contained the name of the province only in English, i.e., Province of New Brunswick.

Corrective action taken following the Commissioner's intervention: Small Claims Court officials have taken the necessary steps to rectify the situation. They instructed the supplier of their automated payment devices to modify the printouts in question so as to read "Prov of NB/Prov du N.-B." instead of "Province of New Brunswick." Moreover, staff will receive training with regard to the devices' printing functions so they can give clients receipts in the language of their choice.

Institution: Health and Wellness

Complaint summary: The French-language version of the Medicare registration form issued by the Department of Health and Wellness was poorly written and contained several errors.

Corrective action taken following the Commissioner's intervention: The Department amended the electronic version of the form. The Office of Human Resources, Official Languages and Workplace Equity Branch, sent a memorandum to all government departments, agencies, and Crown corporations instructing them to review all of their documents and forms intended for the public in order to correct any mistakes and to avail themselves of the services of the Translation Bureau in accordance with the requirements of the relevant administrative policy. Moreover, the Office of Human Resources stressed the importance of getting rid of outdated versions of forms once all the forms had been updated.

One Last Success Story

Institution: Acadie-Bathurst Regional Health Authority

Complaint summary: The French- and English-language versions of the hospital appointment reminder letter were written in capital letters, the French-language version had no accents, and appointment dates and times were written according to English usage.

Corrective action taken following the Commissioner's intervention: Once the Health Authority became aware of the problem, it immediately took steps to have the company that had developed the appointment management program make the necessary changes. The company informed the Health Authority that it could not rectify the problem at a reasonable cost since the software used to create the appointment management program did not permit the use of accents or any other diacritical marks. The Health Authority therefore decided to have its own Information Services team make the necessary changes to the software.

Through its Information Services team, the Acadie-Bathurst Regional Health Authority was able to modify its appointment management program so that accents and other diacritical marks can be inserted in French text and the French- and English-language versions of the appointment reminders can be written in lowercase.

The Commissioner welcomed this initiative by the Acadie-Bathurst Regional Health Authority and consequently recommended in his report that it share its expertise with other health authorities facing the same challenges.

Conclusion

The fact that citizens who believe their language rights have been infringed upon can file a complaint enables the Commissioner to gauge the efforts being made by the government to comply with the requirements of the OLA. Thanks to this complaints-handling procedure, the Commissioner has been able to use his influence to bring about changes in existing practices and in the attitudes of various institutions with regard to the seriousness of the Act and its requirements. These many interventions are an opportunity for the Commissioner to become familiar with the various facets of the implementation of the Act in such areas as basic emergency training courses, translation of legal documents for cases to be heard by the Court of Queen's Bench, the language requirements of the Medical Review Board, the French-language version of information documents for patients who are to undergo surgery, municipal and provincial signage, various Service New Brunswick forms, training for public servants to raise their awareness of their obligations under the Act, commissionaire services at the Legislative Assembly, communications between hospitals and their respective publics, voice-mail messages, civil servants' attitudes towards their duties, telephone and electronic communications with the public, receipts generated by electronic payment devices, and services provided for students by lending institutions.

The mere existence of a Commissioner of Official Languages and a complaints-handling procedure for perceived violations of the Act have resulted in greater vigilance on the part of the heads of the government institutions concerned and a willingness to take the necessary steps to rectify any situations deemed unacceptable with respect to official languages. In all cases, the Commissioner's interventions with the institutions in question were productive, and the necessary changes were made. However, that does not mean that problems of a systemic nature have been resolved once and for all. It is to be expected that the government machinery will come to terms with this new reality in an uneven fashion, depending on the region in question, since each institution must establish its own culture of compliance with the OLA. The Commissioner will be keeping a watchful eye in that regard.

CHAPTER THREE

THE COMMISSIONER OF OFFICIAL LANGUAGES: A MESSENGER OF LINGUISTIC EQUALITY

Introduction

The purpose of this chapter is to apprise the Legislative Assembly of activities undertaken by the Commissioner of Official Languages to promote the advancement of official languages in the province. To that end, we shall begin by summarizing the Commissioner's mandate with respect to the promotion of official languages and the parameters he has established to ascertain the relevance of possible activities within each of the three components of his promotional mandate. We shall then discuss the Office of the Commissioner's general philosophy on promotion of the advancement of both official languages in the province. Lastly, we shall summarize the Office of the Commissioner's main promotional activities in 2004-2005.

Commissioner's Mandate in the Area of Promotion

The Commissioner's mandate is divided into two separate parts: to ensure compliance with the Act through investigations pursuant to complaints or on the Commissioner's own initiative and to promote the advancement of both official languages in the province.

The Commissioner used his first annual report to elaborate on his interpretation of his mandate, particularly with respect to promoting the advancement of French and English in the province. Basically, the Commissioner believes that promoting the advancement of both official languages in the province consists of three components, namely, promoting the Act itself, celebrating achievements in the area of language, and encouraging the Legislative Assembly and government to do more in order to promote the advancement of the equality of status and use of French and English.

General Criteria for Establishing Promotional Programs to be Undertaken by the Office of the Commissioner

So as to give a strategic direction to the promotional programs undertaken by the Office of the Commissioner of Official Languages, the Commissioner has established general parameters for three components that he considers to be of the utmost importance in promoting the advancement of both official languages in the province. These parameters enable the Commissioner to ascertain the relevance of promotional projects being considered by his office or which have been proposed by outside agencies.

Promoting the Advancement of Official Languages in the Province and Advancing the Equality of Status and Use of French and English

- Programs aimed at promoting French and English as the province's official languages;
- Programs aimed at promoting the official language communities in the province;
- Programs aimed at bringing the two linguistic communities in the province closer together;
- Programs aimed at getting closer to the ultimate goal of genuine equality of status and use of French and English in government services and communications with government institutions within the meaning of the OLA and, ultimately, language equality in all spheres of activity in New Brunswick;
- Programs aimed at encouraging the undertaking or maintenance of initiatives whose goal is to achieve equality of status and use of French and English;

- Promotional programs targeting members of the Francophone community and aimed at encouraging them to assert themselves and to demand the provision of government services in the language of their choice;
- Promotional programs targeting the linguistic majority and aimed at convincing it of the benefits of bilingualism and the need to create a welcoming, inclusive environment in the province for members of the French linguistic community, thus contributing to real equality of status and use of French and English across the province; and
- Programs fostering partnerships and collaborative networks in support of the objectives of the *Official Languages Act*.

Promoting Among Members of the Legislature and Government Measures Aimed at Attaining Objectives of the *Official Languages Act*

By virtue of his mandate, the Commissioner can make recommendations pursuant to an investigation exclusively for the Premier and the government to ensure compliance with the Act, and for the Legislative Assembly in his annual report of activities concerning all matters relating to promotion of language rights, his role is akin to that of a special defender of the public interest in the area of language rights before those decision-making bodies. Accordingly, the Commissioner may make representations to the legislative and executive branches of government through recommendations that he may make from time to time or on submitting his annual report to the Legislative Assembly.

As part of his promotional agenda, the Commissioner therefore takes the liberty of acting as an agent of change with government institutions and the government to ensure compliance with the letter and spirit of the *Official Languages Act*, particularly with regard to the “promotion” component of his mandate.

Office of the Commissioner’s General Philosophy on Promotion

Change Takes Time

The *Official Languages Act* is in a way a master plan or social contract for change in New Brunswick in the area of language rights. Despite specific measures in the Act regarding the obligation to actively offer services and to provide those services effectively in the public’s language of choice, the changes in attitudes and behaviour required to attain that objective will not occur at the same rate across the province.

Change takes time and does not always bend to the constraints imposed by plans, regardless of how rigorously those plans have been established. It is therefore important to understand and accept that effective change will occur in the context of advancement of the objective of equality of the official languages, hence the importance of a well-structured information, education, and incentive program targeting people and institutions to ensure that change takes place as quickly and as smoothly as possible.

Citizens: Agents of Change

Part of the mission of the Office of the Commissioner of Official Languages is to inform and raise the awareness of as many citizens as possible of their language rights under the OLA. The purpose of this exercise is to bring about changes in attitude and behaviour that will encourage citizens to demand the services to which they are entitled and to take the necessary steps to have any failure to meet that obligation rectified. Accordingly, each citizen becomes an agent of change as regards respect for language rights and creation of conditions enabling both of the province’s official languages to thrive.

Reaching Out to Youth

Education is the most effective way to effect changes in attitudes and behaviour, and it is a well-known fact that young people are able to adapt to new situations more easily. As a result, the Office of the Commissioner attempts to reach out to youth in the province, through the public school system or any other means deemed appropriate for that age group.

Promoting Official Languages in the Province Through Partnerships with Organizations Whose Goals Are Compatible with Those of the Office of the Commissioner of Official Languages

New Brunswick has many social, cultural, and economic organizations whose goals allow for co-operation with other organizations to promote the advancement of French and English as the province's official languages. To encourage change in that area, the Office of the Commissioner of Official Languages favours all forms of co-operation enabling it to attain the Commissioner's objectives in that regard, whether it be through partnerships, one-time collaborative projects, or specific initiatives.

Maintaining Positive Relations with Institutions Subject to the Act

Obviously, the government has to introduce measures for implementing the *Official Languages Act*, and civil servants must develop and carry out the strategies required for that purpose. That said, the Commissioner is cognizant of the importance of maintaining collaborative and productive relations with the institutions concerned to ensure that these measures are implemented as smoothly as possible and in compliance with the Act. Accordingly, he makes himself available to these institutions for consultations on the general direction or relevance of measures currently in effect or being contemplated, without compromising his independence from government. He also takes the liberty of intervening directly with these institutions either to rectify perceived problems or to encourage them to take specific action.

Differentiating Between the Commissioner's Role and the Government's Role in Promoting the Advancement of Both Official Languages in the Province

A review of the *Official Languages Act*, the Official Languages Policy and related guidelines on implementation and responsibilities in that regard shows the following:

- The Premier is responsible for **administration of the *Official Languages Act***;
- The Minister for the Office of Human Resources is responsible for **administration of the Official Languages Policy**;
- **Implementation of the Official Languages Policy** within government institutions is incumbent upon the deputy ministers of the departments, the chief executive officers of the regional health authorities, and the presidents and chief executive officers of Crown corporations;
- Responsibility for **monitoring and providing advice on interpretation and administration of the policy and its guidelines** rests with the Official Languages and Workplace Equity Branch of the Office of Human Resources; and
- **Responsibility for promoting the Official Languages Policy to staff and the public** rests with the Office of Human Resources.

Based on the above, the Commissioner makes a distinction between his role in the area of promotion and the government's role. In his opinion, the primary role of the Commissioner of Official Languages is to promote among members of the public the advancement of both official languages in the province, whereas the government's role as employer is to promote the Act and the Official Languages Policy among public servants in connection with its implementation and as a civic representative, to promote the Act and its values among the public.

The Commissioner is not part of the civil service and is independent from government. By the same token, while promoting the *Official Languages Act* among civil servants is not strictly part of his mandate, that does not stop him in his role of official languages ombudsman from making representations to government to encourage it to adopt measures promoting the advancement of both official languages in the province or from making representations to senior officials since it is they who are responsible for implementing those aspects of the policy relating to language of service and language of work in the civil service.

2004-2005 Promotional Campaigns

The chief promotional campaigns undertaken by the Office of the Commissioner during the past year are listed below.

“Français-English” and “English-français” Pins

Objective: To encourage the private sector to actively offer services in both official languages and to advertise that intention to its customers.

Program: In response to several requests for information from organizations and businesses wishing to provide their services in both official languages and to advertise that intention, the Office of the Commissioner of Official Languages ordered 1,000 “Français-English” and 1,000 “English-français” pins to enable the companies in question to promote their ability to provide their services in both official languages and to choose which version of the pin they wanted depending on the predominant official language of their community or on their preference.

Outcome: The Office of the Commissioner distributed some 300 pins even though it had not advertised them and had decided to offer the pins only on receiving calls from organizations wanting to find out if such pins were available.

We are pleased with this positive response on the part of public- and private-sector institutions, for we are convinced that such an initiative will help foster an atmosphere of linguistic inclusion in the provision of services and will help convince the business community of the positive spinoffs of such a mindset.

Publication of a Booklet on Official Languages

Objective: To provide the public with easy-to-understand and readily accessible information on language rights and on the Office of the Commissioner of Official Languages for New Brunswick.

Program: The Office of the Commissioner of Official Languages, in co-operation with PLEIS-NB (Public Legal Education and Information Service of New Brunswick), published a bilingual booklet on language rights in the province, entitled *Official Languages: Your Rights in New Brunswick / Les langues officielles : vos droits au Nouveau-Brunswick*. The Office obtained 20,000 copies.

The booklet was made available to Service New Brunswick, municipalities, regional health authorities, high schools in the province, public libraries, Members of the Legislative Assembly, and a variety of social organizations.

Outcome: A number of organizations ordered copies of the booklet for distribution to their members and/or customers. PLEIS-NB had distributed 10,185 copies of the booklet as of March 31, 2005. It is our hope that, over the years, people will become increasingly aware of the booklet's existence and that, thanks to the information it contains, those concerned will develop a better understanding and appreciation of their rights under the *Official Languages Act*.

Municipal Tour

Objective: To maintain the Commissioner's efforts to inform municipalities subject to the *Official Languages Act* about their obligations and to enable municipal elected officials to inform him of their successes and their challenges in trying to comply with the Act.

Program: The Commissioner invited these municipalities to meet informally with him. He prepared a confidential questionnaire for the municipalities to help them take stock of their successes and identify problems noted at the municipal level.

Outcome: The Commissioner met with almost all of the affected municipalities, which had duly completed the questionnaire and prepared well for these gatherings. From these discussions the Commissioner was able to get a very clear picture of the successes achieved by the municipalities and the challenges they face in the active offer of services and the provision of these services in the public's official language of choice.

The Commissioner was very well received by the municipalities, and he noted their goodwill and firm resolve to comply with the Act.

Market Study: Co-operation with the *Association des juristes d'expression française du Nouveau-Brunswick (AJEFNB)*

Objective: To determine to what extent Francophones in the province are aware of their language rights and to what extent they are prepared to demand that those rights be respected;

To determine whether lawyers practising in predominantly English-speaking regions advise their clients of their right to elect to have proceedings take place in the official language of their choice; and

To determine whether the province's judiciary makes sure that the parties in question are at ease with having proceedings conducted in French.

Program: The Commissioner took part in one component of an extensive study undertaken by the AJEFNB on language rights that related to the above objectives. The study in question was conducted by way of some 100 telephone surveys of Francophones in the Tracadie, Edmundston, Campbellton, and Moncton regions, and 13 telephone surveys of Anglophone lawyers in the Saint John, Miramichi, Sussex, Harvey, Fredericton, Woodstock, Chipman, and Moncton regions.

Outcome: The findings of this study will help to identify any deficiencies in Francophones' knowledge of their rights in the area of official languages and to determine, if necessary, which information and awareness-raising programs would be best suited to rectifying those deficiencies. The findings of the study had yet to be analysed as of the writing of this report.

Partnership with Dialogue NB: Lieutenant-Governor's Dialogue Award

Objective: To work actively with Dialogue NB in bestowing its Lieutenant-Governor's Dialogue Award in recognition of individuals and organizations working to promote mutual understanding and respect between the two official language communities in New Brunswick and thereby contributing to the advancement of both official languages in the province.

To work with Dialogue NB on the advancement of both official languages in the province.

Program: This year, like other organizations promoting the advancement of both official languages in the province, the Office of the Commissioner of Official Languages partnered with Dialogue NB to present the Lieutenant-Governor's Dialogue Award. This was a targeted contribution as a gesture of support for a very worthwhile undertaking in the promotion of both official languages in New Brunswick.

Outcome: Thanks to this partnership with the Office of the Commissioner of Official Languages, Dialogue NB was able to present its Lieutenant-Governor's Dialogue Award. This year, the award was given to Alex Fancy, Bernard Imbeault and the Northrop Frye International Literary Festival, which promotes Canada's bilingual literary heritage by bringing together French and English authors from the regions, across the country, and around the world. Through provincial tours with the Tintamarre theatre troupe, Alex Fancy validates bilingualism and promotes inclusiveness and French expression by way of gesture and drama. Bernard Imbeault is a business leader who, through his actions, demonstrates understanding, innate respect, and appreciation of the people of New Brunswick's Anglophone and Francophone communities.

Partnership with Dialogue NB to Establish a Speakers' Bureau

Objective: To foster positive dialogue and pride with regard to bilingualism in New Brunswick.

Program: The Office of the Commissioner of Official Languages accepted Dialogue NB's invitation to participate financially through the purchase of promotional services and to play an active role in establishing a speakers' bureau that would put together a series of positive, dynamic presentations on official languages. The aim of these presentations will be to promote positive dialogue on bilingualism and to build pride in New Brunswick with regard to our efforts at linguistic inclusion.

All of the invitations and many communications associated with this project will clearly indicate that this initiative is the fruit of co-operation between the two offices. The content of the presentations to be produced will be the joint property of Dialogue NB and the Office of the Commissioner of Official Languages.

Outcome: The project is currently under way.

Distribution of the *Official Languages Act* in Poster Form

Objective: To raise the awareness of school-aged youth of the existence of the *Official Languages Act* and to encourage them to find out about their language rights.

Program: The two sectors of the Department of Education actively took part in the distribution of some 650 posters in the province's French and English schools and in the local school district offices.

Advertising Campaign in Newspapers

Objective: To make the public aware of the existence of the Office of the Commissioner of Official Languages and to inform them about their language rights.

Program: The Office of the Commissioner of Official Languages produced three advertisements in French and three in English under the slogan: *Le Choix : C'est à moi / Choice: It's mine*. These messages will be carried in the province's newspapers in the 2006-2007 fiscal year.

Radio Advertising Campaign

Objective: To make Francophones in the province aware of the existence of the Office of the Commissioner of Official Languages and inform them of their language rights as well as support French community radio stations as highly effective tools for promoting the development of the French language and culture in minority settings.

Program: The Office of the Commissioner of Official Languages developed a series of community radio spots for broadcast in summer and fall 2005. Each spot addresses in clear and simple language a specific aspect of the *Official Languages Act*.

Outcome: The project is currently under way.

Promotional Program Targeting Youth in the Province

Objective: To reach out to Francophone and Anglophone youth in the province in innovative and entertaining ways to inform them about language rights in New Brunswick, instil in them a positive attitude and pride towards their own language and an interest in the other official language.

Program: The Office of the Commissioner of Official Languages came up with an innovative project designed to reach out to youth aged 9 to 14. Following consultations with specialists in the matter, it was decided to present the information using a program that encourages young people to explore a very interesting interactive Web site that presents information on official languages in a fun-filled way.

The program, called “2tantmieux/2tongues”, conveys the following messages:

- Whether you speak French or English, you should be proud of living in a province where you can speak these two languages.
- New Brunswick is a good place to live, and our two linguistic communities make us unique.
- Learning the other official language is cool.
- Information about the OLA and language rights.

The program will commence in summer 2005.

Visibility Project in Collaboration with *Le français pour l'avenir/French for the Future*

Objective: To promote the visibility of the Office of the Commissioner of Official Languages and the *Le français pour l'avenir/French for the Future* movement.

Program: This program, designed to promote French in the province, included a drawing contest for students of registered schools, English schools offering instruction in French as a second language and the three French schools in minority settings.

Le français pour l'avenir/French for the Future offers programs in several cities across Canada for French immersion students and Francophone students in minority settings. Its goal is to encourage the students to continue learning French and to promote dialogue among them.

Outcome: Twenty-five students took part in the contest. Andrea Emrich, of Rothesay High School, took first prize (a laptop computer); André Thériault of École Samuel-de-Champlain, second prize (an MP3 player); and Samantha Head of Rothesay High School (a portable CD player). Andrea's drawing will be used to design the poster for promoting the *Le français pour l'avenir/French for the Future* program, and it will also bear the logo of the Office of the Commissioner of Official Languages for New Brunswick.

Meetings with Regional Health Authorities

Objective: To hold informal meetings with the heads of the regional health authorities in order to discuss their successes as well as their challenges in connection with steps taken to comply with the Act.

Program: The Commissioner offered to come and deliver a presentation to the regional health authorities on the OLA and the sections of the Act that apply specifically to them. These meetings were also intended to enable the Commissioner to learn more about the challenges facing the health authorities in their efforts to comply with the Act.

Outcome: The Commissioner was able to meet with all the regional health authorities, thereby giving him a sense of the tremendous amount of work involved in ensuring the active offer of service in both official languages and the effective provision of those services, especially in regions where such practices were not the norm.

Promotion of the *Official Languages Act* and the Advancement of Both Official Languages in the Province

Objective: To seize every opportunity to promote the Act, the Office of the Commissioner of Official Languages for New Brunswick, and the advancement of both official languages by taking part in activities whose goals are compatible with those of the Commissioner of Official Languages.

Program: The Commissioner accepts numerous invitations to address a variety of social groups across the province and even outside the province on the topic of bilingualism and the *Official Languages Act* of New Brunswick. He also takes part in conferences on official languages and is a member of a number of groups whose goals are compatible with those of his office.

CHAPTER FOUR

GOVERNANCE OF OFFICIAL LANGUAGES IN NEW BRUNSWICK

Introduction

It is not enough to simply adopt an official languages act for citizens to automatically and fully enjoy the rights it provides. Such an act must also be accompanied by specific implementing measures so that the legislators' intention is reflected at all levels of government activity.

The *Official Languages Act* confirms the commitment of the Government of New Brunswick to institutionalize the conditions guaranteeing the province's citizens automatic access to all government services in the official language of their choice, and in such a way they can be confident that these services will actually be of equal quality in both official languages. The Act contains a roadmap for the advancement of equality of status and equal rights and privileges for both linguistic communities in the province, and it reaffirms that the Legislative Assembly of New Brunswick has not only the authority but also the duty to promote that advancement.

We have borrowed the expression *governance of official languages* from the 2003-2004 annual report of the federal Commissioner of Official Languages because we feel it encompasses all of the political and administrative decisions of government and the decision-making mechanisms for implementation of the *Official Languages Act*. That includes the adoption of a master plan intended to effect throughout government a genuine change in work attitudes and habits that will help to ensure respect for citizens' language rights in the provision of government services. However, it also calls for societal involvement in establishing conditions promoting the equal and natural use of French and English in all areas of endeavour. Advancement of language equality goes beyond the mere matter of government services. It also includes all of the conditions that contribute to a sense of belonging and participation in the province's social, cultural, economic, and political life.

Although government action in official language matters is very important, we concur with the remarks of the federal Commissioner of Official Languages on the importance for all stakeholders to take action in this area:

What does "governance" really mean? Governance is the political, administrative and legal framework used to implement the Official Languages Act. Beyond that, governance is also the collective, concerted and interactive action required of all political and social players to implement common objectives that citizens can support and carry out in their daily lives. (Annual Report 2003-2004, Commissioner of Official Languages, p. 7)

In this chapter, the Commissioner presents his fundamental stance on implementation of the *Official Languages Act* and analyzes certain government decisions in that regard with a view to making recommendations to the Legislative Assembly where he deems it appropriate.

With that in mind, this section of the report will be structured as follows:

- A. Commissioner's fundamental stance;
- B. Actions taken by government;
- C. Analysis of the measures adopted by the government in the light of the Commissioner's fundamental stance; and
- D. Recommendations.

A. Commissioner's Fundamental Stance

The fact that the Legislative Assembly unanimously adopted a new *Official Languages Act* legislating the active offer of services and the effective provision of services of equal quality in the public's language of choice and establishing the position of Commissioner of Official Languages demonstrates a significant strengthening of the government's commitment in the area of language rights in New Brunswick. That decision confirms the intention of our elected officials to establish in our province a truly bilingual system when it comes to the public service.

Once adopted, the *Official Languages Act* should in our opinion be accompanied by a strategy intended to translate the principles of linguistic equality it contains into tangible and binding measures within the civil service. For that to happen, the government has to adopt an overall plan for the systematic implementation of the OLA, one that takes into account the linguistic and cultural characteristics of each region of the province. Such a plan must include a clearly structured central coordinating mechanism for all components of this implementation, especially as regards the specific objectives to be achieved, the timetables associated with those objectives, the specific responsibilities of each government institution where implementation of those objectives is concerned, and an assessment of the degree to which the objectives in question are being attained.

In his 2003-2004 annual report to the Legislative Assembly, the Commissioner underlined the need for the government to adopt a master plan to implement the OLA, and he elaborated somewhat on this fundamental position in Chapter Five on promotion of the advancement of both official languages. Moreover, the various actions that he undertook during the year with senior officials and ministers in the area of official languages and in particular the Official Languages Policy gave him the opportunity to ponder the matter further. He was therefore able to flesh out his fundamental stance on what should be included in such a master plan. That stance is summarized below.

Necessity of a Master Plan

Note: The bracketed numbers correspond to those accompanying the elements of the Commissioner's fundamental stance in Part C.

The government should adopt a master plan containing a series of administrative measures for the delivery of government programs in accordance with the *Official Languages Act*. That master plan would include the following measures: **(1)**

- The government should update its Official Languages Policy with regard to language of service and language of work. **(2)**
- The government should commit to promoting the advancement of equality by establishing specific, measurable mechanisms for implementing the Act. **(3)**
- The government should commit to implementing the active offer of services of equal quality in the public's official language of choice. **(4)**
- Each government institution subject to the OLA should be responsible for developing its own strategy for implementing those sections of the master plan that apply to its area of activity. **(5)**
- Each institution subject to the OLA should be required to include in its annual report to the Legislative Assembly a substantial section devoted to the degree of attainment of its objectives with regard to the provision of its services in accordance with the Act. **(6)**
- All third parties contracted to provide services on behalf of the Province should be required to sign a service agreement obliging them to offer those services in accordance with the requirements of the Act. **(7)**

- An existing department or agency should be responsible for coordinating the master plan. **(8)**
- The Department or agency in charge of implementing the master plan should in particular be responsible for:
 - Instituting a systematic training program for government employees at all levels of the civil service to:
 - inform them about the requirements under the OLA with respect to government services and about the government's expectations in that regard;
 - make them more aware of the importance of their own attitudes regarding the role they play in achieving the objectives of the OLA;
 - convince them of the commitment of the government and senior management to attaining the objectives of the OLA;
 - assert the need to develop an automatic reflex with regard to the active offer of services and the effective provision of those services in the public's language of choice. **(9)**
 - Establishing a comprehensive assessment program including the following elements:
 - assessment of the success of programs in implementing the master plan. Such an initiative would include the gathering of data enabling the Commissioner to monitor annually the results of government efforts to promote the advancement of equality;
 - assessment of the quality of the services offered to the public across the province;
 - periodic appraisal of staff responsible for providing services to the public and of the managers responsible for those employees. **(10)**
 - Establishing a mechanism for monitoring compliance with the OLA in terms of the provision of government services in the public's language of choice across the province by means of spot checks, both provincially and locally. **(11)**
 - Establishing a properly structured language training program for government employees at the provincial and local levels based on needs identified in connection with the active offer of services of equal quality in the province's two official languages. Such a program would enable the government employees already in place to improve their proficiency in written and spoken French and English according to the public service's institutional needs in order to comply with the OLA. **(12)**
 - Establishing a program providing access to writing tools for employees who are required to write in French or English on a regular basis. **(13)**

Government Transparency in Implementing the *Official Languages Act*

The government should demonstrate openness in all matters relating to implementation of the *Official Languages Act* so that interested citizens can readily find out about the government's Official Languages Policy, its implementation, and all other issues relating to that policy. **(14)**

Increased Role for Official Languages Coordinators

According to government policy, deputy ministers, chief executive officers, and presidents of concerned institutions must make sure there is an official languages coordinator within their respective organizations.

Official languages coordinators hold a key position as regards the provision of services of equal quality in the public's language of choice across the province since they are intimately involved in developing linguistic profiles for the institutions covered by the Act. According to government policy, official languages coordinators in the departments have the following responsibilities:

- Provide consulting assistance to managers to help them meet the objectives of the Official Languages Policy.
- Assist departmental managers in determining the appropriate mix of employees required to offer services in both official languages;
- Assist departmental managers in determining the level of bilingualism required for various jobs and assist in the evaluation of linguistic competence.
- Make presentations to groups of employees on the Official Languages Policy and related topics.
- Monitor services within their department to ensure that services of equal quality are available in both official languages.
- Provide assistance in coordinating responses to complaints that have been lodged against the department with the Office of the Commissioner of Official Languages.
- Follow up on complaints to ensure that appropriate measures are in place to ensure quality services are provided in both official languages.
- Ensure linguistic profiles are updated.

Given the importance of the role played by official languages coordinators, these individuals should report directly to the senior management of the institutions concerned, and they should take part in decision making concerning official languages in the departments, regional health authorities, and Crown corporations. In that way, they could make a greater contribution to developing proactive strategies to ensure compliance with the Act. **(15)**

B. Actions Taken by Government

Updating of the Government's Official Languages Policy

In early December 2004, the Commissioner received a memorandum from the Deputy Minister of the Office of Human Resources, informing him that the revised Official Languages Policy had been in effect since November 30, 2004 and that the Board of Management had adopted guidelines for the implementation of that policy on the same date.

Here are a few important elements from the administrative directive AD-2919, entitled *Language of Service Policy and Guidelines*:

Commitment of Government

The Official Languages Policy clearly expresses the government's commitment to meeting its obligations under the *Official Languages Act*. The government is committed to ensuring the active offer of services in both official languages and the effective provision of those services in the public's language of choice, irrespective of where those services are provided in the province:

- *The Government of New Brunswick recognizes its obligations under the Official Languages Act to actively offer and provide quality services to the public in the public's official language of choice.*

- *Under its Language of Service Policy, the Government of New Brunswick ensures that members of the public or organizations who wish to communicate with any department, agency, crown corporation or institution of the Provincial Government can do so in the official language of their choice and they can expect to be offered and receive the available service in the official language of their choice, wherever the government service is provided.*

Institutions Covered by the Policy

The policy clearly spells out the government's intention to include the regional health authorities in its definition of "institution," and it clearly stipulates that third-party enterprises acting on behalf of the government are subject to the Act.

- *This policy applies to departments, agencies, regional health authorities, crown corporations, institutions and third party enterprises who offer services to the public on behalf of government.*

Responsibility

The *Official Languages Act* states that the Premier is responsible for the administration of the Act. As the Minister responsible for the Public Service, the Minister for the Office of Human Resources has overall responsibility for the administration of the Language of Service Policy, while responsibility for administering the Language of Service Policy within individual departments, regional health authorities, and Crown corporations rests with the respective deputy ministers, chief executive officers, and presidents.

Definitions

The former Official Languages Policy contained only one definition of the terms "public" and "services to the public". The new policy retains the definition of "public" but adds definitions of two new expressions, namely, "service of equal quality," which is consistent with the second recommendation of Madeleine Delaney-LeBlanc's report on the effectiveness of New Brunswick's language policy, and "active offer":

Service of equal quality is service which is actively offered in both official languages and which is available in the language chosen by the member of the public without undue delay.

The ***active offer*** of services means informing the public, at the first point of contact, that services are available in both official languages.

- *The use of bilingual signs and two-language greetings on the telephone and in person are important elements of the active offer. All services intended for public consumption, including documents, Internet postings and other materials, must be available simultaneously in both official languages.*

The ***public*** should be understood to include any person or group of persons, any association, profit or non-profit organization, municipal body or organization, provincial or federal institution, any non-governmental organization as well as the agent representative of the above.

In order to assess this administrative directive concerning the policy and its guidelines, we shall highlight its chief elements in the light of the Commissioner's fundamental stance on implementation of the *Official Languages Act*.

C. Analysis of Provisions Adopted by the Government

We shall look at each of the elements identified by the Commissioner with a view to examining government decisions on the subject and analyzing them briefly on the basis of the Commissioner's fundamental stance.

1. Need for a Government Master Plan

COMMISSIONER'S STANCE

The government should adopt a master plan containing a series of administrative measures for the delivery of government programs in accordance with the *Official Languages Act*. (1)

GOVERNMENT'S STANCE

The Board of Management amended the government's Official Languages Policy, and the amended policy took effect on November 30, 2004. That policy, together with Language of Service Guidelines established by the Board of Management (AD-2919), represents the government's overall strategy for implementing the section of the Official Languages Policy dealing with language of service. It clearly reaffirms the government's responsibilities in that regard and those of each governmental decision-making level.

The guidelines stemming from the Official Languages Policy clearly spell out what the government expects of its employees in meeting the requirements of the *Official Languages Act* in the area of government services.

REMARKS

The Official Languages Policy, together with its guidelines on language of service, may be considered a component of a government master plan for implementation of the OLA. However, the government should duly adopt a master plan that sets out its entire strategy for implementing the Act, and, where possible, it should go beyond government services alone and focus more on advancement of equality in its broader sense, as section 5 of the Act allows it to do.

2. Language of Work

COMMISSIONER'S STANCE

The government should update its Official Languages Policy with regard to language of service and language of work. (2)

GOVERNMENT'S STANCE

The government has in fact updated its Official Languages Policy. Among other things the policy cites the government's firm commitment to making sure that the departments, agencies, regional health authorities, Crown corporations, and third-party enterprises concerned actively offer quality services in the public's official language of choice across the province. The policy also reaffirms the government's commitment to language of work, although the guidelines attached to the policy (AD-2919) deal only with language of service.

REMARKS

In keeping with the spirit of the OLA as regards advancement of the equality of status and equal use of French and English, the government should establish clear guidelines allowing government employees to work in their first official language and to pursue their careers in that language, in accordance with the Official Languages Policy.

3. Firm Commitment by Government

COMMISSIONER'S STANCE

The government should commit to promoting the advancement of equality by establishing specific, measurable mechanisms for implementing the Act. (3)

GOVERNMENT'S STANCE

The Board of Management document on the Official Languages Policy and the guidelines pertaining to language of service contains specific mechanisms for implementing the Act and specifically cites the government's commitment to complying with the Act where its services to the public are concerned. At first glance, the mechanisms for implementing the Act are sufficiently specific to be measurable.

REMARKS

There is no question that this Board of Management document marks one more step towards true equality with regard to government services because it provides for the measures needed to ensure that members of the public have access to services of equal quality in their language of choice across the province. Nonetheless, the government will have to be diligent in order to ensure that these measures are in fact respected throughout the province.

4. Active Offer of Services

COMMISSIONER'S STANCE

The government should commit to implementing the active offer of services of equal quality in the public's official language of choice. (4)

GOVERNMENT'S STANCE

The Official Languages Policy and related guidelines clearly reflect the government's commitment to the active offer of services of equal quality in the public's language of choice. It defines the terms "service of equal quality" and "active offer". Moreover, the guidelines cover in detail the active offer of services in its many forms, i.e., by telephone, in person, signage, correspondence, and electronic services. This information is readily accessible to employees on the government intranet.

For the purposes of their respective governances, the agencies, corporations, and departments covered by the Act are responsible for implementing the Official Languages Policy and language of service guidelines. The deputy ministers, presidents, and chief executive officers are tasked with monitoring the provision of services to make sure that services are actively offered in both official languages and that they are of equal quality.

REMARKS

The necessary measures are in place to ensure that services of equal quality are actively offered across the province. How successful those measures are will depend on efforts to monitor compliance with this policy and the guidelines that have been established. We realize that the various regions in the province are not all at the same level when it comes to resources, attitudes, and habits promoting the active offer of services of equal quality in both official languages. That fact underscores the necessity of a properly structured training program for all employees in that respect and a program to monitor compliance with the OLA across the province.

5. Responsibilities of the Departments and Institutions Concerned

COMMISSIONER'S STANCE

Each government institution subject to the OLA should be responsible for developing its own strategy for implementing those sections of the master plan that apply to its area of activity. (5)

GOVERNMENT'S STANCE

Each department, agency, or Crown corporation is responsible for its own strategy for implementing the Language of Service Policy. In fact, the policy itself states that implementation is incumbent upon the deputy heads of the following parts of the government machinery:

Part I, Civil Service: Deputy Ministers and Deputy Heads;

Part III, Regional Health Authorities: Chief Executive Officers;

Part IV, Crown Corporations: Presidents or Chief Executive Officers.

To guarantee its services in the public's official language of choice, the government operates on the basis of integrated work teams with bilingual capability. To that end, it has a procedure for preparing and maintaining linguistic profiles specific to each of the institutions concerned. The official languages coordinators of these institutions are responsible for developing and maintaining the linguistic profiles for their respective institutions, whereas the deputy ministers, presidents, and chief executive officers are responsible for approving those profiles.

The guidelines spell out the general criteria for developing linguistic profiles. Profiles must first be submitted to the Official Languages and Workplace Equity Branch of the Office of Human Resources for review and feedback before they can be approved by senior management.

REMARKS

The Official Languages Policy and its guidelines do indeed stipulate that each of the institutions concerned must develop its own strategy for implementing the master plan. That serves to promote uniformity in accordance with the principles contained in the Official Languages Policy and guidelines in that regard while at the same time preserving the institutions' distinctiveness and culture.

Linguistic profiles will necessarily have to be subject to greater review than in the past given the modernization and strengthening of the *Official Languages Act* through the addition of binding measures regarding the active offer of services of equal quality across the province and the establishment of the position of Commissioner of Official Languages, who can receive and handle complaints of alleged violations of the Act.

Since the senior management of each government institution must report annually on operations, we assume that this will have to include information about the institution's degree of success in achieving its implementation strategy, based on measurable performance criteria. We hope to be able to see those annual reports so we can do an assessment and make any comments that might be appropriate in our future annual reports.

6. Annual Reporting by the Departments and Institutions Concerned

COMMISSIONER'S STANCE

Each institution subject to the OLA should be required to include in its annual report to the Legislative Assembly a substantial section devoted to the degree of attainment of its objectives with regard to the provision of its services in accordance with the Act. (6)

GOVERNMENT'S STANCE

The Board of Management has directed that departments, Crown corporations, and regional health authorities must henceforth include a section on official languages in their annual reports, in keeping with the direction of integrating the provision of government services in both official languages within the overall management of departmental service delivery.

The government has also adopted guidelines concerning the publication of information on official languages in annual reports of the departments and the Office of Human Resources. The guidelines provide for a statement from each department acknowledging its obligations under the Official Languages Policy and its commitment to actively offering quality services in the public's official language of choice. The report of the Office of Human Resources must contain this same commitment on the part of the government with regard to the *Official Languages Act* and the Official Languages Policy.

The departments must report on all activities aimed at enhancing the provision of their services in both official languages through staff training, information sessions, publications, and other appropriate means.

REMARKS

This decision by the government is consistent with the Commissioner's stance on the matter. He will read these annual reports to make sure they actually spell out the efforts made by institutions to comply with the *Official Languages Act*, and, if he deems it appropriate, he will make recommendations in that regard.

7. Obligations of Third Parties

COMMISSIONER'S STANCE

All third parties contracted to provide services on behalf of the Province should be required to sign a service agreement obliging them to offer those services in accordance with the requirements of the Act. (7)

GOVERNMENT'S STANCE

The Language of Service Policy and Guidelines stipulate in the section on contractual services that when the government contracts services from an outside service provider, the contract must include a clause specifying the responsibilities and obligations of the parties under the Official Languages Policy concerning services in both official languages.

REMARKS

This decision by the government is consistent with the Commissioner's stance on the matter.

8. Central Coordination of Master Plan

COMMISSIONER'S STANCE

An existing department or agency should be responsible for coordinating the master plan. (8)

GOVERNMENT'S STANCE

Under the Language of Service Policy and Guidelines:

- The Minister for the Office of Human Resources is responsible for **administration** of the policy.
- The Official Languages and Workplace Equity Branch of the Office of Human Resources is responsible for **monitoring application of the policy and its guidelines**.

- The Official Languages and Workplace Equity Branch of the Office of Human Resources must also **provide advice on interpretation and administration of the policy and its guidelines.**

The Web site of the Office of Human Resources describes the role of the Official Languages Section as follows:

The Official Languages section provides strategic orientation and co-ordination supporting the provision of services in both official languages by the New Brunswick public service. Working in coordination with all government departments and agencies, the section develops and promotes tools and practices aimed at ensuring that members of the public are able to access government services in the language of their choice.

As indicated, the day-to-day responsibility for administering the Language of Service Policy rests with the respective deputy ministers, presidents, and chief executive officers of the departments, regional health authorities, and Crown corporations.

REMARKS

Since the Official Languages Policy gives him overall responsibility for administering the Language of Service Policy, we can conclude that responsibility for coordinating the implementation of the government's master plan lies with the Minister for the Office of Human Resources. Moreover, this coordination function is facilitated by the Committee of Deputy Ministers on Official Languages, which is responsible for monitoring the implementation of the *Official Languages Act*, supporting the departments and agencies in their efforts to comply with the Act, providing services and advice to government, supporting the Office of Human Resources in updating the Language of Service and Language of Work Policy, and submitting periodic reports to the Premier as the person responsible for the administration of the Act.

It is important for the government to adopt a single, central means of coordinating the implementation of the *Official Languages Act* so that it can ensure compliance with established standards and ascertain the level of attainment of objectives, with a view to making any necessary changes.

9. Responsibilities of the Coordinating Agency

COMMISSIONER'S STANCE

The Department or agency in charge of implementing the master plan should in particular be responsible for:

- **Instituting a systematic training program for government employees at all levels of the civil service to:**
 - **inform them about the requirements under the OLA with respect to government services and about the government's expectations in that regard;**
 - **make them more aware of the importance of their own attitudes regarding the role they play in achieving the objectives of the OLA;**
 - **convince them of the commitment of the government and senior management to attaining the objectives of the OLA;**
 - **make them aware of the need to develop an automatic reflex with regard to the active offer of services and the effective provision of those services in the public's language of choice. (9)**

GOVERNMENT'S STANCE

According to the Board of Management guidelines, the Office of Human Resources is responsible for promoting the Official Languages Policy among government employees and the public at large. It must support the official languages coordinators in preparing their presentations to senior officials, managers, and government employees.

One of the duties of official languages coordinators is to give presentations to groups of employees on the Official Languages Policy and related issues.

In her memorandum of November 30, 2004, to the deputy ministers, the Deputy Minister of the Office of Human Resources informed them:

- of her intention to hold, for them and their managers, as well as their human resources directors and official languages coordinators, if possible, an information session on the substance of the Language of Service Policy and Guidelines;
- that her office would be organizing a train the trainer session for the official languages coordinators in order to provide them with the tools required to provide refresher sessions for their respective staff.

The procedures manual in connection with the Official Languages Policy contains specific guidelines for civil servants with regard to the active offer of service by telephone, in person, through signage, through correspondence, and through electronic services.

Employees can access the Official Languages Policy and Language of Service Guidelines through the government intranet.

REMARKS

We cannot but be pleased at the fact that the government has chosen to offer information sessions to government employees regarding the OLA. The guidelines on implementation of the Official Languages Policy, the messages of the Deputy Minister of the Office of Human Resources, and the information on the government intranet site are all part of an employee information and awareness-raising program. However, the government should not content itself with a few training sessions for civil servants to inform them and raise their awareness about the Language of Service Policy and Guidelines. Implementation of the OLA requires in-depth attitudinal changes on the part of those responsible for providing services of equal quality in the public's language of choice across the province. Those changes could be facilitated by a permanent, comprehensive, and flexible information and awareness-raising strategy aimed at all employees in the civil service, including those who are just starting their careers.

10. Assessment Program

COMMISSIONER'S STANCE

Establishing a comprehensive assessment program including the following elements:

- **assessment of the degree of success of programs in implementing the master plan. Such an initiative would include the gathering of data enabling the Commissioner to monitor annually the results of government efforts to promote the advancement of equality;**
- **assessment of the quality of the services offered to the public across the province;**
- **periodic appraisal of staff responsible for providing services to the public and of the managers responsible for those employees. (10)**

GOVERNMENT'S STANCE

The guidelines attached to the Official Languages Policy stipulate that the Office of Human Resources is responsible for monitoring the implementation of the Official Languages Policy within government and that the Office's Official Languages and Workplace Equity Branch is responsible for monitoring the application of the policy and guidelines. The departments, agencies, and Crown corporations are responsible for monitoring their own services and making any necessary improvements.

The Board of Management has decided that the Official Languages and Workplace Equity Branch of the Office of Human Resources is to be responsible for developing and implementing methods for the periodic assessment of the quality of services in both official languages. This Branch of the Office of Human Resources is also responsible for the continuous monitoring of the government's linguistic profile, which includes an assessment of Part I of the Public Service with a view to determining the government's capacity to meet the requirements of its linguistic profile.

Each deputy minister, chief executive officer, and president of the institutions concerned must also monitor service delivery in their respective departments to ensure that services of equal quality are actually being offered in both official languages and, as indicated earlier, must report annually on the activities of their organization in the area of official languages.

The annual reports to the Legislative Assembly by the institutions concerned are a form of assessment since those reports can be reviewed by the members of the Legislative Assembly. The reports must contain a summary of the degree of success in attaining the objectives established in the various linguistic profiles.

REMARKS

Given the administrative measures that have been put in place, it seems to us that the government is capable of assessing how well the master plan, i.e., the Language of Service Policy and Guidelines, is being implemented. That responsibility rests with the Office of Human Resources for government as a whole and with the individual institutions concerned as regards their own services. It includes methods for the periodic assessment of the quality of services, to be developed by the Official Languages and Workplace Equity Branch of the Office of Human Resources, and the obligation for institutions to monitor their own services and make any improvements required.

From the documents consulted it is not possible to determine whether there is actually a systematic process in place for evaluating deputy heads as regards their responsibilities for the provision of government services in the public's language of choice. However, regardless of what that process might be, it is important for the government to ensure that senior managers in the Civil Service are clear about the objectives to be achieved and their responsibilities in that regard.

The aim of the Language of Service Policy is to ensure the active offer and the provision of government services of equal quality in the public's language of choice across the province. Not only must there be the opportunity, as is currently the case, to file complaints in the event of non-compliance with the Act, but the government must also put mechanisms in place to prevent such situations from occurring.

While the Commissioner can look to the number of complaints in connection with service delivery to get a sense of the government's efforts to meet the requirements of the OLA, he would also appreciate having access to data allowing him to make further comments in that regard. The Commissioner will peruse these various annual reports to form an opinion about the degree of success of the implementation of the Act where government services are concerned.

11. Compliance with the Act

COMMISSIONER'S STANCE

Establishing a mechanism for monitoring compliance with the OLA in terms of the provision of government services in the public's language of choice across the province by means of spot checks, both provincially and locally. (11)

GOVERNMENT'S STANCE

The Language of Service Policy and Guidelines stipulate that the deputy ministers, chief executive officers, and presidents are responsible for implementing the policy and that the Official Languages and Workplace Equity Branch of the Office of Human Resources is responsible for monitoring its application.

REMARKS

It can be inferred from the government's stance that there are actual measures in place to monitor compliance with the Act where government services are concerned. However, apart from the periodic assessment of service quality, to be developed by the Office of Human Resources, there does not seem to be any mechanism for periodically verifying, at all levels, compliance with the Language of Service Policy and Guidelines.

12. Language Training

COMMISSIONER'S STANCE

Establishing a properly structured language training program for government employees at the provincial and local levels based on needs identified in connection with the active offer of services of equal quality in the province's two official languages. Such a program would enable the government employees already in place to improve their proficiency in written and spoken French and English according to the public service's institutional needs in order to comply with the OLA. (12)

GOVERNMENT'S STANCE

The guidelines do not address the issue of language training for civil servants. However, the Official Languages Policy states the following under "Required Language Skills": *Required language skills means that employees are able to function in English or in French, or in both languages to the level required to carry out their duties. The availability of and access to second language training and language upgrading courses for employees will be given priority.*

After the 2004-2005 budget was established, it was decided in spring 2004 that funding for language training would be decentralized within the departments but that responsibility for coordinating the program would rest with the Department of Training and Employment Development.

REMARKS

Enrolment in language training courses has fallen sharply since the government decided to decentralize funding for this program for civil servants wishing to maintain their level of proficiency in their second language.

We have difficulty understanding why the government decided to decentralize the financing for language training courses for civil servants. It seems to us that this decision is to blame for the declining demand for such training. Since the Official Languages Policy clearly states that second language training and upgrading are a priority, we believe that the measures in place should reflect that.

13. Writing Tools for Public Servants

COMMISSIONER'S STANCE

Establishing a program providing access to writing tools for employees who are required to write in French or English on a regular basis. (13)

GOVERNMENT'S STANCE

There is nothing in the Language of Service Policy or Guidelines that specifically addresses this issue. However, the Web site of the Office of Human Resources contains links to writing tools in French (*Le Dictionnaire français-anglais/anglais-français*, *Le grand dictionnaire terminologique*, *Le dictionnaire multifonctions*, *Le dictionnaire des synonymes*, as well as glossaries and lexicons). Civil servants who must write in English have access to such tools as the *Multilingual Dictionary*, the *Acronym Finder*, the *Verb Conjugator*, and the *On-Line Translator*. The Web site also contains information about language upgrading courses offered and links to on-line learning sites.

The section of the Official Languages Policy dealing with language of work specifies that the aim of the policy is to assist and encourage employees to work in their first official language and to allow employees to pursue a career in the civil service in that language. It also confirms the commitment on the part of the government to create conditions conducive to the use by employees of the official language in which they choose to work.

REMARKS

Given the minority status of Francophone civil servants and the fact that a number of them have had to work in English for years, many find it difficult to write effectively in French.

The Commissioner has approached the provincial and federal governments about providing all civil servants with access to the *Termium* software, a high-quality translation tool developed by the Government of Canada's Translation Bureau. While his request has been favourably received by both camps, the Commissioner has not as of the writing of this annual report received a positive response.

It is important for the government to provide civil servants with the appropriate work tools and make sure, as stipulated in the Official Languages Policy, that it creates the conditions for employees to work in their official language of choice.

D. Recommendations

14. Government Transparency in Implementing the *Official Languages Act*

The government has indicated that it wanted to act diligently in implementing the new *Official Languages Act*. Its updated Official Languages Policy with regard to language of service is a step in the right direction. In fact, the document containing the "Language of Service Policy and Guidelines" is an indication of the government's commitment to complying with the Act across the province. However, these government decisions are not immediately apparent on visiting its Web site.

The government should not be shy about clearly publicizing decisions it has made to ensure the implementation of the *Official Languages Act*. Under the Act, it is required to take all appropriate measures for that purpose. Why should it not trumpet its accomplishments in that regard?

Recommendation No. 1

That the government take the necessary measures so that the public can readily find out about what it is doing with respect to implementation of the *Official Languages Act* and related policies.

15. Increased Role for Official Languages Coordinators

Official languages coordinators hold a key position in the provision of services of equal quality in the public's language of choice across the province since they are intimately involved in developing and updating the linguistic profiles of the institutions subject to the Act. They help to establish within those institutions a culture conducive to compliance with the letter and the spirit of the OLA. By virtue of the responsibilities conferred upon them by government policies, these individuals play an advisory role in the attainment of the objectives of the Official Languages Policy and are actively involved in promoting that policy among civil servants.

According to government policy, the deputy ministers, chief executive officers, and presidents of the institutions concerned must make sure that there is an official languages coordinator within their respective organizations, hence the importance attached to this position.

In view of the important role played by official languages coordinators in the implementation of the Official Languages Policy and the monitoring of compliance with the policy in the institutions concerned, these individuals should take an active part in decision making concerning the provision of services in the public's language of choice.

Recommendation No. 2

That the classification for official languages coordinators be written in such a way that they are given sufficient freedom to act and make decisions so they have a certain amount of authority within the departments, agencies, and crown corporations in the area of official languages and that they report directly to the deputy minister, chief executive officer, or president of the institutions subject to the Act.

Language of Work

The Board of Management has reaffirmed the section of the Official Languages Policy dealing with language of work but has yet to update its guidelines in that regard. The section in question contains the following elements:

- It seeks to promote a more balanced utilization of both official languages within the public service and to facilitate and encourage employees to work in their official language.
- It seeks to facilitate and encourage employees to work in their first official language, and will allow employees to pursue a career in the civil service in that language.
- It confirms the commitment on the part of the government to create the conditions conducive to the use by the employees of the official language in which they choose to work, subject to the government's duty to provide service to the public in the official language of their choice.
- It stipulates that it is incumbent upon central offices to utilize the appropriate official language(s) in the provision of service to and in contacts with local offices.
- It states that personnel services and other administrative services must be provided in the preferred language of the employee.
- It states that supervision will be in the preferred official language of the employee except in circumstances where it is not feasible or practical.

Language of work is of the utmost importance to Francophones who obtain employment in the provincial civil service. In most cases, these individuals will have completed their public, college, and university education in French inside or outside the province. They therefore expect to be able to pursue their careers in the civil service while working in their first official language, at least partly. Unfortunately, that is not always the case.

Anglophones who obtain employment in the civil service quite naturally expect to be able to work in their mother tongue, which is what happens in the vast majority of cases. Anglophone civil servants who have learned French in immersion or core French programs expect to be able to put what they have learned to good use, not only while serving the public directly in that language, but also while interacting with their coworkers in either official language.

In her December 1996 report to the government, entitled *Government of New Brunswick, Bonjour*, Madeleine Delaney-LeBlanc made some recommendations concerning the language of work in the civil service. Eight years later, many of her findings with respect to language of work are still topical. She noted, for example, that allowing for exceptions a significant percentage of Francophone civil servants working in the Fredericton area had to communicate in English with their coworkers and that about 20% of them had lost some of their skills in their first language, while the same percentage of bilingual Anglophones had lost some of their French skills. In her opinion, this was due to the fact that the work environment in the provincial capital was mostly English-speaking, and this situation seems to have remained unchanged.

Large numbers of bilingual civil servants with French or English as their first language have been recruited and hired on account of their ability to work in both of the province's official languages. We believe that the government, as an employer in an officially bilingual province, should protect its investment by providing a work environment in which these individuals can not only maintain and improve their skills in both official languages by working in both of them or by taking language upgrading courses, but also take advantage of the opportunity to work in their first language and thereby develop a sense of belonging to their province, regardless of where they work.

Most civil servants, either occasionally or on an ongoing basis, have to write in French or English as part of their duties. Employees who have to write in French but who work in predominantly English-speaking settings face considerable challenges: often, their vocabulary in French is not up to the task, and they do not always have access to the writing tools they need to preserve or enhance their skills in French. Furthermore, when they type their texts, the keyboards that are available do not always lend themselves to the use of French, and configurations vary from one keyboard to the next. While the situation is not the same when it comes to writing in English, Anglophone and bilingual civil servants would also benefit from having ready access to writing tools in English.

With respect to keyboards, we believe that the Government of New Brunswick should follow in the footsteps of the federal government and adopt a keyboard standard for the entire civil service, particularly where word processing is concerned. We recommend the CAN/CSA Z243.200-92 standard because it allows users to type in French without dead keys for the most commonly used accented letters as well as to type in English and 12 other Latin-based languages, something that is very important in this era of globalization of relations and trade.

Recommendation No. 3

That the government establish specific guidelines for implementation of the section of the Official Languages Policy dealing with language of work.

Recommendation No. 4

That a study be conducted in order to identify and implement the best ways of promoting, among Francophone civil servants, the use of French in the workplace in the Fredericton area, in regions where English is predominantly used, and in bilingual areas;

That this study include an examination of the best ways of promoting, among bilingual civil servants whose first official language is English, the use of French in their workplaces; and

That the government include among its preferred options the opportunity for employees to take part in exchange programs that would allow them to work for limited periods of time in settings in which the language of work is not their first official language.

Recommendation No. 5

That the Official Languages Policy include the necessary measures to make work tools readily available to civil servants allowing them to work in either of the province's official languages. Such measures would include in particular:

- **writing tools such as dictionaries, word processing software in French or English as the case may be, and operating systems with French or English interfaces at the employees' choosing; and**
- **adoption for the whole of government of a policy on the keyboard standard, making use of the Canadian multilingual keyboard (CAN/CSA Z243.200-92) mandatory. such a policy would stipulate that, as of an agreed-upon date, all new computer equipment would automatically include the standardized Canadian multilingual keyboard.**

Recommendation No. 6

That the government of New Brunswick take the necessary steps to ensure that the *Termium* software is available to all civil servants, or at the very least, to those whose duties require them to write in French or English.

Language Training for Government Employees

The Official Languages Policy and related guidelines reflect the thrust of the new *Official Languages Act* as regards the new requirements for government services, which means that the government must have functional teams in place across the province with the ability to provide their services in both official languages, even in areas where the active offer of these services in both official languages is not customary.

Since the Official Languages Policy clearly states that no employee will have his or her current employment level adversely affected because of a lack of language capability, it goes without saying that the government as employer will have to find ways to reconcile its obligation to provide its services everywhere in the province in both official languages with a potential shortage of bilingual employees in certain key regions of the province. Such a situation will therefore require palliative measures, including language training in the second language.

The government's language policy provides for only second language training and language upgrading courses for provincial employees. Given the minority status of Francophone civil servants who work in predominantly English-speaking areas and the linguistic and cultural influences they are subjected to in those areas, the language training and language upgrading program should also apply to French as a first language. Since all employees should have access to writing courses in French or English, the current language training and language upgrading program should also apply to English as a first language.

In our opinion, for such a language training and language upgrading program to be effective, responsibility for the program's administration and funding should be centralized. We believe that this responsibility should fall to the Office of Human Resources which already offers general training to civil servants and other types of training through electronic means.

Recommendation No. 7

That, in the “implementation” section of the Official Languages Policy, the “required language skills” part be amended to include language training and language upgrading in the first language.

Recommendation No. 8

That the government establish a centralized language training and language upgrading program for civil servants who are members of teams with bilingual capability at the provincial and local levels, with a view to meeting needs identified in connection with the active offer and the provision of services of equal quality in the public’s official language of choice across the province.

That the overall responsibility for administering and funding of language training and language upgrading program for civil servants be transferred to the Office of Human Resources.

That the responsibility for administering the assessment of the employees’ level of bilingualism for the purposes of language training and upgrading remain within the Department of Training and Employment Development.

Municipalities: Bastions of Local Democracy***Importance of Municipalities as Places of Identification and Belonging***

The municipal level of government is the level of democracy that is closest to citizens and the one over which they have the most control through direct participation. It is also the level of government that is most closely watched by the public and the most subject to pressure from a clientele that at any time can get in touch with the decision makers, irrespective of whether they are at the political or administrative level of the decision-making machinery of the municipality in question.

The political, social, cultural, and economic functioning of our province and country depends largely on initiatives designed and implemented at the municipal level. Accordingly, they are a vital link contributing to the robustness of that functioning. Provincial and federal politicians recognize the political force that municipalities represent. One need only consider the measures advocated by the federal government with regard to direct funding for cities.

Citizens of cities and municipalities are attached to the place they consider home. They have a sense of belonging to the city or municipality in which they live. In short, these are places that mirror their values. For municipal leaders, this sense of belonging to the municipality and the acceptance of its values by its citizens are crucial for the well-being and growth of the city or municipality. However, a sense of belonging can be attained only if citizens perceive themselves to be equal and if the municipality treats them and all other citizens in the community equally. The *Official Languages Act* embodies these values of equality and respect and expresses them in the form of tangible initiatives, particularly at the municipal level.

Commissioner’s Efforts to Help the Municipalities

The Commissioner strives to maintain collaborative and open relations with the municipalities in order to promote the official languages, clarify their responsibilities under the Act, and learn about the difficulties they are experiencing in their efforts to comply with the Act. He accepts invitations from the municipalities to meet with him, and he has taken advantage of such opportunities to talk with the administrators and political leaders of these institutions and to witness first hand their successes and concerns.

Last winter, the Commissioner organized a tour of municipalities to ensure that they understand the basic philosophy and scope of the *Official Languages Act* and the application of relevant sections of the Act. Another goal of those meetings was to learn about the municipalities' concerns regarding their responsibilities under the Act and to encourage them to consider what could be done, in co-operation with representatives of the minority community in their respective regions, to encourage businesses to serve their Francophone and Anglophone customers in the official language of their choice.

In preparation for the meetings with the municipalities, the Commissioner drafted a confidential questionnaire for them in an effort to identify their successes as well as the challenges they face in their efforts to meet the requirements of the OLA. He greatly appreciated the municipalities' participation in these discussions and feels that the responses and information he received have given him not only a sense of the problems they are facing in trying to meet the requirements of the Act, but also an opportunity to learn more about the proactive steps they have taken.

The highlights of those meetings can be summarized as follows:

- The Commissioner perceived a great deal of goodwill on the municipalities' part in their efforts to comply with the Act.
- Many municipalities are complying with the Act without too much difficulty.
- Allowing for exceptions, municipalities located in traditionally bilingual areas are complying with the Act fairly readily.
- Municipalities located in areas not traditionally known for their bilingualism are having more difficulty in complying with the Act. In our view, those difficulties are the result not of a lack of goodwill on the municipalities' part, but rather a lack of experience, a shortage of qualified staff, and insufficient human and financial resources to meet their needs in this area.
- Some municipalities wondered how municipal councillors could approve minutes translated into French when those councillors are all unilingual English. In response to that question, the Commissioner suggested that they had to trust the individual or company having done the translation, as has been the practice for more than 20 years in the federal government and in other governmental and nongovernmental organizations.
- Certain municipalities in bilingual areas with experience in the provision of services in both official languages volunteered to assist those experiencing difficulties in that regard.
- One municipality suggested that a specialized agency in the field of toponymy be established to advise municipalities in that regard.
- Some urban centres such as Moncton, Dieppe, and Saint John have developed a rigorous plan to meet the requirements of the *Official Languages Act*.
- One municipality mentioned that a water and sewerage course was being offered to Francophone employees only in English. Following the meeting, the Commissioner approached the persons in charge so that the appropriate steps could be taken to rectify the situation. The course in question was subsequently translated and will be offered starting this fall (2005) at the Bathurst Community College.

While the City of Saint John is one of those communities not traditionally known for its bilingualism, it rose to the challenge of meeting the requirements of the *Official Languages Act*. The city has adopted an ambitious strategy for the transition to bilingual services, involving for instance significant investment in bilingual signage inside and outside city buildings, bilingual road signage, a bilingual Web site, and documentation in both official languages, including announcements, minutes, and simultaneous translation of all public City Council meetings. Furthermore, the municipal by-law adoption and amendment process will include translation and interpretation services where necessary. All city departments

will have to develop protocols for responding to requests for information, petitions, and complaints made in person, in writing, or electronically. Human resource and professional development needs will be determined on the basis of the city's operational requirements.

The Commissioner hopes that the City of Saint John will manage to stay the course in its efforts to meet the requirements of the *Official Languages Act* and that it will serve as a model for other municipalities in the province.

Second Language Training Programs

It can sometimes be difficult for Anglophone municipalities that have to meet the new requirements imposed by the *Official Languages Act* to find the resources necessary for designing and delivering one-off training programs in French. Adding to that difficulty is the cost of such training, especially for small municipalities.

Perhaps it might be expedient for government to facilitate access to language upgrading services for municipal staff, which would include the development of courses geared specifically to their needs and the delivery of those courses. Such access could be provided through the public or private sector. Regardless of the approach taken, these municipalities will have to spend more on language skills upgrading for their staff.

In the Commissioner's view, the government must ensure that the requirements imposed by the OLA can be met by the institutions concerned, municipalities included.

Recommendation No. 9

That the government undertake to consult the municipalities in order to identify their needs in terms of language skills training and that, on the basis of the findings of those consultations, it come to an agreement with them on the best ways of meeting those needs; and

That, to justify their needs with regard to language training and language skills upgrading for their staff and thus have access to a language training program, municipalities be required to submit a plan showing how they propose to offer bilingual services so as to comply with the *Official Languages Act*.

Language Planning

Note: "Language planning" means all of the strategies for implementing the Act and the government's language policy, which for the government constitute the course it has set to attain the objectives contained in the *Official Languages Act*.

Adoption of the Official Languages Act

The adoption of the *Official Languages of New Brunswick Act* in 1969 and the subsequent adoption of the new *Official Languages Act* in 2002 testify to the firm resolve of the Legislative Assembly of New Brunswick to modify the normal course of development of the French language and culture in the province. Had it not been for this step by government, the French linguistic community in New Brunswick would not be in doing as well as it is today, and the province would be the poorer for it.

The *Official Languages Act* of 2002 acknowledges in its preamble that the Constitution of Canada provides that the English and French linguistic communities have equality of status and equal rights and privileges, including the right to distinct cultural institutions as are necessary for the preservation and promotion of those communities. It also stipulates in section 5 that nothing in the Act limits the authority of the Legislature or the government to advance the equality of status and use of French and English. It clearly signals the intention of the New Brunswick Legislature to bring about significant changes in that area.

History shows that the New Brunswick Legislature was right, since the 1969 decision to adopt an *Official Languages Act* and subsequent decisions regarding the equality of both official languages and the equality of both official language communities have changed

for the better the status of the French language in New Brunswick and have facilitated for members of the French linguistic community their active participation in the social, economic, political, and cultural life of our province and country. Those decisions have also resulted in better relations between the citizens and institutions of both official language communities in the province and a mutual appreciation of their respective qualities and strengths. New Brunswick and Canada can take pride in those achievements.

Demands for Changes with Respect to Linguistic Rights

Of course, those decisions were precipitated by certain significant events. These include:

- changes in the education sector resulting in the inclusion and empowerment of the French linguistic community, which wanted to educate its children in settings beneficial to them, and
- the many demands from that community for the establishment of conditions enabling it to grow and reach its full potential.

Without the support of the English linguistic community, those changes could not have taken place.

Evolution in Education

Mutually exclusive initiatives on the part of the English and French linguistic communities in New Brunswick in the area of education, such as parochial schools and private schools run by religious institutions of various denominations, have been replaced by public institutions set up by government. Those measures could be considered language planning in that they brought about a change in the normal course that would have been taken by the English and French languages in the province.

Individual and Institutional Bilingualism

Attitudes have evolved to the point where there is recognition of the advantages of bilingualism and the right of every person to receive services in the language of his or her choice, whether it be government services or other services. People also recognize the value of the non-threatening concept of institutional bilingualism in the civil service, where individual civil servants do not have to be bilingual, and the concept of individual bilingualism whereby the learning of the second language is encouraged and facilitated by the public education system. This philosophy of openness and inclusion fosters more open and equal communication between the members of both linguistic communities as well as the personal, economic, and cultural growth of the persons concerned and the advancement of society in general.

Authority and Responsibility of Government with Respect to Linguistic Rights

Once government decided that both official language communities were to have equality of status and equal rights and privileges, it was to be expected that it would grant itself the power to act in order to make that equality a reality and establish a mechanism to ensure respect for those rights and their promotion. Section 5 of the *Official Languages Act* grants the authority to act in that area, and the establishment of the Office of the Commissioner of Official Languages in itself establishes a mechanism which, in addition to ensuring respect for language rights, promotes change.

The Legislative Assembly has created a mechanism whose fundamental goal is to remind it of its role and that of government as the main agents of change in New Brunswick, not only with regard to promotion of the equality of the French and English linguistic communities but also through that means, promotion of the social, cultural, and economic development of our province.

Need for a Global Strategy with Respect to Our Language System

Efforts to meet the requirements of the OLA, particularly with regard to the provision of services in the public's language of choice, signage in both official languages, and toponymy, underscore the need for some kind of broader planning of the various components required to institute bilingual language systems and the need for a think tank/research organization with the expertise and credibility required to act as a guide for government.

The Conseil d'aménagement linguistique du Nouveau-Brunswick, consisting of volunteer researchers and representatives of Francophone municipalities and civil society, is one such organization. It meets on a regular basis and deals with issues relating to French language planning in the province.

We acknowledge the work accomplished to date by the government and the positive changes that have ensued from its decisions. However, we are at a stage in our collective development where it is important to have a strategic plan for the implementation of a language system in keeping with the spirit of the OLA and to adopt measures and conditions that promote attainment of the Act's objectives with regard to advancement of the equality of status and equal use of French and English across the province. Those measures could include language planning that would encompass, for instance, toponymy and other related issues.

Towards a New Brunswick Language Planning Board

As mentioned earlier in this chapter, "language planning" means all of the strategies for implementing the Act and the government's language policy, which for the government constitute the course it has set to attain the objectives contained in the *Official Languages Act*.

The concept of language planning is not new. Language planning is already under way in New Brunswick. Government decisions in the area of official languages represent a sort of language planning, as does the institution of linguistic duality in the public school system. Federally, there is the Geographical Names Board of Canada (GNBC). The Geographic Board of Canada was set up in 1897 and was succeeded by the Canadian Board on Geographic Names in 1948. In 1961, the names authority was reorganized as the Canadian Permanent Committee on Geographical Names (CPCGN). Finally, in 2000, it became the Geographical Names Board of Canada.

In 1961, responsibility for naming was transferred to the provinces. Since 1979, the authority for naming in Indian reserves, national parks, and military reserves has been held jointly by the appropriate federal department and the province concerned.

In its last Throne Speech, the government committed itself to begin work with respect to toponymy in order to tackle the designation of site and place names.

We strongly encourage the government to continue the work begun with regard to toponymy while incorporating the notion of language planning and thereby establish a central language planning mechanism through an organization vested with appropriate authority and the ability to make specific recommendations to government.

The operative aspect of the *Official Languages Act* requires great vigilance with respect to government signage as this issue has already been the subject of complaints from members of the public. These complaints concerned street names, names of provinces on highway signs, place names and names of private organizations such as universities. A central language planning mechanism would allow government to avoid duplicating its efforts in this area and avoid potential confusion as well as additional costs associated with such duplication.

A language planning board, consisting of representatives of concerned departments and institutions subject to the OLA, would be for government a sole competent source for undertaking studies and making recommendations on implementing government language policies and standards, on government standards for the use of French and English within the government machinery, and on toponymy and all other related issues.

Such a board would rely on committees of experts which, at its request or on their own initiative, would conduct specific studies and make recommendations based on those studies. These committees of experts could consist of government employees and specialists from the private sector and universities. These studies should, in certain particular circumstances, plan for consultations with concerned communities in order to obtain their opinions on the subject matter.

Once the language planning board has established basic principles related to the correct naming of streets, of provinces, of sites or private organizations such as universities etc., the final say in this area could be passed on to a central and unique decision-making authority.

Recommendation No. 10

That, at its earliest convenience, the government begin work towards the establishment of a language planning board. notwithstanding the structure and the precise mandate that the government will decide to give the board, it is essential that it be given the necessary means enabling it to advise government with regard to toponymy or to take any other action initiated within a language planning program having as its objective the realization of the underlying principles of the OLA.

Conclusion

We recognize that the government is on the right track in the area of official languages and that it has made much progress in that area. We also know that progress in terms of language equality will occur gradually and that it is important to promote the advancement of that equality through enlightened decisions on the part of government. That said, despite the relatively large number of recommendations in this report, we hope that government will give them serious consideration and that the Commissioner will be able to note the fruits of such consideration in his annual reports.

CHAPTER FIVE

OUTLOOK FOR THE FUTURE

Our Past is our Promise for the Future

The objective of the *Official Languages Act* is to even out linguistic differences and differences in opportunity and to promote the development and growth of the minority so as to foster the development and growth of all citizens in the province. The Act reflects our collective values of respect for language rights in the province, the equality of the official language communities, unity through diversity and inclusion, and the advancement of linguistic equality in New Brunswick.

The *Official Languages Act* is in place and must therefore be complied with. The role of the Commissioner of Official Languages is to encourage compliance with the Act in addition to promoting it and both official languages in the province. However, promoting the principles enshrined in the Act and compliance with the obligations it imposes on government institutions is not always easy, hence the need for our various promotional programs, a general attitude of openness, and proactive initiatives on the Commissioner's part when working with government institutions.

Regardless of the actions taken by the Commissioner and government institutions to promote language rights, those actions will be limited in their success if they are not expressly supported by the other stakeholders in the community. As individuals we must subscribe to the principles of equality advocated by the OLA, and we must be prepared to take meaningful action in order to attain the objectives of the Act. Social, cultural, and economic organizations must, to the best of their abilities, help build a society where each person can live fully in his or her first official language and communicate effectively in his or her second official language.

New Brunswick has taken giant steps in the area of language rights, in terms of both education and equality before government and its institutions as regards communication and equal access to services in the public's language of choice. The Francophone linguistic community is increasingly asserting itself, thereby enabling its members to contribute actively to our province's vitality. However, that does not mean there is little left to do. Despite the goodwill of our leaders, the values of bilingualism are not accepted by everyone, and some work remains to be done to convince them of those values. And, there are still too many students in the English school system who finish their public schooling without an adequate knowledge of French as a second language.

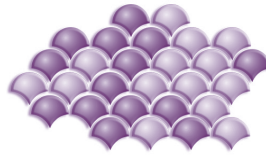
A great deal of effort still lies ahead if the requirements of the OLA with regard to language of service are truly to be met, especially in areas where there is not yet a culture conducive to automatic and ready access to services in both official languages. Much remains to be done with respect to language of work in the civil service. This is naturally a very sensitive issue that will require a great deal of tact on the part of senior government officials. But we cannot ignore this very important aspect of language rights and the growth of New Brunswick's French linguistic community.

Despite the few elements that could be construed as impacting negatively on the advancement of French and English in the province, the Commissioner is greatly encouraged by the positive attitudes of the individuals responsible for implementing the OLA and the members of society involved in initiatives aimed at bringing the two official language

communities closer together and fostering communication. The Commissioner sees this as a blueprint for society and realizes that he plays a major role as an agent of change in helping make this blueprint a reality. In short, the Commissioner feels that the goodwill shown by the bulk of citizens will prevail and that ultimately, all citizens in the province will be able to live in French or English and feel that they belong while appreciating the fact they can express themselves in the other official language and exchange easily with members of the other official language community.

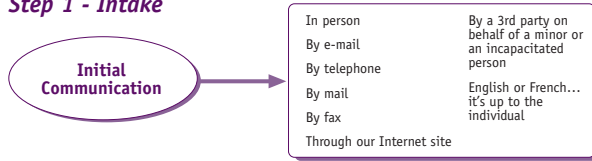
APPENDIX

**COMMISSIONER OF
OFFICIAL LANGUAGES
FOR NEW BRUNSWICK**

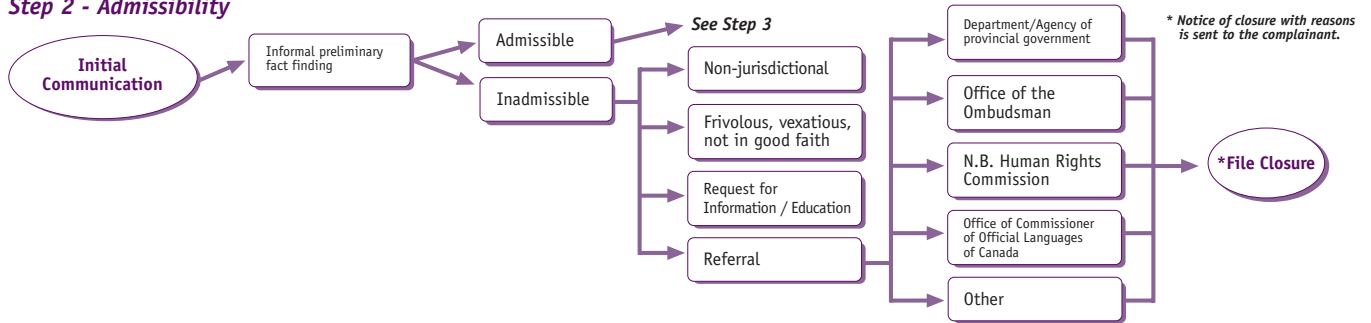


**COMMISSAIRE AUX
LANGUES OFFICIELLES DU
NOUVEAU-BRUNSWICK**

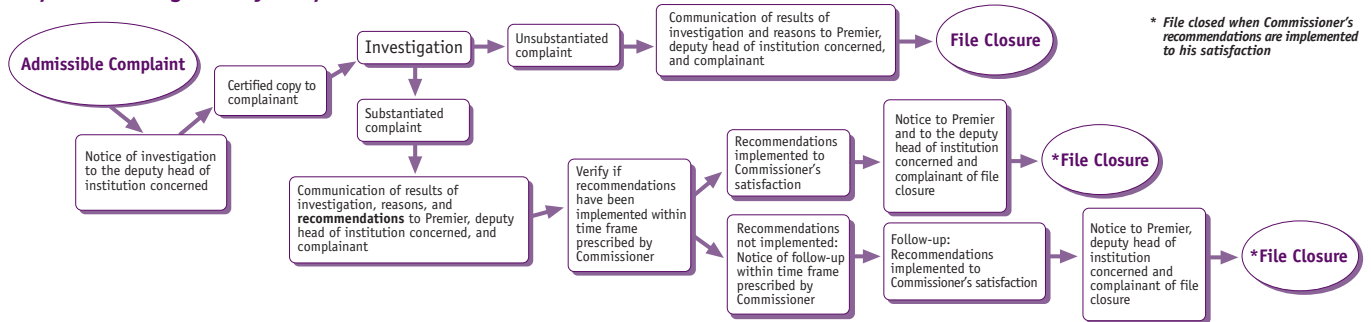
Step 1 - Intake



Step 2 - Admissibility



Step 3 - Investigation of Complaint



Investigation Initiated by Commissioner

