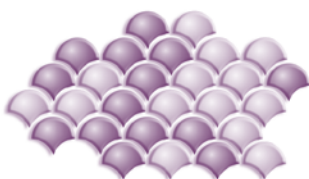




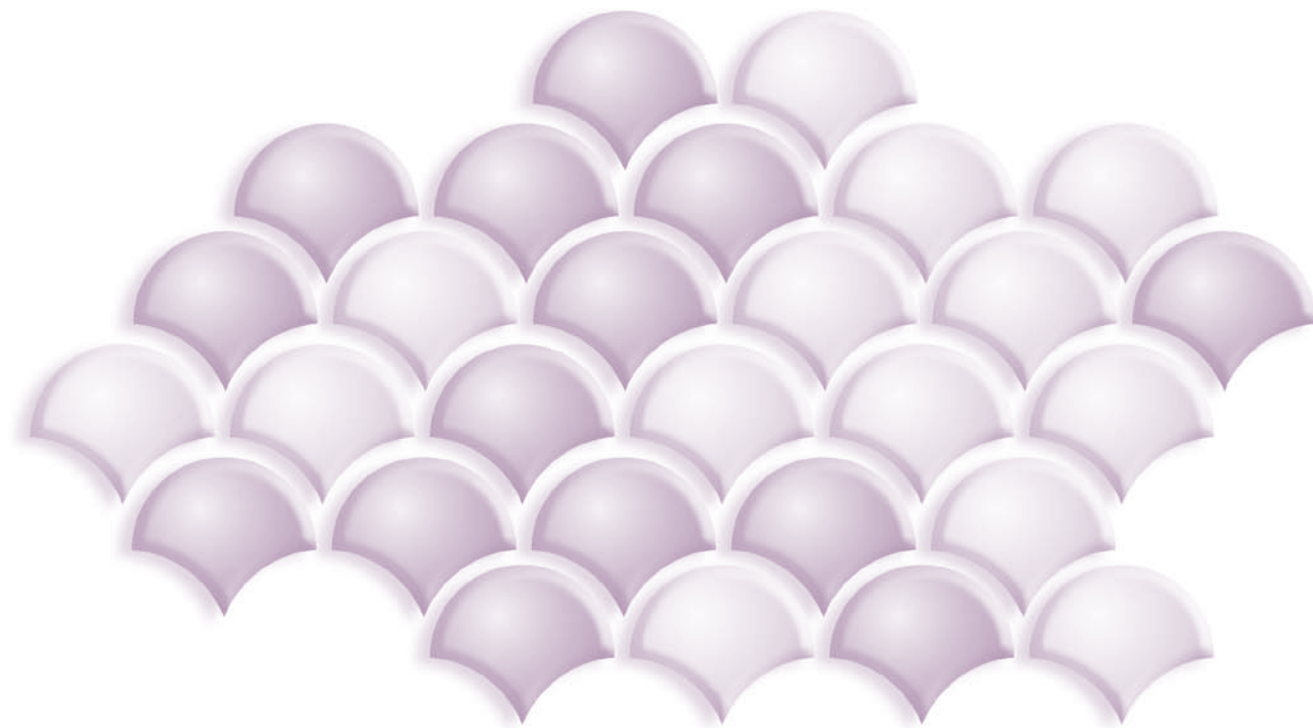
# Annual Report of the Commissioner of Official Languages for New Brunswick

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*.



2007 - 2008

## **Annual Report 2007-2008**

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COMMISSIONER OF  
OFFICIAL LANGUAGES  
FOR NEW BRUNSWICK



COMMISSAIRE AUX  
LANGUES OFFICIELLES DU  
NOUVEAU-BRUNSWICK

**The Hon. Roy Boudreau**

Speaker of the Legislative Assembly of New Brunswick  
Legislative Building  
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Fredericton, N.B.  
E3B 5H1

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, 2007 to March 31, 2008.

Respectfully submitted,

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

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## FROM THE COMMISSIONER OF OFFICIAL LANGUAGES

I am pleased to present my fifth annual report. As in previous reports, I have provided a detailed outline of the activities and initiatives of my office for the 2007-2008 fiscal year as well as information pertaining to the continuing progression toward true equality in the area of official languages.

As Commissioner, I am mandated to investigate, report and make recommendations with regard to compliance with the *Official Languages Act (OLA)*. This report outlines the work conducted in this area and provides the reader with an appreciation of the types of complaints received as well as some of the weaknesses and shortcomings of certain government institutions when it comes to conforming to the letter and the spirit of the OLA.

The 2007-2008 fiscal year marked the end of my first five-year mandate as Commissioner. The Legislative Assembly unanimously renewed my mandate on January 17, 2008. I am thankful for the opportunity to continue working in the service of the people of our province, and I look forward to doing my part in helping our province be a true bastion of linguistic equality.

As I look back on the work accomplished by my office during the past five years, I am pleased with what we have accomplished. However, I am not satisfied with the present state of affairs as it pertains to the full respect of linguistic rights. To be satisfied would imply that the public's constitutional right to be served in the official language of choice is fully respected everywhere at all times. Our experience demonstrates that this isn't the case. As I have said repeatedly, while provincial institutions have almost always been cooperative during the investigation of complaints and have sought and proposed solutions to correct the problems identified, they are not proactively working to fulfill their obligation to comply with the OLA and live up to their responsibility to take positive action to promote the cultural, economic, educational and social development of our linguistic communities as required by the *Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*. There has been no real response to my recommendation that strategic plans must be developed and implemented in all provincial institutions. At best, institutions have paid lip service to the idea. Some have promised to move ahead in this direction, but to this day, no institution has developed and implemented a credible and exhaustive strategic plan which would allow it to meet all of its obligations in this area. While it is quite frustrating to feel that one is simply yelling in the wilderness, I am not deterred and, during the next five years, I will continue to pressure government and all its institutions to act and implement such plans. Where the commissioner has no power to force action by government, one would hope that I would be supported in this quest by members of the public, the media, associations and organizations that can bring pressure to bear on the government to finally move in this area. I am convinced that a strategic approach to the implementation of the OLA would take us to the next level in the progression toward true equality. Such plans would provide clear reference points for civil servants and members of the public. It would provide the public with the comforting knowledge that, even when their rights are not respected, there is still a clear path to be followed to ensure that such failures will not reoccur. It would provide them with hope and quell the cynicism usually felt when all that is offered are good intentions.



The provincial government's hesitation and lukewarm response to the idea of a strategic plan for implementing the OLA forced me to reflect further on my recommendation and to try to understand why such a suggestion would be more or less ignored. My search for answers ended when, a few months ago, I had occasion to review part of the Poirier-Bastarache Report. The idea of strategic planning was seen by the authors as the key to the true and lasting development needed to fully respect linguistic rights. More than twenty years have passed since the publication of that report and many things have changed. We have seen many improvements. While some may have perceived the early eighties as too early to implement the recommendations of the report, I believe that the current political and social context in the province is such that there are no longer any credible arguments against the government adopting a strategic plan in the area of official languages. The time is right to move ahead and create a New Brunswick that is truly equal. Is the leadership there to firmly take us to this next important level?



Michel A. Carrier, Q.C.

## A BRIEF LOOK AT PREVIOUS ANNUAL REPORTS

The Office of the Commissioner of Official Languages is now in its fifth year of operation. Its four previous annual reports describe the work that has been accomplished both in terms of investigating complaints and the promotion of the advancement of both official languages.

While the first annual report focused mainly on the Office's structure and organization, the following annual reports highlighted pertinent court decisions and described work done by the Office of the Commissioner in response to a wide range of complaints from members of the public. Early in the Commissioner's mandate, the Office received many complaints regarding provincial and municipal elections and these complaints led to a system-wide investigation that resulted in a special report containing a series of recommendations. Past annual reports also provide the reader with an idea of which government institutions have had the most difficulty adhering to the *Official Languages Act (OLA)*: in addition to Elections New Brunswick, the Departments of Health, Justice, Public Safety, Tourism and Parks and Local Government as well as Service New Brunswick have all been investigated most often by the Office of the Commissioner pursuant to complaints from the public. These institutions are among those that interact with the public on a daily basis throughout the province.

Aside from the usual detailed information regarding the investigation and resolution of complaints, past annual reports have contained special recommendations the Commissioner has made regarding such issues as the RCMP's obligation to adhere to the OLA when acting as a provincial or local police force, the abolition of the federal court challenges program, the need for civil servants to be provided with language tools, French second-language education and more. In particular, the Commissioner has repeatedly asked the province to adopt strategic plans for implementing the OLA in the day to day workings of provincial institutions. This suggestion has been met with silence or, at most, vague promises to eventually address the issue.

Past annual reports submitted by the Office of the Commissioner of Official Languages have also provided information on promotional activities undertaken in an effort to advance the equality of both official language groups in the province. These activities have included an innovative and highly successful program targeting youth, the Business and Bilingualism initiative which encourages the private sector to offer services in both official languages as well as print, radio and television campaigns.

## SUMMARY

In addition to being an activity report as required by the *Official Languages Act* (OLA), this fifth annual report of the Office of the Commissioner of Official Languages is intended to be a tool for promoting the province's two official languages and a reference work for civil servants and the general public.

Throughout the year, as has been the case since the beginning of his mandate in 2003, the Commissioner provided information and counsel on matters relating to official languages to various government departments and institutions. He continually sought opportunities to support and encourage positive change within government institutions in order to help ensure that the public's language rights were respected. While the Commissioner can make recommendations following an investigation into a complaint regarding government service, he cannot impose solutions. This is why he also engages in constructive discussions with institutions in order to further ensure that they meet their obligations pursuant to the OLA. This report recounts details of the Commissioner's more noteworthy dealings with provincial institutions on behalf of New Brunswickers. The Office of the Commissioner examined and in some cases called into question the decisions of government institutions relating to such important files as French second-language education, the reorganization of regional health authorities, the closure of satellite courts, the lack of progress on the creation of a new language of work policy and the appointment of unilingual people to the leadership of provincial institutions mandated to service the public in both official languages.

The Commissioner's annual report also provides a review of two key court decisions having a significant impact on language rights in New Brunswick.

This year, the Office of the Commissioner of Official Languages received 126 complaints and 30 requests for information. Of that total, 58 complaints were admissible, with 45 based on a lack of service in French and 13 based on a lack of service in English. Forty complaints were deemed inadmissible on the grounds that they did not come under the Commissioner's authority or did not concern an institution within the meaning of the OLA. Twenty-eight complaints were referred to other institutions for consideration.

Along with his duty to investigate complaints, the Commissioner is also responsible for promoting the advancement of both official languages. Again this year, the Office of the Commissioner has taken on many promotional activities such as the creation of a bilingual comic book aimed at 9 to 14 year-olds, building on the highly successful 2tongues web site which communicates positive messages about bilingualism, language rights and pride. The Commissioner also promoted the equality of status of both official languages through print, radio and television advertising campaigns as well as through such initiatives as the 2tongues! Award, handed out at the province's Regional Heritage Fairs, which rewards students whose projects describe a person, group, or event in New Brunswick or Canadian history that contributed to the advent of official bilingualism in New Brunswick, or to the advancement of linguistic equality in New Brunswick.

Elsewhere in his report, the Commissioner cites the accomplishments of institutions, organizations and communities that he feels are worthy of mention as they demonstrate real and credible efforts to meet the obligations of the OLA and to promote the principles upon which it is based. He firmly believes that New Brunswickers contribute greatly to the advancement of true bilingualism in our communities when we work in thoughtful and innovative ways to make real the linguistic equality guaranteed by the OLA.

## CHAPTER ONE

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

In this chapter, we will review key court decisions having a significant impact on language rights in New Brunswick.

#### *R. v. Michelle LeBlanc*

Please see page 50 in the Dealings with Institutions section of this report for a summary of *R. v. Michelle LeBlanc*.

#### *Société des Acadiens et Acadiennes du Nouveau-Brunswick Inc. v. Canada*

Marie-Claire Paulin was stopped on April 26, 2000, by a member of the RCMP, on the Trans-Canada Highway in the Woodstock area, and more specifically at Debec, New Brunswick, for speeding. The RCMP member in question was unable to speak to Ms. Paulin in French, and no active offer in that respect was made.

In 2001, Marie-Claire Paulin and the SAANB took the RCMP to court alleging that her linguistic rights had not been respected because the officer had been unable to communicate with her in French. On August 26, 2005, the Federal Court essentially found that Ms. Paulin's rights had been infringed and held that the RCMP was bound by the *Canadian Charter of Rights and Freedoms* to serve Ms. Paulin in the language of her choice. The federal government appealed this ruling on November 7, 2005.

On May 25, 2006, the Federal Court of Appeal overturned the lower court decision, finding that the lower court judge had erred in equating the RCMP to a provincial institution for the purposes of the *Charter*. It further stated that since the RCMP was providing services under a contract with the Province, it was in fact the Province that had the constitutional responsibility to ensure that Ms. Paulin's linguistic rights were respected and that the RCMP, being simply a contractual agent of the Province, had only a contractual obligation and not a constitutional one. The Court also stated that the proper forum for such a hearing should have been the province's Court of Queen's Bench.

It should be noted that the facts in this case pre-date the adoption of New Brunswick's *Official Languages Act (OLA)*.

Permission to appeal the decision to the Supreme Court of Canada has been granted and the case was heard on October 17, 2007.

**Editor's note: On April 11, 2008, the Supreme Court rendered its judgment in *Société des Acadiens et Acadiennes du Nouveau-Brunswick Inc. v. Canada*, ruling unanimously in favour of the appellant. The Court restored the Federal Court ruling by finding that the policing contract between the RCMP and the province requires the federal force to comply with the *Official Languages Act (OLA)* of New Brunswick.**

The following is the summary contained in the Supreme Court of Canada's ruling:

*Section 20(2) of the Charter requires the RCMP to provide services in both official languages when acting as a provincial police force in New Brunswick pursuant to the agreement. The RCMP retains its status as a federal institution when it acts under a contract with a province. However, since each RCMP member has, under s. 2(2) of the New Brunswick Police Act, all the attributes of a provincial peace officer and is authorized by that province to administer justice there, he or she performs the role of*

***an “institution of the legislature or government” of New Brunswick and must comply with s. 20(2) of the Charter. There is no transfer of responsibility for the administration of justice in the province. Under the agreement, New Brunswick retains control over the RCMP’s policing activities. The provincial Minister of Justice discharges his or her constitutional obligations through the RCMP members designated as New Brunswick peace officers by the provincial legislation. Consequently, the RCMP does not act as a separate federal institution in administering justice in New Brunswick; it assumes, by way of contract, obligations related to the police service function set out in the provincial legislation. Furthermore, the functions for which the RCMP is responsible are government functions that are subject to specific constitutional obligations. The RCMP may not take on such functions without assuming the obligations associated with them. Thus, it is as a result of the agreement that the RCMP, by participating in a function of the New Brunswick government, has constitutional obligations imposed on it under s. 20(2) of the Charter. [13-20] [23] [26]***

### ***The Abolition of the Federal Court Challenges Program***

In the fall of 2006, the federal government decided to abolish the Court Challenges Program, a national non-profit organization which was set up in 1994 to provide financial assistance for important court cases that advance language and equality rights guaranteed under Canada’s Constitution. In a news release issued shortly after the controversial move, the Commissioner added his voice to those expressing surprise and great disappointment at the announcement. In the Commissioner’s view, it is absolutely essential in a democracy that citizens are offered easy, unhindered access to the courts. Since the often high cost of legal proceedings involving issues of constitutional law prevent many people or groups from initiating legal proceedings, the Court Challenges Program was a necessary tool in the safeguarding of our democracy.

As for the Commissioner’s own activities, section 43(18) of the *Official Languages Act* (OLA) allows complainants who are not satisfied with the resolution of a complaint to apply to the Court of Queen’s Bench of New Brunswick for a remedy. The abolition of the court challenges program means that the Commissioner’s powers of persuasion with regard to the implementation of his recommendations is reduced since uncooperative institutions are less likely to have to answer for their actions in court.

The Fédération des communautés francophones et acadiennes du Canada filed with the Federal Court an application for judicial review of the decision to abolish the program. The application was heard in February, 2008. The Fédération argued, among other things, that the decision was contrary to the federal *Official Languages Act*, section 16 of the *Canadian Charter of Rights and Freedoms* and the protection of minorities principle under the Constitution.

Shortly after the decision to abolish the Federal Court Challenges Program was announced, the Commissioner wrote to Premier Shawn Graham urging him to intercede with Prime Minister Harper in an effort to have this alarming decision reversed and the program restored. While the Premier committed to sharing with Mr. Harper the anxiety of New Brunswickers regarding cutbacks to different programs, the Commissioner is unaware of any concrete action taken by the provincial government on this issue.

The Commissioner also urged former Premier Bernard Lord to recommend the reinstatement of the Federal Court Challenges Program in his official languages report to the federal government (see page 59).

## CHAPTER TWO

### FILING AND HANDLING OF COMPLAINTS

#### *Filing a Complaint*

The *Official Languages Act* (OLA) requires government institutions to ensure that services are actively offered in both official languages and that those services are effectively provided in the public's language of choice throughout the province. It also allows members of the public to file complaints if they believe their language rights under the OLA 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 [www.officiallanguages.nb.ca](http://www.officiallanguages.nb.ca) describes the procedure for filing a complaint. 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* (OLA).
- 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 OLA. However, such a process entails costs for the person initiating it.

#### *Role of the Commissioner as Regards Compliance with the Official Languages Act (OLA)*

It is the role of the Commissioner to conduct investigations, after receiving complaints or on his own initiative, and to submit reports and make recommendations with a view to ensuring compliance with the OLA where there are alleged infringements of the OLA. The Commissioner makes every effort to follow up on complaints as swiftly as possible by first ascertaining the relevance of each complaint and then, if necessary, interceding with the institutions concerned.

The Commissioner, in his capacity as language-rights ombudsman, gives himself sufficient latitude to intercede informally with the institutions concerned with a view to encouraging them to change practices that are counter to the spirit or letter of the OLA.

The Commissioner 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.

The complaints-handling process is an effective means for identifying areas in which there are problems with compliance with the OLA and an opportunity to take action to have those problems rectified. This form of partnership between the Commissioner and the public is designed to ensure compliance with the OLA. He works discreetly and in a spirit of cooperation with the institutions concerned and favours a transparent approach characterized by support and collaboration. However, he will not, if confronted by a blatant lack of cooperation 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 2006-2007***

Since the constraints of the Commissioner's annual reporting deadlines do not apply to the complaints he receives, 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, 2006 and March 31, 2007**

The statistics below concern complaints that were received between April 1, 2006 and March 31, 2007 but were not resolved during that period. These complaints were therefore handled during the current fiscal year, that is, between April 1, 2007 and March 31, 2008.

**Table 1**

	<b>French</b>	<b>English</b>	<b>Total</b>
<b>Communications</b>	<b>36</b>	<b>2</b>	<b>38</b>
Admissible complaints	35	2	37
Inadmissible complaints (NJU)	1	0	1
Complaints referred elsewhere (REF)*	0	0	0
Requests for information (INF)	0	0	0

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

**Table 2**

### **Admissible Complaints by Main Category**

	<b>French</b>	<b>English</b>	<b>Total</b>
<b>Admissible complaints</b>	<b>35</b>	<b>2</b>	<b>37</b>
In person	18	0	18
Signage	2	0	2
Telephone communications	4	0	4
Web sites	1	0	1
Documentation	5	2	7
Other	5	0	5



**Table 3****Admissible Complaints – Handling**

	French	English	Total
<b>Admissible complaints</b>	<b>35</b>	<b>2</b>	<b>37</b>
<b>A. Notices of investigation issued under subsection 43(13) of the OLA</b>	30	2	32
<b>B. Awaiting further information</b> (pending additional information from the complainant and/or the institution)	3	0	3
<b>C. File closed</b> (under subsection 43(11) of the OLA)	2	0	2
<b>D. File closed</b> (complaint withdrawn by complainant)	0	0	0

**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
Elections New Brunswick	14	0	14	0	0	14
Finance	1	0	1	0	0	1
Health*	8	0	6	2	0	8
Local Government**	2	0	2	0	0	2
Natural Resources	1	0	1	0	0	1
Post-Secondary Education, Training and Labour	1	0	1	0	0	1
Service New Brunswick	2	0	2	0	0	2
Tourism and Parks	2	0	1	1	0	2
Workplace Health, Safety and Compensation Commission of New Brunswick	1	0	0	1	0	1
<b>TOTAL</b>	<b>32</b>	<b>0</b>	<b>28</b>	<b>4</b>	<b>0</b>	<b>32</b>

\* These eight (8) complaints related to the services of certain Regional Health Authorities (Atlantic Health Sciences Corporation, Acadie-Bathurst Health Authority, Miramichi Regional Health Authority, River Valley Health, Beauséjour Regional Health Authority).

\*\* One of these complaints related to the department and the other to the services of a particular municipality (City of Fredericton).



## *Follow-up on Complaints from 2007-2008*

### **Complaints Received Between April 1, 2007 and March 31, 2008**

The statistics below concern complaints that were received between April 1, 2007 and March 31, 2008 and their follow-up.

**Table 1**

	<b>French</b>	<b>English</b>	<b>Total</b>
<b>Communications</b>	<b>87</b>	<b>69</b>	<b>156</b>
Admissible complaints*	45	13	58
Inadmissible complaints (NJU)	24	16	40
Complaints referred elsewhere (REF)**	6	22	28
Requests for information (INF)	12	18	30

\* Two (2) of these complaints were initiated by the Commissioner.

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

**Table 2**

### **Admissible Complaints by Main Category**

	<b>French</b>	<b>English</b>	<b>Total</b>
<b>Admissible complaints</b>	<b>45</b>	<b>13</b>	<b>58</b>
In person	12	0	12
Signage	3	1	4
Telephone communications	12	0	12
Web sites	5	0	5
Documentation	6	9	15
Other	7	3	10

**Table 3**

### **Admissible Complaints – Handling**

	<b>French</b>	<b>English</b>	<b>Total</b>
<b>Admissible complaints</b>	<b>45</b>	<b>13</b>	<b>58</b>
<b>A. Notice of investigation issued under subsection 43(13) of the OLA</b>	29	7	36
<b>B. Awaiting further information</b> (pending additional information from the complainant and/or the institution)	6	2	8
<b>C. File closed</b> (under subsection 43(11) of the OLA)	5	2	7
<b>D. File closed</b> (complaint withdrawn by complainant)	5	2	7

**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
Energy	1	1	0	0	1	0
Fredericton Regional Solid Waste Commission	1	0	1	0	0	1
Health*	9	2	4	3	2	7
Justice and Consumer Affairs	3	1	2	0	1	2
Legislative Assembly	1	0	1	0	0	1
Local Government**	1	0	0	1	0	1
N.B. Liquor Corporation	1	0	1	0	0	1
Natural Resources	1	0	1	0	0	1
NB Power	1	0	1	0	0	1
Population Growth Secretariat	1	0	1	0	0	1
Post-Secondary Education, Training and Labour	1	0	1	0	0	1
Public Safety	6	3	2	1	3	3
Service New Brunswick	4	1	3	0	1	3
Social Development	2	0	2	0	0	2
Tourism and Parks	1	1	0	0	1	0
Transportation	2	0	2	0	0	2
<b>TOTAL</b>	<b>36</b>	<b>9</b>	<b>22</b>	<b>5</b>	<b>9</b>	<b>27</b>

\* These nine (9) complaints related to the services of certain Regional Health Authorities (Atlantic Health Sciences Corporation, Acadie-Bathurst Health Authority, Miramichi Regional Health Authority, Restigouche Health Services Corporation).

\*\* This complaint related to the services of a particular municipality (City of Edmundston).

Between April 1, 2007 and March 31, 2008, the Office of the Commissioner of Official Languages received 126 complaints and 30 requests for information. Of that total, 58 complaints were admissible, with 45 based on a lack of service in French and 13 based on a lack of service in English. Forty complaints were deemed inadmissible on the grounds that they did not come under the Commissioner's authority or did not concern an institution within the meaning of the OLA. Twenty-eight complaints were referred to other institutions for consideration.

Most of the complaints were based on the failure to actively offer services in French or the lack or inadequacy of services in French, be it in person or over the telephone. Some complaints had to do with documentation, such as forms, invoices, and other materials drafted in English only or badly translated into French and subsequently distributed to the public.

The Commissioner remains convinced that the best way for the provincial government and its institutions to fulfill its linguistic obligations toward the public is for the province to adopt a strategic plan on implementation of the OLA.

## Complaint Trends since the Establishment of the Office of the Commissioner of Official Languages

The Office of the Commissioner of Official Languages notes that the grounds for the complaints filed during the 2007-2008 fiscal year were virtually identical to those of the four previous years. While the institutions have shown themselves willing to do what is necessary to rectify the situations giving rise to the complaints, the fact that the same types of complaints continue to emerge points to the need for a system-wide plan addressing the provision of services in both official languages as prescribed by the *Official Languages Act* (OLA).

### Complaints Resolved During the Year

**Institution:** Acadie-Bathurst Health Authority – Caraquet Hospital (Enfant-Jésus RHSJ† Community Health Centre (CHC))

**Complaint summary:** On June 1st, 2006, the complainant consulted with her family doctor. After the examination, having determined that the complainant required further tests to be performed at the hospital, the family doctor completed the necessary form, yellow in color, for the attention of hospital staff. The complainant believes this form was in a bilingual format. She reported having dropped the form off herself at the admission desk of the Caraquet Hospital on the same day. The complainant was told by the staff that she would receive a notice by mail. She related that her interaction with the staff at the front desk was entirely in French. On June 9th, 2006, the complainant received a notice from the Caraquet Hospital entirely in French.

**Corrective action taken by the institution:** The Acadie-Bathurst Health Authority informed the Commissioner that since September 18, 2006, all patient appointment notices issued by the Enfant-Jésus RHSJ† Community Health Centre (CHC) are sent in both official languages.

#### Recommendation:

- That the Acadie-Bathurst Health Authority reminds its front-line employees of their obligations with respect to active offer of service and adopt a system of periodic monitoring to ensure continued compliance with all its obligations under the *Official Languages Act* (OLA).

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**Institution:** Acadie-Bathurst Health Authority – Caraquet Hospital (Enfant-Jésus RHSJ† Community Health Centre (CHC))

**Complaint summary:** The complainant alleges that the hospital in Caraquet is displaying its name on the building in French only.

**Corrective actions taken by the institution:** The Acadie-Bathurst Health Authority (ABHA) informed the Commissioner that its graphic standards manual was recently updated and now directs that internal and external signage indicating the names of all facilities within the ABHA must appear in both official languages, regardless of the region where they are located. With respect to the facility in Caraquet, the Commissioner was also informed that the change over in signage was delayed until the facility's fate was determined by the provincial Health Department.

Notwithstanding the situation in Caraquet, the ABHA has acted promptly in changing the outdoor signs at all other facilities under their control namely: the Chaleur Regional Hospital, its Administration Building, and the Lamèque Hospital and Community Health Centre. They also assured the Commissioner that once the ABHA is made aware of the outcome of recent public meetings held as part of the *Dialogue Santé* forum on the basis of which the Minister is to make a final decision on the future of the Caraquet Enfant-Jésus RHSJ† CHC establishment, the name of the facility will be displayed in both official languages on all signs as required.

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**Institution:** Department of Family and Community Services (now called Department of Social Development) – Campbellton Office

**Complaint summary:** The complainant made a complaint on behalf of his grandmother. The substance of the complaint revolved around the fact that the complainant's grandmother received a letter entirely in French from the Department of Family and Community Services and that the address appearing on the envelope was also entirely in French.

**Corrective actions taken by the institution:**

The office in question will:

- correspond with the complainant's grandmother in English from then on;
- ensure that all correspondence is in the language of choice expressed by the member of the public in question;
- ensure that all correspondence sent to the general public is in both official languages if no language preference was expressed;
- ensure that all correspondence sent at the request of a third party is in both official languages if no language preference was expressed.

Moreover, a memo will be sent to all Family and Community Services employees for the purpose of notifying them of this language complaint, and reminding them of the full range of their obligations under the *Official Languages Act* (OLA).

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**Institution:** Department of Public Safety – Moncton Detention Centre

**Complaint summary:** The complainant, a detainee at the Moncton Detention Centre, alleged that on September 19, 2007, he made a written request in English to the staff asking to be provided with a copy of the Criminal Code of Canada. The next day, on September 20, 2007, the complainant was provided with a copy of the said document but in French only. The complainant asked the guard if he could obtain it in English. He also submitted another written request, specifying his language of choice. The guard inquired with the programmer on the complainant's behalf and was told that the document was not available in English. The complainant alleged that, on September 21, 2007, he went to the library and noticed that there were four French copies of the Criminal Code but none were in English.

**Corrective action taken by the institution:** The Deputy Minister of Public Safety informed the Commissioner that the Moncton Detention Centre purchases copies of the Criminal Code in both official languages every year. As the Criminal Code is not requested on a regular basis, the Moncton Detention Centre only has a few copies available, in both English and French. Inmates are required to wait for a copy to be returned if all copies of a version of the Code are out on loan, unless there are extenuating circumstances. As there have been more requests for the Code, the Moncton Detention Centre has purchased additional copies.

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**Institution:** Legislative Assembly

**Complaint summary:** The complainant, a resident of Bathurst, alleged that on December 4, 2007, around 2:00 p.m., he tuned in to channel 70 (legislature channel). He found that the translation was in French only and no English service was available.

**Corrective action taken by the institution:** The Legislative Assembly advised the Commissioner that they were aware of the incident and that they had responded directly to the complainant. On that specific day, technical difficulties were encountered which resulted in the debates being available in the French language only.

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**Institution:** Department of Local Government – City of Fredericton

**Complaint summary:** The complainant stated that she had taken a City of Fredericton public transit bus on August 5, 2006, and noticed a bilingual poster inside the bus stating that there would be no bus service on August 7, 2006, on account of it being New Brunswick Day. She alleged that the French version of the announcement contained several spelling mistakes, such as “aucane” instead of “aucun” and “7 du Nouveau-Brunswick” instead of “7 août 2006, Fête du Nouveau-Brunswick”.

**Corrective action taken by the institution:** City of Fredericton officials took note of the issue and intend to make sure that the situation does not occur again.

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**Institution:** River Valley Health Authority – Fredericton Community Mental Health Centre

**Complaint summary:**

- According to the complainant, the name “Centre de santé mentale” did not appear in the Fredericton/Oromocto telephone directory, whereas the organization’s name appeared in English (“Mental Health Centre”) on page 114.
- On October 4, 2006, after calling the number associated with the latter name, i.e., 453 2132, the complainant was connected to the receptionist of the institution in question.
- The complainant informed the Commissioner that, despite the active offer of service she had received from the receptionist, the latter then proceeded to speak in English only even though she, the complainant, responded in French.

**Corrective actions taken by the institution:**

- River Valley Health Authority indicated that the name of the Centre would appear in French as well in the 2008 directory.
- The Official Languages Coordinator reminded the receptionist and the Regional Director of the Mental Health Centre of the appropriate way to ensure an active offer of service over the telephone.
- The Commissioner was also informed that, in January 2008, the Regional Director of the Mental Health Centre would be holding an information session to remind employees about the active offer of service.

**Recommendations:**

- That the institution continue to offer training and education sessions for its staff.
  - That the institution, on its own initiative and without waiting until complaints are filed, assess and/or verify in a timely manner the effectiveness of these programs on the provision of equal services in both official languages and adjust the content or increase the number of sessions accordingly.
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**Institution:** Department of Natural Resources

**Complaint summary:**

- The complainant was stopped by two conservation officers on or about October 19, 2006, when he was hunting with friends on all-terrain vehicles (ATVs), without wearing a helmet, in the woods along Route 108, some 30 kilometres from Plaster Rock.
- One of the conservation officers questioned the complainant in English only. No active offer of service was made, even after it became clear that the complainant was unable to express himself in English.

- One of the two conservation officers said a few words in French, but his limited knowledge of the language prevented him from conversing effectively with the parties. The complainant then tried to bridge the gap by using the few words of English that he knew.
- The conservation officer checked his hunting licence, which proved to be in order.
- The conservation officer made no attempt to find someone who could serve them in French, and his colleague was also unilingual Anglophone.
- The conservation officers did not give the complainant a ticket, though he understood that he would have to pay a fine and that he would receive his ticket in the mail.

**Corrective actions taken by the institution:** After this complaint was made, the Department of Natural Resources informed the Commissioner of the following measures:

- The institution is currently developing a training session for enforcement staff dealing with the *Official Languages Act* (OLA), the active offer of service and the importance of delivering equal services in both official languages.
- The training session will be delivered to enforcement staff in spring 2008 as part of the Department's ticket issuance training. The Department has promised to conduct a follow-up to ensure the effectiveness of the training.
- The Deputy Minister said that he had sent a memo to all staff addressing their obligations under the OLA and in particular the active offer of service.
- All employees were asked to complete the Official Languages Training e-learning module developed by the Office of Human Resources. The training has a built-in evaluation component.
- A protocol outlining official language procedures for enforcement staff has been developed. It will be distributed and addressed during the spring training session for enforcement staff.
- The Department indicated that, while it is certainly not their preference, there may be circumstances where enforcement staff need to use the radio or telephone to communicate with clients in their chosen language.
- Updated linguistic profiles were prepared following a change in the institution's organizational structure. The new profiles take into account the fact that Francophone hunters migrate towards the centre of the province during hunting season.
- The Department intends to meet its linguistic profile through recruitment and language training. In 2007-2008, 10 conservation staff members will receive second-language training.

**Recommendation:**

- Even though no recommendation is necessary, the Commissioner suggested that the institution adopt a program aimed at evaluating or checking services and communications periodically to ensure their compliance with the requirements of the OLA.

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**Institution:** Department of Tourism and Parks

**Complaint summary:** The complainant alleged having received, upon using a credit card terminal, a slip reading PROV. OF NB-E.D.&T-SUG. ATHOLVILLE.

**Corrective action taken by the institution:** The Department of Tourism and Parks informed the Commissioner that corrective action had been taken to ensure that transaction slips at Sugarloaf Provincial Park appear in both official languages from then on.

**Recommendation:**

- That the institution takes stock of the facilities under its jurisdiction that accept credit card payments and ensure that the measures implemented for Sugarloaf Provincial Park are implemented in the other facilities as well.

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**Institution:** Department of Finance

**Complaint summary:** The complainant sent the Commissioner a form letter he had received from the Department of Finance concerning the procedures relating to the sale of properties for non-payment of property taxes. The complaint had to do with the French version of this form letter, which, in the complainant's view, was of such poor quality that it was incomprehensible without referring to its English counterpart.

**Corrective action taken by the institution:** The institution informed the Commissioner that the form letter that was the subject of the complaint had been translated from English into French by an employee using translation software. It seemed that the employee in question, who unfortunately was unfamiliar with the Department's policy prohibiting the use of such software, had acted in good faith. The institution advised the Commissioner that the necessary measures had been taken to ensure that such a situation would not happen again.

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**Institution:** River Valley Health Authority – Fredericton Community Mental Health Centre

**Complaint summary:** The complainant alleged that, on January 16, 2007, she had received a voicemail message from the receptionist at the Fredericton Community Mental Health Centre advising her of her appointment with an Anglophone counsellor. The complainant, who wanted to be served by a Francophone counsellor, raised the issue with the worker, who explained to her that she would have to wait longer for an appointment with a Francophone counsellor. The complainant said that she had found it difficult to explain her problems in English to staff at the Centre. The complainant lamented the fact that the Centre could not provide her with the services of a Francophone counsellor within a reasonable time frame.

**Corrective actions taken by the institution:**

- Community Mental Health Services impressed upon employees in the Fredericton division the importance of making an active offer of service to their patients and of identifying clients' language of choice.
- Community Mental Health Services posted offers of employment for bilingual positions both internally and externally, but none of the applicants were successful. These recruitment efforts are slated to be repeated with a view to ensuring a greater level of bilingualism within Community Mental Health Services.

**Recommendation:**

- Even though no recommendation is necessary, the Commissioner believes that clients' language of choice should be noted in their files so that it is visible at all times when the institution has to contact clients, thereby preventing similar situations from occurring in the future.

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**Institution:** Atlantic Health Sciences Corporation (AHSC) – Saint John Community Mental Health Centre

**Complaint summary:** The complainant went to the Saint John Community Mental Health Centre on January 9, 2007, at 12 p.m. for an appointment. Despite signage in both official languages, the complainant had difficulty being served in French there. The complainant's husband had acted as interpreter on numerous occasions. The nurse who saw the complainant explained that there were no French-speaking psychiatrists in the region.



**Corrective actions taken by the institution:**

- The AHSC assured the Commissioner that new positions would be designated on the basis of the service's linguistic profile and would be advertised as "mandatory bilingual" positions in order to meet requirements.
- To enhance the team's linguistic capability in French, the AHSC has prepared a language action plan whereby staff from other teams are called upon to provide service in French.
- During the investigation, the Commissioner noted that the hyperlink for mental health on the AHSC's website was in English only. However, the AHSC assured that it was working to correct that oversight and indicated that the hyperlink should be available in both official languages shortly.

**Recommendations:**

- That the institution develop mechanisms enabling it to assess on a regular basis the effectiveness of steps taken to ensure that all of its services and communications with the public comply with the OLA, as well as to take any necessary corrective action.
- That the institution advise the Commissioner of its timeline for updating the website to make it compliant with the OLA.

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**Institution:** Beauséjour Regional Health Authority – Dr. Georges-L. Dumont Regional Hospital

**Complaint summary:** On January 23, 2007, at around 8 p.m., the complainant telephoned the Dr. Georges-L. Dumont Regional Hospital in Moncton. The following day, January 24, 2007, at around 11:15 a.m. and then 2 p.m., the complainant contacted the Hospital again. During those three calls, the complainant was never actively offered services in both official languages. The telephone was always answered in French only, with the phrase "Hôpital Dr. Georges Dumont, bonjour". The complainant alleged that the same thing had happened when her call was transferred to the Surgical ICU.

**Corrective actions taken by the institution:**

- The department head was able to identify the employees who had answered the calls on January 23 and 24. Individual follow-up was done with those persons to prevent the situation from occurring again.
- In addition, posters and signs were put up in the department to ensure that employees remain alert to the importance of active offer of service.
- The nurse manager reminded all employees in the department of the importance of this matter through memos and direct contacts with staff.
- Following this complaint, in order to raise employee awareness of the importance of making an active offer of service, the relevant information was incorporated into the Beauséjour Regional Health Authority's general orientation program on March 12, 2007. A reminder was also sent to all staff on March 19, 2007, through the internal electronic communications system.

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**Institution:** Department of Local Government

**Complaint summary:** The complainant alleged that he had dialed the number 506-523-6264, on or about February 16, 2007, in the morning, to contact Guimond Waste Inc. and was greeted by an answering machine with a message in English only. Guimond Waste Inc. is a private company under contract with the Province to collect household garbage in a region within which the complainant's property is located.



**Corrective actions taken by the institution:**

- The specific subject-matter of this complaint, i.e., the unilingual message on the answering machine of Guimond Waste Inc., was resolved in that the company was contacted by the Department and asked to revise the message to make it bilingual.
- The institution seemed to concede as well that the current approach with regard to tender calls for household garbage collection contracts did not measure up to the requirements relating to services and communications contained in the *Official Languages Act* (OLA). The Department therefore proposed a gradual transition toward compliance with the said Act with respect to the numerous solid waste contracts administered by the Department on behalf of local service districts (LSDs). Given that most of the contracts awarded by means of tender calls were tendered for a three-year period, the institution proposed placing the relevant requirements in its contracts as they came up for retendering.
- As an interim measure, the institution intended to ask its other tendered contractors to modify their verbal and written communications to include an active offer of service as an effort towards early compliance with the OLA. What the institution proposed is that voice messages be bilingual and that, in the case of in-person contacts, drivers not able to communicate in the client's language of choice have a "contact card" with the appropriate information enabling the client to obtain the required service in the official language of his or her choice.
- The Commissioner was also informed that, as part of an examination of options that might best meet its obligations, the institution would pursue a dialogue with the Department of Justice to ensure a full understanding of the legislative provisions as they apply to locally provided services funded through real property taxation.

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**Institution:** Service New Brunswick (SNB)

**Complaint summary:** The first part of the complaint had to do with two Internet sites accessible via the Service New Brunswick website. On visiting one of the sites, in this case, "PLANET", the complainant received an error message in English only. With regard to the second site, accessible when incorporating a business online, the complainant alleged that, after having filled out certain forms electronically, he had obtained documents generated by the system containing information in English only. The second part of the complaint had to do with English-only wording on credit card receipts and receipts from the Service New Brunswick office following transactions.

**Corrective actions taken by the institution:**

- From then on, a bilingual error message would be displayed when the PLANET Internet site is unavailable or if users attempt to access it outside business hours.
- With regard to the online incorporation process, the institution conducted a detailed review of its online forms and corrected the error in question as well as a few additional errors that had slipped in during rollout in 2002.
- The institution conducted a comprehensive review of all its offices with regard to credit card receipts. The institution indicated that, by the end of June 2007, the name and address of the SNB offices would be shown in both official languages. The institution estimated at that time that the process was 85% complete.
- A comprehensive review of the list of SNB product offerings was carried out, and errors that had slipped in during the translation of SNB office receipts were corrected.

**Recommendation:**

- That Service New Brunswick conduct a periodic and careful review of all its communications systems with the public, be they computer based or otherwise, to identify and eliminate any syntactical and grammatical errors affecting quality in either official language, and particularly in French.

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**Institution:** Miramichi Regional Health Authority– Miramichi Hospital

**Complaint summary:** On March 2, 2007, at around 12:30 p.m., the complainant went to the Miramichi Hospital. The complainant went up to the receptionist and in French told her the reason for her visit. The receptionist then asked the complainant, “Do you speak English?”, to which the complainant answered “Yes”. The receptionist then proceeded to admonish the complainant for insisting on being served in French when she could speak English. The receptionist went so far as to insinuate that the complainant had to be able to speak English since her name was English. The complainant was insulted by those remarks.

**Corrective actions taken by the institution:**

- The Director of the Diagnostic Imaging Department will instruct the receptionist as regards her obligation to greet clients in both official languages and then provide services in the clients’ language of choice by saying, “Un moment, s’il vous plaît/one moment please” and immediately asking a staff member with the requisite language ability to look after the client. The receptionist will be reminded that she must not attempt to serve clients in a language other than in the one chosen by them.
- The Director will reinforce the active offer principle at a staff meeting and stress the importance of taking a friendly tone.
- The Director will monitor the situation closely over the next few months to ensure that staff practices are in compliance with policies.
- The Official Languages Coordinator will follow up with the Director to ensure that appropriate practices are maintained in the Department and will make suggestions for improvement if need be.
- The Official Languages Coordinator will distribute active offer guides throughout the Health Authority to raise employee awareness of the active offer principle as soon as the Société Santé et Mieux-être en français has sent them to all of the New Brunswick Regional Health Authority coordinators. The Official Languages Coordinator will take advantage of the opportunity to distribute a quick reference tool with phonetic pronunciations for employees who are the first point of contact with the public.
- The Official Languages Coordinator will take steps to publish an article on person-to-person service in the Personnel Matters newsletter, to be distributed throughout the Health Authority over the next few weeks.

N.B.: See the Congratulations! section (p. 47)

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**Institution:** Department of Justice and Consumer Affairs

**Complaint summary:** The complainant reported a grammatical error in the title name of the new public trustee in the New Brunswick government’s Internet directory. There, the trustee was referred to in French as the “curatrice public”.

**Corrective action taken by the institution:** The Commissioner was informed that the necessary steps had been taken to correct the grammatical error in the title name of the public trustee on the New Brunswick government’s website. To prevent that kind of mistake from happening again, the Human Resources Branch will in the future provide the bilingual position titles to the website coordinator, who in turn will advise Service New Brunswick, which is responsible for creating and maintaining the list of position titles from which departments must choose a title when new employees are added to the website.

**Recommendation:**

- Given that, during the investigation, the Commissioner checked a few pages on the site in question and discovered other similar errors as well as spelling errors, he recommended that the institution conduct a thorough review of its current Internet site in order to identify and correct any grammatical and spelling errors and that it develop a procedure for checking the grammar and spelling of all information that will be placed on the site in the future.

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**Institution:** Department of Justice and Consumer Affairs

**Complaint summary:** The complainant alleged that the sender's address on an envelope he had received from the Office of the Rentalsman in Bathurst was in English only.

**Corrective actions taken by the institution:** The institution informed us that this was an isolated error that would not happen again. In addition, to ensure this issue does not reoccur, the Department had ordered a bilingual address stamp and asked all of the offices in the Justice Services Division to order similar stamps. These bilingual stamps will be used on all its envelopes from then on.

The Office of the Commissioner was also informed that staff had been reminded of their obligations under the OLA to provide correspondence in both official languages when they initiate the correspondence and, if clients have identified their preferred language, to ensure that all future correspondence is in that language.

Lastly, the Commissioner was told that the Assistant Deputy Minister had contacted all of the managers in the Justice Services Division to ask them to remind their employees of their obligations under the OLA.

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**Institution:** Atlantic Health Sciences Corporation (AHSC)

**Complaint summary:** The complainant alleged that, on May 10, 2007, she dialed 506 658 3737, which is the telephone number of the Saint John Mental Health Clinic. While the receptionist did make an active offer of service, she was unable to serve the complainant in French. As the complainant wished to speak to a specific person, her call was transferred to a voicemail system. Since the complainant did not wish to leave a message for the person in question, she pressed "0" to return to reception, as instructed by the prerecorded message. She then initiated a conversation in French with the receptionist, who immediately told her, "I'm sorry, I don't speak French." The complainant then asked her in English if there was someone who could serve her in French, to which the receptionist said there was not.

**Corrective actions taken by the institution:** Following this complaint, the AHSC Official Languages Coordinator made some recommendations that were implemented, as follows:

- Training in the active offer of service was again offered to all Community Mental Health Services employees at the Mercantile Centre in early August 2007. In addition, the Official Languages Coordinator informed us that she had met with all Mental Health managers during the summer of 2007 and again on February 28, 2008, to remind them of the obligations imposed by the OLA. She also advised us that, in April 2008, she would be giving a presentation at the Mercantile Centre on those obligations.
- The official languages master plan put in place to help clients wishing service in French was reviewed by all Community Mental Health Services staff at the Mercantile Centre.
- From then on, the receptionist would ask Francophone clients to wait until someone who speaks French can be found. The receptionist will then transfer the call. If no staff member who speaks French can be found or is available at the time of the call, the receptionist will ask the client for his or her name and telephone number, and a French-speaking staff member will call the client back.

- The Official Languages Coordinator plans to make calls with no advance notice on a regular basis to make sure that an active offer of service is indeed being made and that the official languages master plan is being applied as needed.

The institution also indicated that Mental Health and Human Resources would continue to work together to recruit bilingual staff. All competitions will state that bilingualism is preferred. Future competitions for receptionist positions will stipulate that bilingualism is "required". Recruitment of bilingual personnel continues to be a challenge.

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**Institution:** Service New Brunswick

**Summary of complaints:** In April 2007, the Commissioner was informed that none of the service counters at the Service New Brunswick office located on Queen Street in Fredericton had signage indicating the availability of services in both official languages. In addition, the complainants lamented the fact that service priority numbers were called out in English only.

The Office of the Commissioner received a subsequent complaint citing a deficiency in services in French at the same office on April 27, 2007. When the complainant went to a service counter, the clerk did not make an active offer of service. The complainant then asked, "Do you speak French?", after which the clerk said she did not and did not offer to go get someone else able to serve her in French. The transaction was therefore conducted entirely in English.

On May 1, 2007, another complainant also told the Commissioner about the lack of signs on the service counters at the same Service New Brunswick office on Queen Street. She asked the clerk who served her why there were no signs. The clerk replied that there was not enough space on the counters. She added that the signs had become damaged as a result of being moved from counter to counter and that new ones would have to be ordered.

Following these complaints, the Commissioner deemed it appropriate to dispatch staff from his office to the site to verify the scope of the alleged violations. Here are the results:

- The visits to the office in question were conducted at different times during the day over one week.
- It was determined that, despite the poster encouraging clients to seek out signs indicating service in both official languages, there were no such signs on the counters, except at the reception desk.
- In addition, the numbers were indeed called out in English only.
- On May 8, 2007, an officer from our office went to a counter to conduct a transaction. The clerk did not make any active offer of service. When our officer began speaking in French, the clerk answered, "Je ne parle pas français madame". Our officer then asked whether there was someone who could serve her in French. The clerk asked her in English to wait beside her counter while she went looking for a bilingual employee. It took three minutes before a bilingual clerk came to serve her.
- A visit was also made to the service centre in Burton on May 9, 2007, at around 8:30 a.m. There seemed to be three service counters open at that time, of which only one had a sign indicating that service was available in both official languages. The client, who walked up to the only service counter with a sign, began speaking in French without there having been any active offer of service by the clerk. The latter answered, "What?", upon which the client repeated his question in French and was told "Just a moment". The clerk hurried into the back to find another employee who could serve the client in French. The client was subsequently able to conduct the transaction in the language of his choice.

**Corrective actions taken by the institution:**

- From then on, the customer service representatives would no longer call out numbers, since that task was deemed too onerous for unilingual employees. Clients will henceforth hear a beep prior to the numbers being displayed on a lighted screen. A light will then go on at the available service counter.
- The service counters staffed by bilingual customer service representatives are now equipped with signs indicating availability of service in both official languages. Additional signs have also been ordered to ensure there are enough in stock.
- Bilingual staff members have been informed of the importance of displaying their signs at all times. Since they sometimes forget to take their signs with them when they change counters, management will be responsible for ensuring that the signs are in place at all times.
- Given the amount of space between customer service representatives and clients and after receiving a sample badge, the institution felt that clients would have difficulty reading the badges from that distance and opted for signs at the counters.
- Over the last few months, there has been a significant influx of new staff at the Fredericton service centre, including a new manager.
- The Fredericton service centre now has a total of 11 bilingual customer service representatives.
- At the start of June 2007, the institution contacted the service centre manager and sent a memo to all staff informing them of their legal obligation concerning official languages and more specifically the active offer of service over the telephone and in person.
- Active offer reference cards were placed at each counter for the benefit of the customer service representatives.
- The Official Languages Coordinator gave a presentation to all customer service representatives at the Fredericton and Burton centres.
- A module on official languages will be added to the training and orientation program for all new customer service representatives.
- The Fredericton service centre is now equipped with a new calling system – Frisco Bay.
- This computerized system offers a range of service choices, including service in French. When a client chooses service in French and his or her sequential number is displayed, the client will automatically be connected to a customer service representative who can serve him or her immediately in the language of his or her choice.
- It should be noted that, despite the implementation of this system, the customer service representatives will continue to actively offer service at the counters nonetheless. According to the institution, the system has been very warmly received by clients thus far.

**Recommendation:**

- That the institution consider implementing this service priority management system at other Service New Brunswick offices in other cities such as Miramichi and Saint John and elsewhere in the province where similar benefits could be had.

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**Institution:** Service New Brunswick – Corporate Affairs Office

**Complaint summary:** On the morning of May 25, 2007, the complainant telephoned Service New Brunswick's Corporate Affairs Office. The call was made using the phone line designated for calls in French, which, according to the complainant, has been in service for a few years.

The receptionist answered the call in English only without any active offer of service, even though the complainant spoke to her in French. She asked him, in English, if he wished to speak to someone in French, and he said he did. His call was then transferred to someone who could speak with him in the language of his choice.

After asking this person about the availability of staff to answer the line in French, the complainant was informed that this service was not available until 9 a.m. and that, until then, the employees who were available took turns answering the telephone line, regardless of their language capability.

**Corrective action taken by the institution:** Service New Brunswick recognizes the importance of actively offering service at all times, and discussions took place with the management of the office in question. Corporate Affairs staff were also given information concerning active offer and should have attended a presentation on the subject by now.

**Recommendation:**

- That the institution makes sure that an active offer of service is made at all times and that it has in place the staff complement required to follow up on that commitment effectively and in accordance with the requirements of the *Official Languages Act* (OLA), in both form and spirit.

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**Institution:** Miramichi Regional Health Authority – Miramichi Hospital

**Complaint summary:** The complainant was a patient at the Miramichi Hospital and had difficulty obtaining service in French on the third floor of that health facility. The complainant's son gave the Commissioner some examples where he had to act as interpreter when his father had problems in his dealings with the unilingual Anglophone nursing staff.

On or about June 11, 2007, when the complainant was being discharged, the nurse asked him, in English, if he had taken his medication. The complainant said he had, thinking that the nurse was asking him whether he had ingested his medication. At this point, the complainant's son stepped in to act as an interpreter and discovered that the nurse was actually asking whether the complainant had remembered to bring his prescription medication with him upon discharge.

The complainant's son also said that, while the patients' meal menus were bilingual, the days of the week were written in English only, which was confusing for the complainant, as he did not realize that the choices he was putting down were for the following day and not for that day.

Lastly, an Extra-Mural nurse was supposed to go to the complainant's home to collect blood samples at a certain time. However, for reasons unknown to him, the nurse did not show up. The next day, the hospital called the complainant and asked him to go to the hospital in person to have his blood samples taken. That call took place in English only.

**Corrective actions taken by the institution:** The manager of the surgical unit reminded her staff that, as soon as a patient asks for service in French, continuing care must be administered in that language without the patient having to ask again. Staff members were also reminded to immediately ask a qualified staff member with the requisite language skills to look after the patient according to normal procedures. The manager will continue to do her utmost to maintain sufficient bilingual capability at all times through recruitment and staffing efforts.

- A meeting was held with the Food and Clinical Nutrition manager to discuss the issue of patient menus. It seems that the dates in the medDIETARY system are indicated in standard English, and it is suspected that a bilingual format would entail a request for customized changes to the supplier of the Picis CareSuite software. The computer systems specialist will do some research so the hospital can rectify the problem as quickly as possible.



- A meeting was held with the acting manager of Central Scheduling to have her reinforce the active offer principle among the clerks and remind them that active offer includes both outbound and inbound calls, in accordance with their internal policy.
- An interim memo regarding inbound and outbound calls was drafted to take advantage of the opportunity to remind all of the other managers who make their own appointment reminders to follow the guidelines adopted by the Health Authority.

**Recommendation:**

- The institution must find a temporary solution in order to provide information in both official languages on patient meal menus until the necessary changes can be made to the software.

N.B.: See the Congratulations! section (p. 48)

**Institution:** NB Power

**Complaint summary:** The complainant alleged that, on July 18, 2007, between 5:15 and 5:30 p.m., she had received a prerecorded telephone message from NB Power. The purpose of the message, in both official languages, was to inform customers of an impending interruption in service. According to the complainant, while the essence of the message was properly rendered in the first part of the message, it was deficient in the second part, which gave specific and detailed information on the power outage in the English version only. The French version of the message consisted of generalities. For example, the English version stated that the outage would occur between 8:30 p.m. and 1 a.m., while the French version simply referred to a “possible outage.”

**Corrective action taken by the institution:** The institution informed the Commissioner that it would ensure that the matter is resolved and that, pending a final resolution, all of its regional offices had been instructed to no longer use the telephone system to notify customers of a potential outage until the French version of the message is consistent with the English version in every respect.

**Institution:** Service New Brunswick (SNB)

**Complaint summary:** On or about July 24 or 25, 2007, between 12:30 and 1:30 p.m., the complainant dialed 658-2500, which is the telephone number for SNB’s regional office in Saint John. After the receptionist had made an active offer of service, the complainant continued the conversation in French and asked for information about birth certificates. The receptionist, a unilingual Anglophone, then asked the complainant to hold the line. Since she could not find a bilingual employee, the receptionist said to the complainant that she could either transfer her call to the SNB call centre in Dalhousie or ask a bilingual employee to call her back when she returned. The complainant preferred the second option but deplored the delay caused simply by the lack of bilingual staff.

**Corrective actions taken by the institution:**

- Since this complaint was filed, Service New Brunswick has recruited two bilingual individuals, bringing the complement of bilingual employees in that office to the desired number of six, with four of those working full time.
- The service centre manager was also instructed to be more vigilant when preparing the staff schedules and to make sure that a bilingual person is available at all times.

**Recommendation:**

- That the institution implements a program whereby reminders are issued on a regular basis to the entire staff, particularly regarding the active offer of service and the fundamental obligations stemming from the provincial government’s administrative policy in that regard and the provisions of the *Official Languages Act* (OLA).

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**Institution:** Department of Natural Resources

**Complaint summary:** The complainant alleged that on August 8, 2007, at around 1:50 p.m., she had telephoned the district office of the Department of Natural Resources in Dieppe (856 2344) to file a complaint. The receptionist did not make any active offer of service to the complainant and merely said "Natural Resources, how can I help you?"

**Corrective actions taken by the institution:**

- The Department indicated that it had had difficulty determining the exact circumstances surrounding this complaint but said nonetheless that it was possible that an active offer of service had not been made to the complainant.
- Following this complaint, a memo was sent to all staff in the Department to remind them of their obligations under the OLA.
- In that memo, particular emphasis was placed on the obligation to make an active offer of service in both official languages.
- In addition, departmental staff members were encouraged to register in the online training module on official languages developed by the Office of Human Resources.
- The office in question, i.e., the district office of the Department of Natural Resources in Dieppe, will be specifically reminded of its obligations to ensure continuing compliance.

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**Institution:** Population Growth Secretariat

**Complaint summary:** The complainant alleged that the phrase "Town Hall Meetings" had been mistranslated in French on the Population Growth Secretariat's website at the following address: <http://www.gnb.ca/3100/Promos/publichearing-f.asp>

**Corrective action taken by the institution:** The institution acknowledged the translation error and indicated that the document in question had been removed from the Secretariat's website. The Commissioner was assured that the institution would ensure proper translation for future documents related to the matter.

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**Institution:** Department of Transportation

**Complaint summary:**

- On August 20, 2007, at around 3:30 p.m. as the complainant was travelling on provincial Route 17 between Kedgwick and Saint-Jean-Baptiste, he noticed some trucks belonging to a company that was conducting highway maintenance work.
- While following one of the trucks, the complainant saw a sign on it with a handwritten message in English only that said "Follow me, don't pass me" or something of that nature.
- At the end of the construction zone, there was another sign similar to regular road signs bearing the unilingual message "Construction Ends".

**Corrective action taken by the institution:** The Department informed the Commissioner that it had discussed the matter with the responsible individuals in the Department, reinforcing the requirements of the provincial government's Language of Service Policy, particularly in relation to signage. Further, the institution added that it intended to reinforce those requirements with its personnel before the commencement of the 2008 construction season. The Department pledged to correspond with the contractors in question, emphasizing that all work carried out in the province of New Brunswick is subject to the provisions of the OLA.



**Recommendations:**

That, in all its contracts and agreements with third parties acting on behalf of the institution, the institution insert:

- a clause clearly stating that the third party is subject to the obligations of the *Official Languages Act* (OLA), and
- a signed declaration by the third parties indicating that they recognize those obligations and undertake to comply with them in the delivery of all services and in all communications with the public that come under the agreement.

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**Institution:** Department of Social Development (formerly called Family and Community Services)

**Complaint summary:** This investigation arose from conversations that the Commissioner had with several persons who accessed the Adoption Program administered by the Department of Family and Community Services and who shared their experiences with him. What he was told pertained mainly to the capacity of the Adoption Services office in Marysville. According to the complainants, French-language services at that office were highly deficient, even non-existent. One of the persons who shared their experience of the adoption process told us that they had been asked by the counsellor, in an unequivocal tone and in English of course, if they were there to discuss official languages or adoption. The person in question therefore continued to deal with that employee in English for quite obvious reasons despite the undeniable discomfort the situation had caused and the realization that that person's language rights had just been denied.

**Corrective actions taken by the institution:** In its reply to the Notice of Intention to Carry Out an Investigation, the Department informed the Commissioner that no Francophone parents had as yet received the mandatory PRIDE training normally given to adoptive parents since no request for French-language training had been received to date. If such a request is made, the Department will coordinate the training in another part of the province for the family, and travel and expenses would be reimbursed. However, if there were a large number of participants, group-focused training would be offered with a PRIDE trainer from another region who would do the sessions. The Department also said that it could ask a bilingual member of the unit, such as a Children's Residential Services social worker who is not a PRIDE trainer, to deliver the training in French.

The Department also informed the Commissioner that the following corrective measures would be taken to remedy the situation and ensure that Francophone clients can communicate with departmental staff in French:

- Ensure that all staff members, including casual staff, are aware of their obligations under the *Official Languages Act* (OLA).
- Review the policy with all staff at the next unit meeting.
- Train additional bilingual social workers in the specifics of the Adoption Program. In addition, bilingual staff will be provided with cellphones so as to provide immediate backup and accessibility.
- A memo will be sent to all employees for the purpose of notifying them of this language complaint and reminding them of the full range of their obligations under the OLA.
- Employees will be encouraged to access the Knowledge Centre to complete or review the Official Languages Module. This will increase their understanding of service implications in the OLA and the provincial government's Language of Service Policy.

**Recommendations:**Employee training

- That the training be repeated regularly for all sectors and be given especially to staff in sectors that deal with the public on a daily basis, including casual staff.
- That, in any training session, the institution focus on the importance of staff conduct when providing services in the language of choice and on the insidious effects that a disrespectful or impertinent attitude can have on persons who are simply availing themselves of their rights.
- That the institution pay particular attention to the effectiveness of the training and awareness sessions, that it equip itself with tools to evaluate, in a timely manner, the impact of such measures on the employees, and that it modify the sessions as needed to ensure that the message is received and understood by all.

Linguistic profiles

- That the Department immediately undertake a review of the linguistic profiles of the teams in question and of any other team that could find itself in a similar situation and that it amend the profiles as needed in order to satisfy the requirements of the OLA, particularly with respect to the obligation of delivering services of equal quality in both official languages.
- That the institution give priority to the recruitment of bilingual staff, not only for front-line positions, but also for specialized positions, such as social workers.

**Institution:** NB Liquor

**Complaint summary:** The complainant informed us that the address and store number, i.e., "Store 14", on the cash register receipt given to him by an employee of the NB Liquor outlet located on Victoria Street in Edmundston was in English only.

**Corrective actions taken by the institution:** The Official Languages Coordinator with NB Liquor informed the Commissioner that:

- changes had been made to the sales system, and that
- the addresses of NB Liquor stores on cash register receipts are now in a bilingual format.

**Institution:** Department of Transportation

**Complaint summary:** The complainants, whose language of choice was French, alleged that the Claims Unit of the Department of Transportation had sent them correspondence written entirely in English.

**Corrective action taken by the institution:** The Deputy Minister informed the Commissioner that he had amended departmental procedures to ensure compliance with the provincial government's Language of Service Policy. The Department also indicated that, following the complaint, it had reinforced the provisions of that policy with its staff.

**Institution:** Department of Public Safety – Codiac Regional Policing Authority

**Complaint summary:** On September 20, 2007, the complainant was involved in a traffic accident at the intersection of McLaughlin Drive and Morton Avenue in Moncton, N.B. The accident was serious enough for the complainant to contact the Codiac Regional Policing Authority (RCMP) through the 911 system. She spoke to the 911 dispatcher in French. An RCMP officer was dispatched to the scene of the accident and arrived some 20 minutes later. No active offer of service was made by the RCMP officer on site. The complainant then asked to be served in French, following which the police officer offered to have a bilingual colleague dispatched to the accident scene.

While the RCMP officer did not mention any delay in having a bilingual officer dispatched to the scene, the complainant deduced that, given the traffic conditions in the area, it would take too long for another officer to arrive. By mutual agreement with the other persons involved, the complainant decided to continue in English.

**Corrective actions taken by the institution:**

- The officer in charge of the Codiac Regional Policing Authority apologized to the complainant for the failure to actively offer services in both official languages when communication was initiated.

As a result of this complaint, the following actions were taken on a broad basis throughout “J” Division RCMP:

- Dispatchers with the Codiac operational communications centre were reminded to consider the language spoken by callers when forwarding calls to members, while taking into account the urgency of the situation and the availability of the closest member.
- The person at issue in the complaint was reminded of his legal obligation to inform clients of their right to be served in the official language of their choice.
- Codiac supervisors were asked to raise on a regular basis, at debriefing sessions, the issue of the legal obligation to make an active offer of service in both official languages.
- Coincidentally, on November 30, 2007, the “J” Division officer in charge of criminal investigations sent a message to all “J” Division members reminding them of their obligations in that regard.

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**Institution:** Fredericton Regional Solid Waste Commission (FRSWC)

**Complaint summary:** On October 4, 2007, the complainant dialed 453-9930, the phone number for the Fredericton Regional Solid Waste Commission. The complainant was greeted by a prerecorded message in English only. Also, the complainant noticed spelling and syntax errors on the French side of the Commission’s website (examples: “accueil” instead of “accueil”, “contact nous” instead of “contactez-nous”, “ville hotel” instead of “hôtel de ville”, etc.).

**Corrective action taken by the institution:** The Commission assured that it had taken the necessary steps to resolve the problems noted on the website and the FRSWC voicemail system. The Commissioner was informed that the errors found on its website had been corrected. He was also told that the website would be reviewed in its entirety to ensure adequate communication in both official languages.

The Commissioner subsequently received a letter from the President and CEO of the Fredericton Regional Solid Waste Commission on January 10, 2008. The letter stated that the Commission had taken several steps to ensure the accuracy of the French version of its website, notably by enlisting the services of Traduction OPTIMUM Inc., a Fredericton-based company that provides translation services.

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**Institution:** Department of Post-Secondary Education, Training and Labour – New Brunswick Resource Centre

**Complaint summary:** The complainant alleged that, on November 21, 2007, she had gone to the New Brunswick Resource Centre, located at 633 Queen Street in Fredericton. She noted that one of the walls of the centre’s reception area had numerous posters in English only. She observed posters, among others, relating to the centre in question: Career Info Centre, Our Mission, Fredericton Career Centre, as well as other posters concerning the federal Job Bank service.

**Corrective actions taken by the institution:**

- Corrective measures were taken to ensure that all posters at the centre are in both official languages.
- Since one of the posters in question was the mission statement of a service provider with which the Department has a service contract, the institution hastened to clarify that agency's obligations under the *Official Languages Act* (OLA) concerning the delivery of services on behalf of the province.
- The service provider promised to have its mission statement translated.

**Recommendation:**

- That the institution develop monitoring mechanisms and assign staff considered appropriate to check, on an ad hoc basis, the availability of all materials and communications intended for the general public at those offices and demonstrate vigilance such that the necessary action is taken to address any deficiency as soon as possible.

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**Institution:** Atlantic Health Sciences Corporation (AHSC)

**Complaint summary:** The complainant alleged that there were deficiencies in the delivery of services and communication in French by the Cardiology Department, the ER, and the Reception at the Saint John Regional Hospital.

**Corrective actions taken by the institution:** In its response, the AHSC informed the Commissioner of its plans to rectify the situation:

- The AHSC said that it planned to acquire a new computer system in November that would make it possible to add the language of choice to patient ID bracelets. Until then, that information would be added manually.
  - Patients' language of choice will also be indicated in the files. This initiative is being tested at the New Brunswick Heart Centre and appears to be working well.
  - Switchboard personnel were informed about the proper way to actively offer service, and an information session with the Official Languages Coordinator will be scheduled to answer any other questions or concerns in that regard. The information session will also be offered to ER Admitting staff.
  - The Commissioner was advised that an auto-attendant system featuring a bilingual message would be operational in the coming weeks. This will enable callers to be transferred to a switchboard operator with the language skills to answer in the language of their choice.
  - A virtual training program on the active offer of service will be made available to staff, and the training will be mandatory each year.
  - The Corporation has established a Language of Service Committee whose goal is to take a comprehensive approach to official language issues. The Committee oversees the uniformity of the messages that are communicated in terms of official languages requirements and comprises team members with the authority to make the necessary changes.
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**Institution:** Department of Public Safety – City of Miramichi

**Complaint summaries:**

- a) The complainant informed the Commissioner that he had been stopped by a police officer on August 27, 2005 in Miramichi and given a ticket for speeding. He alleged that, while conversing with the officer, he was unable to be served in French. He explained that the police officer had spoken to him in English only and had asked him “French or English?” at one point during the exchange. The complainant replied “French,” believing that the officer was asking him in which official language he wished to be served, only to realize that the officer simply wanted to know in which language he wanted to receive the ticket. The officer then wrote up the ticket, inserting parts in French, but subsequently read it to him entirely in English.
- b) A second complainant said that he had received a ticket for an expired inspection. He explained that, on October 9, 2005, during a road check by the Miramichi police force, he had been questioned by an officer who spoke to him solely in English. He added that he had not been asked in which language he wished to be served and said that the ticket had been written in English only. The complainant indicated that, in other circumstances, he would have asked to be served in his own language but that, not wanting to add to the severity of the fine or aggravate the situation by insisting on service in French, he had resigned himself to service in English.

**Corrective actions taken by the institution:**

- a) The City of Miramichi administrator told the Commissioner that the first complaint had prompted them to revise the police force policy, thereby improving service in the language of choice. He added that they had conducted an internal review of the reported incident.
- b) As for the second complaint, the City of Miramichi administrator pledged that the municipality would take the necessary steps to avoid this type of situation in the future.

**Recommendations:**

- That the City of Miramichi adopt a training and awareness program for peace officers on their obligations under the *Official Languages Act* (OLA) and on dealing with the public and the steps to be taken to ensure equal service in both official languages. The institution should impress upon its officers the importance of active offer when it comes to providing services in both official languages.
- That the institution on its own initiative assess and/or verify from time to time the effectiveness of this program on the provision of equal services in both official languages and, in case of deficiencies, modify the training or offer the program more frequently to ensure equal service.
- Naturally, the institution should ensure that its police force has the necessary resources at its disposal to be able to meet the official languages requirements set out in subsection 31(3) of the OLA.

**N.B.:** After the investigation, the Commissioner sent a letter to the Premier informing him of the City of Miramichi’s erroneous interpretation with regard to the obligations of peace officers under the OLA. The Commissioner emphasized in his letter that the situation seems to call for more direct action at the highest levels to understand and rectify the situation in the event that this erroneous interpretation of the OLA is more widespread than the number of complaints would imply. The Commissioner requested the provincial government’s cooperation in ensuring that all regional and municipal police forces understand their obligations under the OLA. A few weeks later, the Minister of Public Safety informed the Commissioner in a letter that his Department, in cooperation with the New Brunswick Association of Chiefs of Police, had prepared and released an operational policy that clearly defines the need to make an active offer of bilingual service at first contact with the public.

The Minister noted, however, that the policy had been released only after the incidents prompting the complaints against the Miramichi police. Also, the Minister indicated that he was preparing to send a letter to the mayors of all municipalities with their own police forces to share the same information already communicated to the police chiefs via the above-mentioned operational policy. Lastly, the Minister stated that the Director of Policing would recommend to the New Brunswick Association of Chiefs of Police that the Commissioner be invited to its next annual general meeting, to be held in September 2008, to discuss specific challenges with respect to service delivery in both official languages.

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**Institution:** Department of Post-Secondary Education, Training and Labour

**Complaint summary:** The complainant said he had taken a plumbing course delivered in French at the Bathurst Community College. A few years ago, all of the Francophone instructional material, considered outdated, was withdrawn and replaced by English-language reference material from Alberta.

**Outline of situation by institution:** In the overview provided by the institution, the challenges associated with the lack of availability or total absence of appropriate technical documentation in the French language for specialized trades were clearly noted. Those difficulties are reportedly attributable to a certain contemporary reality wherein the English language predominates in technical fields. This reality is also reflected in internships and opportunities for securing employment in the field. This situation allegedly prevails in more than 35% of the courses offered at the NBCC's five campuses where knowledge of English is necessary or at least an asset in taking a program.

In order to offset that situation, the Bathurst Campus instructors, in addition to delivering their instruction in French, ensured that all English-language documentation was summarized and translated into French and made available to the students. According to the institution, the transition from a modular instruction method to a lecture format enables the instructors to provide individual assistance for students experiencing language-related difficulties, to ensure that they have acquired a good understanding of the essential subject matter.

The Department indicated that it was very aware of these challenges and pledged to work to provide quality training for unilingual French apprentices and offer them the necessary support to ensure their success. With that in mind, it informed the Commissioner that, in order to increase the availability of instructional material in French, the Apprenticeship and Certification Branch and the NBCC had recently joined a national consortium of community colleges in order to obtain federal government funding, through Heritage Canada, for the translation and/or development of instructional material for specialized trade courses.

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**Institution:** Workplace Health, Safety and Compensation Commission (WHSCC)

**Complaint summary:** Following a work accident, the complainant's spouse was required by the WHSCC to go to the Workers' Rehabilitation Centre in Grand Bay-Westfield (Saint John) for seven weeks of treatment. Given the length of treatment and the fact that his spouse was unilingual Francophone, the complainant was hoping she could obtain services in her language of choice. The issue to consider was the structure provided by the Workers' Rehabilitation Centre for unilingual Francophones during extended stays.

**Outline of situation by institution:**

- The institution, with supporting documentation, indicated to the Commissioner that it had the capacity and the measures in place to ensure service delivery in both official languages at the Workers' Rehabilitation Centre in Grand Bay-Westfield (Saint John).
- It also emerged from the correspondence the Commissioner received from the WHSCC that the agency is concerned about the fact that members of both language communities attend its facility and, together with commercial lodging establishments, had put in place a number of measures to ensure that associated services are also available in both official languages in order to lessen the inconveniences.



- Lastly, the institution noted that a workers' support service was also available for clients who had to go to the various hospitals in the region and that each of those facilities was obliged, under the OLA, to serve clients in the official language of their choice.

### **Conclusion:**

- Although the Commissioner's dealings with the institution showed that the rehabilitation centre concerned does have the capacity to offer its services and provide the related structure in both official languages, he believes that closer collaboration with the various Francophone agencies in the Greater Saint John region, such as the Association régionale de la communauté francophone de la grande région de Saint John (ARCF) and the Centre Samuel-de-Champlain, could open up some worthwhile avenues for improving its information kit in an effort to meet all of the needs of its Francophone clients. Indeed, raising the awareness of this clientele and facilitating its access to the electronic edition of the Bottin (<http://lebottin.org/>) developed by Avantage Saint John Advantage and its partners would enable the institution to have a clear idea of Greater Saint John's bilingual services.

## **2006 ELECTION**

The 2006 provincial election gave rise to several complaints regarding failure to comply with the *Official Languages Act* (OLA) when it came to providing services in French. As shown by the circumstances surrounding each of these complaints, combined into one notice of investigation to simplify their handling, they seemed to focus on deficiency in the provision of services in the official language chosen by the voter and on active offer, which also seemed, according to the allegations, to have been deficient.

Following the 2003 provincial election and the 2004 triennial elections, the Office of the Commissioner of Official Languages had received several complaints of this type. In his report at the time, the Commissioner made a series of recommendations aimed at avoiding such situations in the future. In reply to the notice of investigation sent to Elections New Brunswick in 2006, the institution renewed its commitment to make every effort to comply with its obligations under the OLA by following the recommendations issued previously.

Upon completing this new investigation, the Commissioner did not consider it necessary to submit recommendations given that the institution had already made certain changes. That said, and in the spirit of risk management, the institution would be well advised to take proactive verification and positive reinforcement measures at the locations that seem to have been the focus of most complaints during the 2003, 2004, and 2006 elections and perhaps, more randomly, at the other polling stations thought to be at higher risk of failure to comply.

## **URL ADDRESSES**

During the 2007-2008 fiscal year, the Office of the Commissioner received a few complaints concerning the language in which URL (Uniform Resource Locator) addresses identifying the websites of institutions subject to the *Official Languages Act* (OLA) should be formulated. The issue to be considered is whether these addresses too must comply with the requirements of the OLA by being worded in the language of the page displayed.

The Office of the Commissioner of Official Languages itself had noted difficulties in this regard. The Commissioner therefore understands the technological limitations that can complicate the matter. However, he considers it important to persevere to try to find a solution to this type of problem.

Following a complaint concerning the Tourism New Brunswick website, the Department of Tourism and Parks corrected the situation. The site is now available at the following

addresses: [www.tourismnouveau Brunswick.ca](http://www.tourismnouveau Brunswick.ca) (French) and [www.tourismnewbrunswick.ca](http://www.tourismnewbrunswick.ca) (English). If the Internet user goes from one language to the other, the URL address changes accordingly. The Commissioner applauds this progress.

Many institutions opt for English in the composition of URL addresses, indicating the language by “en” for pages in English and “fr” for pages in French. The Commissioner believes that there are grounds for examining the possibility of having URL addresses worded in the language of the page displayed.



## CHAPTER THREE

### DEALINGS WITH INSTITUTIONS

The Commissioner of Official Languages is, like the Ombudsman, appointed by a government authority that guarantees his independence. The Office of the Commissioner of Official Languages investigates when a complaint targets a government department or institution. The Commissioner can make recommendations but he cannot impose solutions. Rather, his role is that of a mediator and conciliator: he engages in discussions with the institution in question to ensure that it manages to meet its obligations with regard to official languages. Below are the matters in which the Office of the Commissioner of Official Languages became involved in 2007-2008.

#### *Department of Education*

##### **French Second-Language Review**

On July 23, 2007, Education Minister Kelly Lamrock announced what he called a “comprehensive review” of French second-language programming and services within the Anglophone school system. The review was undertaken as part of the government’s *When Kids Come First* education plan. Noting that the province was falling short of its goal of having 70 per cent of all high-school graduates able to function effectively in their second language, Mr. Lamrock said that an examination of how second-language instruction is provided was needed “if we want to be leaders in education.”

Mr. Lamrock named as the review’s commissioners Prof. Jim Croll, professor emeritus, faculty of education, at the University of New Brunswick, and Patricia Lee, the chair of District 16 Education Council.

The commissioners’ mandate was to engage students, parents, teachers, educators and “identified stakeholders” in a review of the current models of French second-language instruction, and to make recommendations “designed to assist the Anglophone sector in developing French second-language programs that will be in the interests of all students.”

The review process was criticized early on as many parents and language experts perceived the terms of reference provided to Prof. Croll and Ms. Lee as containing several myths and assumptions that have been long disproven by other, peer-reviewed French second-language reports and studies. Those myths and assumptions contained in the terms of reference include:

- Learners must have a good grounding in their mother tongue before they try a second language.
- It’s difficult for young children to adjust to a second language.
- French second-language education detracts from art, music and physical education.
- Immersion costs too much.

While the *Official Languages Act* (OLA) does not apply to the Department of Education, the OLA does provide the Commissioner of Official Languages with the authority and the responsibility to promote the advancement of both official languages. It is based on this part of his mandate that the Commissioner became involved with FSL reform in the province, beginning with his own review, the details of which were included in his 2005-2006 annual report.

The Commissioner has been speaking in favour of improving FSL for several years. For this reason, he arranged to meet with Prof. Croll and Ms. Lee on October 19, 2007. The Commissioner was accompanied by Joan Netten, Honorary Research Professor in the Faculty of Education, Memorial University of Newfoundland. Prof. Netten is an internationally-

renowned researcher who specializes in what have become established immersion programs. Prof. Netten developed the pan-Canadian intensive French program for core French students in collaboration with Claude Germain of the Université du Québec à Montréal (UQAM).

During the meeting, the Commissioner shared the findings of his own FSL review and expressed his concern regarding the myths contained in the review's terms of reference and about the possibility that the province may want to cut back on immersion programs or drop them completely. The Commissioner also explained that, in his view, French immersion is more than a teaching method: it is an essential element in the interaction between Anglophone and Francophone New Brunswickers. The Commissioner said that parents and children who opt for immersion are making a concrete statement not only that the child wishes to become bilingual for practical reasons, but also that they are open to the Francophone culture and want to be closer to their French-speaking neighbours. The Commissioner urged Prof. Croll and Ms. Lee to issue recommendations that would honour the decision made by parents and children who choose immersion. Immersion programs have never been truly supported at the provincial and district level, the Commissioner said, and that is why a renewed investment in and commitment to immersion programs is sorely needed in order to allow as many children as possible to learn French.

After the Commissioner's presentation, Ms. Netten spoke to Prof. Croll and Ms. Lee about the myths surrounding immersion and proceeded to cite study after study that de-bunked those myths.

Canadian Parents for French rang the alarm bell after its own meeting with Prof. Croll and Ms. Lee, saying publicly that they believed the review was simply a formality which would recommend a pre-determined plan to scrap the early immersion program in the province. These concerns were quickly dismissed by the Education Minister who implied several times during the course of the FSL debate that these parents were simply being selfish. A quote from the November 17 edition of the *Telegraph Journal* is a typical example of the Minister's insulting attitude toward the parent group: "I would take the point that of the ways that we have names for, the current early immersion program is the most effective of what we do. But the folks at (Canadian Parents for French) can't go to the treehouse, pull the ladder behind them and say, 'The 20 or 30 per cent of kids here are fine and I don't want to worry about the other 70 per cent.'"

On February 18, 2008, Prof. Lee and Ms. Croll submitted "A Comprehensive Review of French Second Language Programs and Services within the Anglophone Sector of the New Brunswick Department of Education" to Minister Lamrock. The document was made public on February 27. The review recommended that the province scrap early immersion and core French in favour of beginning French second-language programming at Grade 5 with Intensive French for all students within the Anglophone system. The review also recommended that the Intensive French in Grade 5 would be followed by either an enriched core-French program or late immersion beginning in Grade 6 and that all students, core or immersion, would continue their French second-language programs until Grade 12.

Curiously, during the press conference to announce the review's recommendations, Prof. Croll admitted that early immersion is the "Cadillac" of French second-language instruction programs.

The recommendation to abolish early immersion was met with disbelief and anger among parents, academics and other stakeholders across the province. The Commissioner told reporters that he was concerned about the number of myths that had found their way into the review. Canadian Parents for French, which had previously been ridiculed by the Education Minister for warning that the review would recommend the elimination of early immersion, held a news conference two days after the announcement. The President of CPF said that the review's recommendations flew in the face of more than thirty-five years of reliable academic research from across Canada and the U.S. that clearly states early immersion is the best method for children to learn a second language and produces the highest language proficiency.

The review has been widely criticized as being flawed. The Commissioner agreed that much of the information contained in the review was contradicted by other expert research documents he'd read and, in media interviews, he advised the government to proceed carefully and take all relevant information on the issue into consideration before acting. The Commissioner agreed with the concerns raised by CPF regarding the review, including:

- The FSL Review authors based the success or failure of Early French Immersion on a 15 minute oral French proficiency test at the end of grade 12. The proficiency test is not mandatory so many early immersion graduates did not write it, though they did finish the program.
- The authors are not French Second Language (FSL) experts.
- The report contains almost exclusively negative anecdotal comments regarding Early Immersion even though the authors admit that most of the comments they received were supportive of this program.
- The analysis of the data concerning the attrition from the early and late immersion programs is incorrect. The numbers used to say that early immersion students are leaving the program are wrong.
- The performance of the students in Early French Immersion is actually higher than the report states, 85.9% met the expectations of the program.
- The results of Intensive Core French, although very encouraging at the grade 5 level, have not been tested above grade 9.
- The review's financial evaluation is misleading. Immersion teachers and English stream teachers are paid the same salary, so whether a student is in an immersion class or a regular stream class the cost is basically the same.
- There is no proof that gutting the Early French Immersion program will improve English literacy skills. In fact, years of solid, objective research demonstrate that the opposite is true.

Despite opposition to the plan, Minister Lamrock announced in the Legislature on March 14 that the government would be implementing the review's recommendations and that the changes would be in effect by September, 2008.

The announcement came as a surprise to the Commissioner and to many others since it came so quickly after the release of the review, offering no time for public input. In fact, prior to the announcement, the Commissioner had tried to convince the Minister that the abolition of the early immersion program was not the right course of action. He, like many others who were critical of the review's methodology, pointed out that there were a number of expert studies and recommendations that did not seem to have been given the proper attention.

While the Commissioner does not take issue with the Minister's right to bring about needed changes in the education system, he cannot support the decision to remove the early immersion program from the FSL curriculum. In light of his earlier examination of the FSL issue and further to the statements he made to Prof. Croll and Ms. Lee in support of early immersion as well as his refusal to support the government's decision to eliminate the program, the Commissioner decided that he was not in a position to investigate the complaints he had already received relating to the FSL review. He referred them to the Office of the Ombudsman. On March 20, 2008, the Commissioner released a statement encouraging New Brunswickers who were unhappy with the government's decision to contact the Office of the Ombudsman. Indeed, while policy issues and decisions are generally in the domain of the legislators, the suggestion that the immersion changes were more administrative than legislative and, moreover, that the work of Prof. Croll and Ms. Lee was flawed, brought about questions of due process, an issue that falls squarely within the Ombudsman's purview. As well, the Ombudsman's role as Child and Youth Advocate mandated him to examine the impact of the changes on New Brunswick's children.

Meanwhile, the government's decision to cut early immersion touched off a series of protests by parents across the province, including one in front of the Legislative Assembly on March 27. The controversial move was front-page news for weeks and, by the end of the fiscal year, opposition to Minister Lamrock's plan was showing no sign of slowing down.

### **Congratulations!**

In association with the Sainte-Bernadette school in Moncton, the Riverview Public Library has begun offering "L'heure du conte en français" ("Story time in French"), a wonderful opportunity for pre-school aged Francophone children in the area to learn and have fun in their own language. For French-speaking children living in predominantly English-speaking communities, opportunities to partake in public activities in their own language are rare outside the school system. The Commissioner applauds the Riverview Public Library for its leadership in recognizing the need for French-speaking children in the area to build a strong linguistic and cultural identity through learning and play, and he hopes that other public libraries serving a Francophone minority community will follow the example it has set.

## ***Department of Health***

### **Regional Health Authorities: From Eight to Two**

On March 11, 2008, the Department of Health announced its decision to transition from eight Regional Health Authorities (RHAs) to two. Minister of Health Michael Murphy explained that having two RHAs will better meet the clinical needs of New Brunswickers by providing them with access to a larger network of services and health-care providers within their health region, and by removing administrative barriers to care between regions. According to the Department's news release, the Minister also believed that re-organizing the RHAs in this way would address the "unhealthy competition that exists among the eight health authorities."

In the news release, the Minister was quoted as saying: "New Brunswickers must receive the same high level of care no matter where they live. Today, we have wait lists for services that are a year in one part of the province and only a few weeks in another area. We have certain drugs that are being paid for publicly in one region but not in another. This is not acceptable to be me as minister of health."

The 17-member boards of the new RHAs will be government appointees, compensated for their service.

Regional Health Authority "A," to be based in Bathurst, will be responsible for providing services in the areas formerly served by RHA 1 (Beauséjour), RHA 4 (Edmundston), RHA 5 (Campbellton), and RHA 6 (Bathurst).

Regional Health Authority "B" will be based in Miramichi, and will be responsible for the areas formerly served by RHA 1 (South-East), RHA 2 (Saint John), RHA 3 (Fredericton), and RHA 7 (Miramichi).

The Minister also announced the creation of the New Brunswick Health Council, with a dual mandate to provide residents "with opportunities for meaningful input and dialogue on health matters, and to ensure that the health-care system is accountable to New Brunswickers," said the news release. The re-organization also included the consolidation, under a new public sector company called the Non-Clinical Shared Services Agency, of selected non-clinical services currently being carried out by the health authorities.

In response to the Department's decision, some stakeholders began promoting the idea of identifying the two RHAs along linguistic lines. In a March 17, 2008, letter to the Premier, the Société des Acadiens et Acadiennes du Nouveau-Brunswick (SAANB) recommended that these designations be formally added to the new legislation. Specifically, the SAANB

recommended that the legislation designate RHA "A" a Francophone institution and RHA "B" an Anglophone institution. The letter clearly stated that these designations must be subject to the obligation for both RHAs and the health establishments within those RHAs to deliver all services equally in both English and French, pursuant to the *Official Languages Act* (OLA).

The Commissioner was provided with a copy of the SAANB's letter and, after careful reflection, concluded that the amendment proposed by this group, if implemented, would not have a detrimental impact on the effective management of the province's health system. In a March 31, 2008, letter to the Minister, the Commissioner wrote that, indeed, such an amendment "would do much to quell some of the concerns expressed by those who have perceived the reform or parts thereof as having a negative impact on the advancement of our linguistic communities. Quite frankly, it appears to me that this amendment would simply be reflecting reality. In fact, the former regional health authorities operating in mostly francophone areas find themselves joined under RHA 'A,' while those authorities in areas where the majority population is English-speaking are found under RHA 'B.' I therefore wish to go on record as supporting the request made by the SAANB in its letter to the Premier."

In his letter to the Minister, the Commissioner made the following recommendations:

- That the legislation governing Regional Health Authorities in the province contain a clear statement that the RHAs must serve members of the public in the official language of choice, as per the requirements of the *Official Languages Act* (OLA).
- That province's RHAs and their institutions be required to establish strategic plans and performance measures designed to ensure that they are providing equal services in the official language of choice wherever services are provided, as per the requirements of the OLA.
- That the Non-Clinical Shared Services Agency offer all of its services and communications in the official language of choice when dealing with the RHAs, their employees, the health establishments and the employees of those establishments, as required by the OLA in sections 27, 28, 28.1, 29 and 30.
- That any legislation dealing with the work of the Council should contain a clause or clauses requiring that the mandate of the New Brunswick Health Council contain the obligation to ensure that all their deliberations, recommendations and actions reflect and be inspired by the language rights contained not only in the OLA and the *Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick* but as well by the rights contained in the *Canadian Charter of Rights and Freedoms* as interpreted by the courts.

### Dialogue Santé Forums

On February 26, 2007, the Department of Health announced "Dialogue Santé" forums for the Acadian Peninsula. The series of three forums took place later that year and were hosted by the then-Associate Deputy Minister of Health.

According to the Minister of Health, the forums were to be an opportunity for residents to share with government their views on the provision of health care on the Acadian Peninsula. The Minister added that 135 people, including community representatives, municipal leaders, health professionals and administrators, and representatives from the Peninsula's academic community would be invited to take part in the forums. The Minister said that the results of the dialogue would help inform government in the development of a new Provincial Health Plan.

On November 26, 2007, the Office of the Commissioner of Official Languages inquired with the Department as to when a report on the Dialogue Santé forums could be expected. While there had been short descriptions of the meetings on the Department's web site, an overall report had yet to be produced. An e-mail response from the Associate Deputy Minister's

assistant came the next day, wherein he explained that the Department had changed its mind about producing a report, opting instead to incorporate the recommendations emanating from the Dialogue Santé forums into the new provincial health plan.

Meanwhile, the Commissioner was asked to meet with officials at the Department of Health during the drafting of the new provincial health plan in order to get his insights into language issues as they relate to health-care. The Commissioner reminded them of the province's obligations with regard to both the *Official Languages Act* (OLA) and the *Canadian Charter of Rights and Freedoms* and discussed the principles behind the advancement of both official language communities.

**Editor's note:** The new provincial health plan was released on April 1, 2008. In the Major Initiatives section of the plan, the Department outlined a number of initiatives aimed at improving health-care services for Francophones. The Department pledged to:

- Enhance access to French primary health-care services in English-speaking regions through the establishment of satellite Community Health Centres at the Centre communautaire Sainte-Anne in Fredericton and at the Centre scolaire-communautaire Samuel-de-Champlain in Saint John.
- Establish a Community Health Centre satellite in Saint-Isidore with health services provided by a nurse practitioner. The Centre will be associated with the Caraquet hospital.
- Work with RHA "B" and Carrefour Beausoleil to enhance French-language health services in the Miramichi region.
- Work with the Fredericton, Miramichi and Saint John French-speaking communities and RHA "B" to continue developing strategies to ensure that Francophones in those regions have access to health services in their official language of choice.
- Work with the Centre de formation médicale du Nouveau-Brunswick and RHA "B" to facilitate new French-language medical education training opportunities in Fredericton and Saint John.
- Work with Regional Health Authorities and continue to collaborate with Société santé et mieux-être en français du Nouveau-Brunswick and other non-governmental organizations to develop and enhance service delivery models that meet the needs of francophone communities.
- Support Société santé en français in its effort to secure funding from the federal government.

As for the recommendations flowing from the Dialogue Santé forums, the province "is committed to rural health and will restore certain services to specific areas, including the Acadian Peninsula." These services include:

- 24/7 medical coverage at the hospital in Caraquet and the clinic in Lamèque.
- Expansion of the emergency department at the hospital in Tracadie-Sheila, including funding for the hiring of additional nurses and other ER staff.
- Opening of eight family medicine beds in the Caraquet hospital.
- Establishment of a medical training unit on the Acadian Peninsula associated with the medical training program for Francophone students in Moncton.
- Establishment of an obstetrical clinic in the Peninsula that will offer prenatal and postnatal services to pregnant women, new mothers and newborns by means of an interdisciplinary team.
- Establishment of an orthopedics clinic and an ear, nose and throat clinic.
- Funding for a nurse practitioner to work in the field of mental health.



## New Brunswick Heart Centre

In the fall of 2007, news reports told the sad and troubling story of a couple from northern New Brunswick who had a very bad experience while the husband was being treated at the New Brunswick Heart Centre, part of the Atlantic Health Sciences Corporation in Saint John. While his wife was out at a local coffee shop, the husband was having difficulty which required him to be transferred out of the Heart Centre and into the intensive care unit. A unilingual Anglophone staff member in the intensive care unit called the wife on her cell phone to tell her, in English, that there had been a problem with her husband and that he'd been moved to intensive care. The wife, a unilingual Francophone, understood that her husband had died and raced to the hospital, distraught. Upon arrival she was told in French that her husband was alive. In media interviews, the wife complained not only about the call from the intensive care unit, but also about a lack of service in French at the Heart Centre. While the couple made no complaint to the Office of the Commissioner, he felt that the incident called for an examination of the level of service in both official languages offered by the Heart Centre.

The Commissioner and the Senior Investigator toured the Heart Centre. They spoke to many doctors, nurses and other employees and were able to ascertain a high level of bilingualism at the Centre. As well, the two employees charged with contacting people waiting to receive care at the Centre are both bilingual and explained that, during the first telephone contact, they alert future patients to their right to be served in their official language of choice. In addition, a note is made in the files of all patients indicating their official language of choice so that patients do not have to continually repeat it during their stay at the Heart Centre. Afterward, the Commissioner and the Senior Investigator met with members of the health authority's committee on official languages and had a lengthy discussion with them about the obligations pursuant to the *Official Languages Act* (OLA) and the challenges which must be met in order to fully comply with the OLA. The Commissioner received a commitment from the committee's president that more effort will be put into improving service in the official language of choice throughout the Atlantic Health Sciences Corporation.

## Translation of Medical Records into the Official Language of Choice

During the 2006-2007 fiscal year, the Minister of Health created the Personal Health Information Task Force to conduct public consultations on new legislation to regulate access to and privacy of personal health information. The Commissioner of Official Languages contributed to the process by meeting with the Task Force's commissioners and recommending, in that year's annual report, that the Department of Health conduct an in-depth study in order to clarify its obligations under the *Official Languages Act* (OLA) with regard to requests for the translation of medical records into the official language of choice and to set out a clear policy addressing circumstances where medical records must be translated.

In September, 2007, the Task Force submitted its report, entitled: *Personal Health Information in New Brunswick: Balancing Privacy Rights and Access Requirements*. In it, the Task Force adopted the position that while patients have the right to receive services in the official language of choice, this right does not extend to the translation of the medical record if it is not in the official language preferred by the patient: "The Task Force accepts the view that patient records are not services to patients; rather, they are working tools of health service providers. Therefore, as long as patients are personally served in the official language of their choice, we believe the constitutional right has been satisfied."

While the Commissioner generally agrees with this interpretation, he is concerned that while the authors of the report wrote that RHAs "strive to accommodate" the language needs of unilingual physicians by translating a patient record if it is in an official language the physician cannot understand, they did not specifically address the issue of continuity of care. Indeed, the argument for translating medical records is especially compelling when providing the records in the official language of choice makes the patient's continued



treatment more efficient and a positive outcome more probable. For example, when a patient whose medical records are in French must be treated by a unilingual Anglophone specialist in another part of the province who can't read them, the risk of that patient suffering an unreasonable delay in treatment becomes considerably higher.

Further, the Commissioner was dismayed by the way the report's authors approached patients' right to equal access to health services of equal value: on page 21 of the report, the authors explain their philosophy on accommodating unilingual physicians thusly: "The key in the effort to accommodate is that the accommodation not produce an undue delay in the treatment and care of the patient and that wait times for Francophone and Anglophone patients be **approximately equal** (emphasis added)."

In January, 2008, a member of the Commissioner's staff attended a personal health information workshop hosted by the Department of Health and explained the fact that the language rights of Anglophones and Francophones are not "approximately equal" and, therefore, the Department must have as its goal the guarantee that New Brunswickers not be made to wait longer for care simply because they choose to obtain their health services in one official language instead of the other.

### Some Health Employees Refuse to Offer Service in Both Official Languages

In his last annual report, the Commissioner noted that while those in leadership positions within the province's regional health authorities seem to understand and appreciate the need to serve the public in the official language of choice, this legal obligation is often not accepted by front-line staff who, too often, consider language rights to be a nuisance or a threat. Unfortunately, New Brunswickers continue to encounter this negative attitude. During 2007-2008, the Commissioner received complaints and communications regarding instances when front-line staff at hospitals, in particular, refused to provide service to patients in the official language of choice. At one hospital, for instance, employees in some departments that used a numbering system for patient registry refused to call the numbers out in both official languages, contrary to the obligations of the *Official Languages Act* (OLA).

The Commissioner has urged regional health authorities to continue in their efforts to educate their employees with regard to official language rights and to convince them of the need to adhere to the provisions of the OLA. It is only through such concerted effort that New Brunswickers will eventually receive health services in their official language of choice on a consistent basis.

### Congratulations!

The Miramichi Regional Health Authority continues to seek solutions in the delivery of quality health care services in the official language of choice. The Miramichi RHA was the first to bring in identification bracelets for patients indicating their official language of choice. Last fall, the Health Authority's Official Languages Coordinator contacted the Office of the Commissioner to share more of the activities and projects the Miramichi RHA had undertaken in order to provide their patients with equal access to services of equal value without undue delay:

- The RHA created a bilingual phrase book for health-care professionals relating to the particular health services they provide. The phrase book was so popular among staff and demand for copies of this valuable tool was so high that it was permanently posted to the RHA's intranet site for employees to download.
- Three times a year, the RHA publishes articles in its internal newsletter aimed at increasing awareness of official language issues and requirements such as active offer.
- An Active Offer Kit for the RHA's managers and employees was created and distributed in September, 2007. The kit was designed to provide health professionals with information and guidance on the delivery of service in both official languages.

The Health Authority's Official Languages Coordinator has presented these ideas to official languages coordinators in other RHAs and the Commissioner hopes they will follow his lead. He recognizes the hard work and leadership that the Miramichi Regional Health Authority continues to demonstrate with regard to official languages.

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Following a complaint received by the Office of the Commissioner regarding the fact that menus provided to patients at the Miramichi Regional Health Authority contained dates in English only, the RHA went to work immediately to solve a problem that was deceptively complex. While the software used to produce the menus allowed for everything else to be printed in both official languages, the dates allowing patients to know when they could expect which meals could only be produced in English. The private company that created the software told the RHA's staff that adding the extra capability needed to produce the dates in both official languages would be an onerous and very costly proposition. Undeterred, the RHA's technical staff, at the request of the Manager of Nutrition Food Services and Official Languages Coordinator, examined the software in an effort to discover a way to add the dates in French. In the meantime, staff members stamped all menus individually with the dates in French next to the computer-generated English-only dates. After much research and experimenting, the RHA's technical staff found a way to add information to the software and created new access codes allowing those who create the menus to electronically insert the dates in French.

The Commissioner applauds the staff at the Miramichi Regional Health Authority for persevering in their efforts to provide patients with equal access to quality care in both official languages. Provincial institutions must frequently use software with limited bilingual functionality and too often they give up when faced with any opposition to think "outside the box" and adapt software to the New Brunswick reality. The Commissioner has noted that other government departments have given up quickly after being told by private technical suppliers that providing bilingual content was too difficult or costly. He believes they would do well to follow the example of imagination and tenacity on display at the Miramichi Regional Health Authority.

### **Congratulations!**

Since the beginning of his mandate in 2003, the Commissioner has encouraged the provincial government to create a strategic plan for the implementation of the *Official Languages Act* (OLA). The Commissioner believes that only when departments and institutions proactively adopt as their own the goals and obligations in the OLA will the province truly be able to say that it takes seriously its legal responsibilities toward both official language communities. That is why he was pleased to learn that the South-East Regional Health Authority is planning to adopt its own official languages strategic plan for 2008-2009 which, according to the RHA, will include the following elements:

- Education and training for staff (on topics such as active offer).
- Policies for bilingual signage.
- Policies for creating postings, publications and documents intended for the general public in both official languages.
- Re-evaluation of active offer program within one year.
- Website tools to inform the public on official languages-related activities.
- On-going monitoring and tracking of staffing complements to gauge availability of bilingual staff to meet patients' needs.

The Commissioner hopes that the RHA will follow through with this initiative and believes it will serve as an example that all provincial institutions should follow.

## Department of Justice

### Closure of Regional Satellite Courts

In May, 2007, the Department of Justice announced the closure of seven satellite courtrooms in Doaktown, Perth, Sackville, Neguac, Shippagan, Dalhousie and Sussex. Three months later, the Department announced the closure of a further three satellite courtrooms, located in Hampton, Richibucto and Shediac. At the time, a spokesperson for the Department explained that the move was meant to address longstanding concerns about the adequacy of the facilities. As well, officials anticipated the closures would increase access to the court system and would free up roughly 450 hours per year in travelling time because court staff would be spending more time in their offices and less time in their vehicles.

In an August news release, the Justice Minister said "When the new courthouses in Saint John and Moncton are opened, court services will have been consolidated from 28 facilities today to 16, with no loss of jobs. That is real progress in terms of modernizing the justice system and making it more efficient."

Shortly after the May announcement, however, the Village of Neguac protested the loss of its satellite courthouse. In June, the municipal council voted in favour of filing a complaint with the Office of the Commissioner of Official Languages in an effort to avoid the transfer of court services in Neguac to the Miramichi courthouse. The Mayor and village council were concerned about the economic impact on Francophones having to travel to Miramichi for court services, as well as the ability of the staff at the Miramichi courthouse to provide equal access to services of equal value in both official languages. Neguac village council had administered an informal test, with several people calling the Miramichi courthouse in order to gauge the level of service in the official language of choice. The Mayor of Neguac told *L'Acadie Nouvelle* that many calls were answered by unilingual Anglophones who then transferred the calls to a voice-mail system. This led the Mayor and council to become concerned as to the ability of staff in Miramichi to provide equal services of equal value in both official languages.

In an August 24, 2007, letter to the Deputy Minister of Justice, the Commissioner of Official Languages added his voice to those who were questioning the ability of staff at the Miramichi courthouse to provide equal access to services of equal value in both official languages. Further, the Commissioner asked to be briefed on the process that led to the decision to close the Neguac satellite courthouse. Specifically, the Commissioner wanted to know whether the language rights under the *Canadian Charter of Rights and Freedoms* and the *Official Languages Act (OLA)* had been taken into consideration and what, if any, measures would be taken to ensure that Francophones who would normally access services at the Neguac courthouse would be served just as well in Miramichi.

During a meeting held on September 12, 2007, the Assistant Deputy Minister of Justice told the Commissioner that the department's long-term plan was to reduce the number of courthouses by making court services available in the province's larger centers. The Commissioner was told that closing satellite courts was required for the sake of efficiency: judges, crown prosecutors and stenographers had to drive to the satellite court locations, thus causing a drain on finances and time. In addition, he explained that some satellite court facilities were unsafe, had no holding cells, no bathrooms for the judges and were not accessible to people using wheelchairs. Finally, the Commissioner was told that closing the satellite courts would save taxpayers approximately one million dollars.

In a letter to the Commissioner dated December 17, 2007, the Deputy Minister explained that approximately 500 cases were heard each year at the satellite court in Neguac and, of those, 33% were not heard by a judge. Of the remaining 350 cases, about half were heard in French.

The Deputy Minister went on to write that, after examining the case load of judges and stenographers, it was determined that the modern and accessible Miramichi courthouse was best placed to absorb the extra cases from Neguac. He also wrote the number of bilingual employees at the Miramichi courthouse was sufficient to ensure services in both official languages. In addition, he explained that the Department's Regional Director had already met with staff in Miramichi to remind them of their legal obligation to serve the public in the official language of choice. He said that the employees in Miramichi were proud of their ability to serve the public in this way and were dismayed that citizens in Neguac believed they are incapable of doing so. While the Department had asked the employees in Miramichi to ramp up their level of service in both official languages, the Deputy Minister said they weren't "starting at zero" and had already done much to fulfill their responsibility with regard to the OLA.

On February 12, 2008, the Mayor of Neguac wrote to the Justice Minister to say that while he accepted the Department's explanation for the decision to close the Neguac courthouse, the Department's failure to consult with the public had led to mistrust in those communities affected by the change. And though people in Neguac remained concerned about the ability of the staff in Miramichi to serve the public equally in both official languages, the Mayor said he was confident in the Department's ability to address any such problems in a timely manner. For this reason, the Mayor withdrew the complaint the village had filed with the Commissioner's office.

In a letter to Deputy Minister of Justice dated February 26, 2008, the Commissioner noted that skepticism toward the Department's assurances that it could provide equal services of equal value in the official language of choice at the Miramichi courthouse is understandable given the absence of a bilingual judge and the fact that the clerk is a unilingual Anglophone. The Deputy Minister responded that a bilingual judge from another region would come to Miramichi to hear cases in French and that the clerk's assistant is bilingual.

While the Commissioner doesn't doubt the good intentions of the staff in Miramichi, he remains concerned as to what the future holds with respect to accessing all court services equally in both official languages. He urged the Deputy Minister of Justice to remain vigilant in order to ensure that the issues already experienced in Miramichi were not symptomatic of a larger problem leading to an inability to guarantee a consistent and equal service in the official language of choice.

***RECOMMENDATION: That the Department of Justice adopt an audit system for verifying that courthouses in the province are fulfilling their obligations under the OLA by consistently offering service in the official language of choice to the public, and that staffing complements be updated as needed to ensure compliance with the OLA.***

### ***R. v. Michelle LeBlanc***

On August 2, 2007, the provincial court in Neguac rendered a judgment in the case of *R. v. Michelle LeBlanc* (2007 NBCP 30). The judgment is of concern to the Commissioner not because of its end result, but rather because of the judge's interpretation of key sections of the *Official Languages Act* (OLA).

Ms. LeBlanc had been charged after being stopped by an RCMP officer for speeding near Neguac. Ms. LeBlanc's defense rested mainly on the contention that the RCMP member who pulled her over did not fulfill certain obligations pursuant to the *Official Languages Act* (OLA), specifically:

- She claimed she was not informed immediately, during the initial contact with the RCMP member, of her right to be served in the official language of her choice, in violation of section 31 of the OLA.

- Again referring to section 31, Ms. LeBlanc claimed that the 20-minute delay anticipated by the RCMP member in getting a bilingual member to the scene to serve her in her official language of choice was unacceptable in an officially bilingual province.
- Ms. LeBlanc argued that the ticket should be thrown out because the RCMP member did not ask her whether she wanted the ticket in English or in French.

The court found in Ms. LeBlanc's favour and ordered that the ticket be thrown out. While much of the judge's reasoning is supported both in law and by legal precedents, his interpretation of section 31(1) of the OLA is of concern. The judge found that the RCMP member, despite speaking with Ms. LeBlanc in English only, had performed active offer (and thereby complied with the OLA) simply by being courteous and responding to her request for service in French by offering to summon a member able to communicate with her in that language. The Commissioner cannot, with respect, be in agreement with the interpretation of the OLA made by the judge in this matter. Although, as the court pointed out, the term "immediately" is not included in paragraph 31(1), the Commissioner believes it is implicit and in conformity with the intention of the legislator. To conclude otherwise implies that the obligation to inform members of the public of their right to be served in the official language of choice is somehow optional.

As well, the judge made the following comment:

"To help them interact with unilingual Francophones, unilingual Anglophone police officers... always have cards with keywords and their translations...In any event, the card was not used the evening in question since both parties were able to understand each other." (free translation)

The court's reasoning could be interpreted as suggesting that the rights contained in the OLA are based on one's linguistic *capacity* and not on one's *right* to communicate in the official language of choice. This interpretation is contrary to both the letter and the spirit of the OLA.

On October 29, 2007, the Commissioner wrote to the Deputy Minister of Justice to share his concerns regarding the court's interpretation of the OLA and the misleading message it could be sending to law enforcement officials in the province. He explained that Crown prosecutors must pay particular attention to the requirements of the OLA as they exercise their discretionary powers in deciding whether or not to pursue charges against members of the public based on information from law enforcement officials.

In his response of December 4, 2007, the Deputy Minister of Justice explained to the Commissioner that each prosecution is reviewed by a Crown prosecutor prior to its presentation in court. If it is determined that there has been a violation of language rights that would remove any chance of a successful prosecution, the court action does not proceed. The Deputy Minister went on to say, however, that this process does not apply to traffic tickets, which are filed directly with the court without having first been reviewed by a Crown prosecutor. Despite this, the Deputy Minister said that he had forwarded a copy of the Commissioner's October letter to the Director of Public Prosecution (now the Assistant Deputy Attorney General) and he had asked that a memo be circulated emphasizing the proper handling of such cases by peace officers, as set out in the New Brunswick Court of Appeal's decision in *R. v. McGraw*.



## Still No Progress on Providing Equal Access to Court Decisions, Orders or Judgments

In June, 2006, the Commissioner submitted recommendations to the Justice Department following an investigation into the Department's obligation to make court decisions, orders or judgments available in both official languages. The investigation stemmed from a 2003 complaint filed by the Association des juristes d'expression française du Nouveau-Brunswick (AJEFNB) and examined whether the province's courts were adhering to section 24 of the *Official Languages Act* (OLA) which prescribes that "any final decision, order or judgment of any court, including any reasons given therefore and summaries, shall be published in both official languages where (a) it determines a question of law of interest or importance to the general public, or (b) the proceedings leading to its issuance were conducted in whole or in part in both official languages."

The complainant's interpretation of "shall be published in both official languages" was that the decisions, orders or judgments of a court are to be available in both languages simultaneously prior to being distributed. The complainant also pointed out, and the Commissioner's investigation confirmed, that the province seemed to have no policy for determining which decisions, orders or judgments merited translation within the meaning of section 24. The investigation also revealed that the Department of Justice had delegated the responsibility of deciding which decisions should be translated to the staff of Maritime Law Book, a privately-owned company located in Fredericton which acts as the provincial government's official editor. This meant that anyone wanting to read a translation of a court decision written in English, for instance, would have to wait until the decision was published in *New Brunswick Reports* before being able to read it in French and then, as of January, 2005, only if the staff at Maritime Law Book deemed the decision worthy of translation.

Following his investigation, the Commissioner concluded that the Department of Justice's interpretation of the OLA with regard to language of final court decisions, orders or judgments did not respect the public's right to receive an equal level of service in the official language of choice. Since most decisions, orders or judgments issued by New Brunswick courts are in English, the Commissioner agreed with the complainant that this put francophones at a significant disadvantage.

The Commissioner therefore made three recommendations:

- That the Department of Justice consult immediately with all stakeholders in order to create a policy for the translation and availability of final court decisions, orders or judgments that is in conformity with the OLA and its principles and that, once the consultation is complete, steps be taken immediately to enact the policy.
- That the Department of Justice take steps as soon as possible to ensure that all the decisions that appear in *New Brunswick Reports* (bound edition or other) be published in both official languages.
- That, if the Department does not agree with his interpretation of the term "publish," that it take the necessary steps to have the matter referred to the New Brunswick Court of Appeal as soon as possible.

Twenty months went by without any official response from the Department of Justice. The Commissioner sent a letter to the Deputy Minister on February 1, 2008, asking for a status report on the implementation of his recommendations. Three weeks later, the Commissioner received a letter from the Deputy Minister assuring him that his staff was currently gathering information on the issue and would contact the Commissioner in order to set up a meeting. The Commissioner considers the fact that almost two years have gone by since he released his recommendations with no concrete action by the Department to be frustrating in the extreme and represents a *laissez-faire* attitude toward language rights.

**Editor's note: On May 9, 2008, the Deputy Minister of Justice wrote the Commissioner to inform him that the Department considers that the current way of doing things**

**regarding the language of court decisions, orders or judgments does not contravene the OLA. Further, the Deputy Minister wrote that the Department has no intention of referring the matter to the New Brunswick Court of Appeal.**

**The Commissioner is discouraged not only by the position finally taken by the Department of Justice, but also by the fact that no details were provided of any analysis or work done by the Department in addressing the issues he raised in his report following the investigation into the matter. There appears to have been nothing done since the problem was first raised in 2003. For such an important issue to receive such little attention is disconcerting.**

### ***RCMP Policing Agreement Will Be Modified***

In the wake of the Federal Court of Appeal decision in *Société des Acadiens et Acadiennes du Nouveau-Brunswick Inc. v. Canada* (which was subsequently overturned by the Supreme Court of Canada, as described in Chapter 1 of this report), there was confusion caused by erroneous media reports that assumed the RCMP, when acting as a provincial or municipal force in the province, is not subject to New Brunswick's *Official Languages Act* (OLA). In an effort to clarify the situation for the public, the Commissioner released a statement in 2006 explaining that the OLA states clearly that members of the public have the right, when communicating with a peace officer, to receive service in the official language of their choice and must be informed of that right. He added that when an RCMP officer is acting on behalf of the province under the Provincial Police Services Agreement, he or she is subject to the obligations set out in the OLA. Since both the province and the RCMP agreed with this interpretation, the Commissioner suggested to the Minister of Public Safety and the commanding officer of the RCMP's "J" Division that a clear, specific clause outlining the commitment of the RCMP to abide by the OLA be added to the Provincial Police Services Agreement which sets out the relationship between the province and the federal force.

It was therefore with great pleasure that the Commissioner received the news in January, 2008, that the federal Minister of Public Security had instructed representatives of his department as well as the RCMP to work with the province in order to modify the service contract in such a way as to make clear that the federal force recognizes and accepts its obligations pursuant to New Brunswick's OLA.

### ***Post-Secondary Report: Were Minority Rights Fully Considered?***

On September 14, 2007, the Commission on Post-Secondary Education presented its report on post-secondary education in New Brunswick. Specifically, the authors were mandated by the Premier to suggest ways in which the province's post-secondary education system can be improved and made more efficient, practical and accessible. According to a news release announcing the creation of the Commission earlier that year, the province faced several challenges in this area, including:

- A relatively large and diverse post-secondary education and training system within a relatively small Province.
- A commitment to provide equivalent levels of educational opportunities to two linguistic communities: francophone and anglophone.
- A rapidly declining youth population.

When the report was released, it proposed that the New Brunswick government clarify its own mission and move to a more policy-focused role. As well, the report recommended the creation of a Presidents' Council, composed of the heads of most public post-secondary institutions and representatives of private institutions and high schools. Primarily intended to be an advisory body, the Council "could play an important role in developing



and proposing system-wide initiatives, especially where economies are possible through co-operation, or where new or expanded markets could be created...The essential point, however, is that the council would share information and facilitate co-operation and system co-ordination." The report also recommended the creation of an arm's-length coordinating agency.

As for the institutions themselves, the authors submitted that the new post-secondary education system should be fully integrated, from colleges to universities, including the apprenticeship programs. They recommended that it should be comprised of four universities, three polytechnics and one college with four campuses.

While the recommendation to merge the UNB Saint John campus with the New Brunswick Community College's (NBCC) Saint John Campus and NBCC St. Andrews Campus to form Saint John Polytechnic was by far the most controversial, two other proposals were of immediate concern to the Commissioner of Official Languages.

Firstly, the Presidents' Council, which would be responsible for making decisions having direct and deep impacts on the post-secondary system, would be composed of the leaders of both Anglophone and Francophone institutions. As the Constitution provides for the existence of homogenous French-language post-secondary institutions in New Brunswick, the Commissioner believes that these institutions should be governed separately and not as part of a "bilingual" body governed by a council dominated by a majority of Anglophones representing English-speaking institutions.

The recommendation to absorb all the remaining NBCC's into one with four separate campuses was similarly problematic as it meant that the Francophone NBCC in Dieppe would be a lone French-speaking campus grouped together with three Anglophone campuses and governed by a "bilingual" body.

In both cases, the report's authors seem to believe that a system which brings together both Francophone and Anglophone institutions under a shared governance structure would be "bilingual" and, therefore, respectful of language rights. In reality, however, the Constitution provides that francophone institutions in the province have a right to be governed and operated in French only.

Unfortunately, it is a fact of life for Francophones in New Brunswick that entities billed as officially "bilingual" usually end up being predominantly "English" in everyday practice, not out of any sense of malice or disrespect but simply because Anglophones are the majority population in the province and may not appreciate or even notice how often they fall back on communicating in what is, after all, their mother tongue.

The Commissioner raised these concerns to the Deputy Minister of Post-Secondary Education in a January 23, 2008, letter and suggested that if the province adopted the governance system recommended by the Commission on Post-Secondary Education, Francophone institutions would have to be provided with a way of overcoming the "democratic deficit" it caused, especially when it comes to decisions that affect their ability to promote the advancement of the province's French-speaking minority.

The Deputy Minister responded that the Commissioner's recommendations would be taken into consideration by the Working Group on Post-Secondary Education in New Brunswick, comprised of the heads of various post-secondary institutions in the province and mandated to review the report and recommend the best model for a post-secondary education system in New Brunswick.

### ***Strategic Implementation of the OLA: When Will The Province Deliver?***

Since the beginning of his mandate, the Commissioner has encouraged the provincial government to be more proactive in the quest to fully conform to the *Official Languages Act* (OLA). At every opportunity, he has told government officials, both in person and through his annual reports, that they must adopt a government-wide strategic plan for implementing the obligations of the OLA into the day-to-day workings of government. He has also explained that each department should create a plan tailored to its own sphere of activity. The Commissioner believes that, unless positive measures are taken, the obligation to provide equal access to service of equal quality in the official language of choice may take a back seat to other government priorities. Simply reacting positively to the Commissioner's recommendations on specific issues or complaints from the public is not enough. If government takes seriously its legal responsibility to respect the language rights of New Brunswickers, then it must act in a thoughtful, proactive and organized way to ensure that all are treated equally.

While the Commissioner has taken every opportunity to stress the importance of planning to government officials, his exhortations have largely been met with silence or, at most, vague promises that his recommendations in this area will eventually be addressed.

On January 25, 2008, the Commissioner met with the provincial government's deputy ministers. During his presentation, he once again stressed the importance of strategic planning, both at the government-wide and department levels. The Commissioner was asked to provide more details with respect to what he meant by a "strategic plan." The Commissioner was surprised that there would be confusion regarding this issue. This was all the more odd since the provincial government's intranet site, available to all civil servants, includes an elaborate and exhaustive strategic plan template.

On February 28, 2008, the Commissioner met with a group of officials including the Premier's Chief of Staff as well as the Minister responsible for the Francophonie, and presented them with a copy of the strategic template from the intranet site, along with suggestions and examples of how the template could be used for the purpose of conforming to the OLA and promoting its principles of equality.

During the past fiscal year, the Deputy Ministers' sub-committee on official languages was abolished in favour of bringing any and all official language-related issues directly to the attention of the deputy ministers' group, presumably in the hope that such issues will be dealt with more promptly and efficiently.

At the end of the fiscal year, other than a few commitments to proceed with the creation and implementation of a strategic plan, nothing concrete has happened. The lack of enthusiasm for formally implementing the OLA into the daily workings of government is all the more puzzling given that the idea is far from novel. Indeed, the Poirier-Bastarache Report, which was delivered to the provincial government in 1982, called for such a plan to integrate the respect for language rights throughout government:

*The objective of bilingualism cannot be attained by waiting and hoping that attitudes will change in future generations. The government of New Brunswick can be ingenious at protecting particular interests to the detriment of an effective reform of institutions; but the time has come for the government to admit that it is necessary to formulate precise goals, appropriate measures, and a realistic timetable. The need is clear; measures must follow.*

### ***Language of Work Policy: More Delays***

New Brunswick's Official Languages Policy is intended to ensure the provision of services of equal quality in both official languages by all provincial government institutions and third-party entities that provide public services. New Brunswickers can therefore expect to be served in the official language of their choice, regardless of where they live in the province, without undue delay, as per the government's obligations under the *Official Languages Act* (OLA).

While the province updated the language of service component of the policy a few years after the OLA was adopted in 2002, the long-promised update to the language of work section has yet to materialize. Since the beginning of his mandate, the Commissioner has reiterated the need to revise the language of work policy so that civil servants are able to work in their first official language and pursue their careers in that language. He considers the amount of time the Office of Human Resources is taking to come up with a new language of work policy to be truly puzzling and has let his frustrations be known many times over the years, both in person and through his annual report.

The Commissioner believes that use of the minority language and the opportunity for bilingual Anglophone civil servants to use French in their workplaces should be encouraged. In his 2006-2007 annual report, he suggested an exchange program enabling civil servants to work in their second language for a fixed period of time. He added that writing and grammar tools should be made available to those who have to write in French or English.

While there have been indications over the years from several sources – including officials at the Office of Human Resources – that a new language of work policy would be adopted imminently, such a policy has not been forthcoming. The Commissioner was invited to a meeting in February, 2008, and provided with a status update and a commitment that the new policy would be implemented by the end of the 2007-2008 fiscal year or the beginning of the following fiscal year, at the latest.

As of the end of March, 2008, however, there is still no sign of the implementation of a new language of work policy.

### ***Rural Communities: Legal Void Must Be Addressed***

In his 2006-2007 annual report, the Commissioner noted that New Brunswick's rural communities are not subject to the *Official Languages Act* (OLA) as they are not considered to be "municipalities" within the meaning of the *Municipalities Act*. This means that he is not mandated to investigate complaints against such entities. In response to the Commissioner's request that this legal void be addressed, the Premier told the Commissioner that the matter had been referred to the Executive Council. Thus far, however, the Commissioner has received no information from the group of Deputy Ministers on this topic.

On September 19, 2007, the Premier appointed Jean-Guy Finn as Commissioner on the future of local governance. The Premier billed Mr. Finn's one-year appointment as the first comprehensive review of local governance in forty years. Mr. Finn was mandated to examine the structure and organization of local governance in the province, regional co-operation, property taxation, and local government funding arrangements, as well as the legislative framework required to implement an action plan he is to submit to government in the fall of 2008.

On March 13, 2008, the Commissioner wrote to Mr. Finn requesting that his working group examine the situation with regard to rural communities and the OLA.

**Editor's note: On April 18, Mr. Finn responded to the Commissioner, assuring him that his recommendations would take into account the information the Commissioner had provided regarding rural communities and the OLA.**

### ***Unilingual Voice Mail System: A Solution Seems to Be On Hold***

In his previous annual report, the Commissioner wrote about his suggestions to the Department of Supply and Services regarding problems with the province's automated voice mail system. Indeed, when government employees choose the "standard greeting" system for their telephones instead of leaving a personalized bilingual message, callers are unable to choose a language in which to receive the usual instructions for leaving a message. The Commissioner was told that there were technological limitations preventing Bell Aliant from offering callers the opportunity to choose a language in such cases. As a result, these callers are greeted by Bell Aliant's automatic message in one official language only, contrary to the OLA.

The Commissioner alerted the administrative heads of all departments and institutions to the problem and suggested they issue the appropriate instructions to staff regarding leaving a personalized bilingual message on their telephones. Further, he encouraged the Department of Supply and Services to enter into discussions with Bell Aliant to explore the need to adapt the provincial government's automated voice mail service to the New Brunswick reality.

In June, 2007, the Deputy Minister of Supply and Services wrote to the Commissioner to share with him the actions undertaken with regard to the voice mail issue. He indicated that Bell Aliant was investigating, at the Department's request, the potential to include the bilingual function in the next version of its automated voice mail service, although no specific date had been set for the availability of this new version of the service. The Deputy Minister added that his staff was working with the Office of Human Resources on employee education regarding voice mail.

Since that letter, however, the Department has offered no further information on the progress it is making in trying to solve the voice mail problem. When contacted via e-mail in August, 2007, a representative of the Department's Voice Services section responded that the Department was still waiting for action on the part of Bell Aliant. After four more months passed, an e-mail request to the same person for a status update was simply met with a one-line response: "We continue to work on this."

Finally, the Commissioner wrote to the new Deputy Minister of Supply and Services on January 29, 2008, requesting a status update. This letter has gone unanswered.

### ***Is The Province Sending a Mixed Message with Elections NB Appointment?***

Since the beginning of his mandate, the Commissioner has completed two large-scale investigations into the province's electoral process following a number of complaints concerning access to services in the official language of choice (specifically, French) during both municipal and provincial elections. The Commissioner found that the language rights of New Brunswickers, as stipulated in the *Official Languages Act* (OLA), had not been respected in several areas of the electoral process. Those areas included active offer, the selection criteria for election officers and the obligation to publish in both official languages. After a very slow start, the staff at Elections New Brunswick finally began to understand the scope and importance of the problem and took some steps to address the situation.

In the spring of 2007, the government appointed a unilingual Anglophone Director to head Elections NB. Certainly, the appointment did not go unnoticed. The President of the Société des Acadiens et Acadiennes du Nouveau-Brunswick (SAANB), wrote a letter to the Minister of Local Government on May 4, 2007, saying that the appointment was "deplorable" and flew in the face of both the *Official Languages Act* (OLA) and the *Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*. She also wrote that francophone New Brunswickers expect to be able to communicate directly with the head of such an important institution and asked that the appointment be reviewed. The Opposition's official languages critic had also expressed his concern over the appointment. Meanwhile, the

government's position was that while the services provided by the Elections NB office must be offered in both official languages, the OLA does not require the Director of Elections NB to be bilingual.

Having received the SAANB's complaint, the Commissioner took a closer look at the questions that it raised. He found that, indeed, there was no requirement for individuals such as the Director of Elections NB to be bilingual. In a letter to the SAANB dated July 9, 2007, the Commissioner cited Chief Justice Daigle of the Court of Appeal of New Brunswick in *Charlebois v. Mowat*:

*The bilingualism regime established by law in New Brunswick is not personal bilingualism as its purpose is not to ensure that individuals will be proficient in both official languages. Rather, it establishes institutional bilingualism aiming for the use of both languages by the province and some of its institutions in the provision of public services.*

While the appointment of a unilingual director does not contravene the OLA, the Commissioner suggested that it could lead citizens to doubt the provincial government's commitment to the advancement toward true equality for both official language communities. The Commissioner made this point in a July 10 letter to the Premier, and recommended that the government keep in mind the perceptions that may be created when unilingual people are appointed to head up provincial institutions mandated to serve the public in both official languages.

The Premier responded that while appointments to provincial institutions are based on merit above all, questions such as language and diversity are also considered. While he seemed to accept the fact that appointing a unilingual director to an institution that has a history of coming up short with regard to its obligations under the OLA could be perceived negatively, the Premier assured the Commissioner that the province is firmly committed to providing electoral services in both official languages and to address all the problems the Commissioner had pointed out during the past several years. He added that the *Elections Act* had already been modified to improve the standards relating to electoral services.

**Editor's Note: In his 2007-2008 annual report, federal Commissioner of Official Languages Graham Fraser shared his belief that top federal government civil servants should be bilingual. His comments could apply equally to the New Brunswick government and this matter should form part of future discussions related to the progression toward true equality:**

*A deputy minister who is unable to respond in French to a question in French from an employee at a town hall meeting of staff is unable to provide leadership. A manager or an executive who does not give as much critical attention and feedback to a document in French as to another document in English is not providing leadership. If senior public servants do not set the tone and show leadership in this matter, who will?*

*...Playing a leadership role in a public sector organization that respects both official languages means much more than simply being able to read a speech in French, or conduct a meeting in which both languages are used, or ensuring that messages to staff go out in both languages. It means creating a working environment where people know that the person they report to – or the senior executives in the organization – will understand the 35-page legal document or policy study in French, and don't have to wait for the translation. It means running a meeting where people are comfortable joking in either language. More than that, it means knowing the cultural environment in which French-speaking executives and employees live: the newspapers they read, the television programs they watch, the movies they see, the theatres they support.*



## ***iLearn Knowledge Centre***

The Office of Human Resources launched the iLearn Knowledge Centre in August, 2007. An online tool aimed at increasing learning and development opportunities for public service employees, iLearn is available 24 hours a day on the province's Intranet site and the courses it provides are broken up into modules allowing easier time management. One of the first courses offered by the program was on the duty of civil servants to make an active offer of service in both official languages. The course is well-structured, practical and the information offered is accurate. There are several different sections (active offer by phone and active offer in person, for instance) followed by short quizzes to ensure that the material has been understood. Employees are able to print off a certificate upon successful completion of the course.

The Office of Human Resources promoted the iLearn Knowledge Centre through Official Languages Coordinators and other department administrators, on the government's web site and through mass e-mails. Despite this, by the end of March, 2008, only 655 employees had completed the official languages course and another 237 employees were in the process of completing it.

While the Commissioner is pleased that the Office of Human Resources is offering a way for civil servants to learn about their obligations pursuant to the *Official Languages Act (OLA)*, he was dismayed to learn that the program's name in French is "Centre du savoir iLearn." The Commissioner considers it ironic that a tool aimed in part at encouraging civil servants to be respectful of language rights carries an English-only name. The explanation offered by the Office of Human Resources is that "iLearn" is a trademark name for the program and is owned by the private company that produced the software. This is an odd position considering that the Office of Human Resources is responsible for managing and promoting the province's official languages policy which states that third party service providers must abide by the OLA:

*"This does not mean that all individual third party service providers must have bilingual service capacity. It does mean that the responsible government institution must ensure that the service is available to clients in the official language they chose."*

While the iLearn Knowledge Centre provides courses to civil servants in both official languages, it is discouraging to note that the Office of Human Resources appears to see no problem with the fact that the French version has an English name. Was the option of simply dropping the term "iLearn" and calling the program "Knowledge Centre/Centre du savoir" not available? As it is now, it would appear that the program's name is an affront to the spirit of both the OLA and the province's official languages policy.

## ***A New Federal Action Plan on Official Languages***

On December 3, 2007, Prime Minister Stephen Harper announced that former New Brunswick Premier Bernard Lord would lead cross-Canada consultations on official languages. The public consultations were part of the federal government's strategy to update the Action Plan on Official Languages. Mr. Lord was to report his findings to the Minister of Canadian Heritage, Status of Women and Official Languages by mid-January.

The Commissioner met with Mr. Lord to share his views with him on what the new official languages plan should include. They discussed the following topics:

### ***Abolition of the Federal Court Challenges Program***

The Commissioner shared with Mr. Lord his belief that the axing of the federal government's Court Challenges Program is unacceptable and constitutes a step backward for language rights in Canada that will have a negative impact on the development of minority official language communities. He said that a democracy must offer its citizens

easy, unhindered access to the courts. As few persons or groups have sufficient financial resources to initiate legal proceedings, the Court Challenges Program offered a way for citizens to protect and promote language rights. The Commissioner urged Mr. Lord to recommend in his report that the Court Challenges Program be reinstated.

### **Making the Termium<sup>®</sup> Language Portal Available Free of Charge**

The Commissioner briefed Mr. Lord on his efforts to obtain free access for New Brunswick civil servants to Termium<sup>®</sup>, the federal government's on-line dictionary. Termium<sup>®</sup> consists of terms, synonyms, acronyms, definitions, phraseology units, examples of usage and observations in a wide variety of fields. The Termium<sup>®</sup> portal is also a writing assistance tool to obtain guidance on questions of style and usage in both official languages. The Commissioner has maintained for several years now that use of the minority language and the opportunity for bilingual Anglophone civil servants to use French in their workplaces should be encouraged and suggested that work tools such as Termium<sup>®</sup> be made available for those who have to write in English or French. Unfortunately, while Termium<sup>®</sup> has been made available free of charge to provincial government translation and terminology services, for instance, it is for the exclusive use of federal government employees. Anyone else wishing to access Termium<sup>®</sup> must pay an institutional or a per-user fee. In his 2006-2007 annual report, the Commissioner recommended that the provincial government commit to negotiating more aggressively with the federal Department of Public Works and Government Services in order to obtain free access to Termium<sup>®</sup> for all its employees. As of this writing, however, the Commissioner has received no feedback from the province as to its progress on the issue.

The Commissioner suggested that in his report to the federal government, Mr. Lord include a strong recommendation that Termium<sup>®</sup> be freely accessible to all.

### **New Brunswick's Bilingual Status**

The Commissioner made the case to Mr. Lord that while New Brunswick's officially bilingual status means that Francophones in this province face fewer challenges than those in other parts of Canada, there is still plenty of room for improvement in order to reach true equality. The Commissioner said that the new Action Plan on Official Languages should put particular emphasis on New Brunswick to ensure that the gains made in this province are protected and that the advancement of both official language communities continues and serves as an example to the rest Canada.

The Commissioner also shared with Mr. Lord a few criticisms of the first Action Plan on Official Languages. Specifically, the Commissioner noted that there had been delays in implementing some aspects of the Action Plan, especially in regard to education. He added that the Action Plan lacked mechanisms to ensure transparency and accountability, making it difficult for citizens to find out which organizations and governments had received money, how much money they had received and, especially, how that money had been spent. He suggested to Mr. Lord that these problems should be addressed in the new Action Plan.

Mr. Lord submitted his report in February, 2008. While it contained some discussion about providing communities with new technologies as well as a couple of very general recommendations regarding the need to work with the provinces and territories and to take regional differences into consideration, there was no specific recommendation regarding New Brunswick nor was there so much as a mention of the Court Challenges Program.



## ***Second-Language Training of Civil Servants: Does Funding Model Lead to Low Enrollment?***

The provincial government decentralized funding for its employee language training program in 2004, thus downloading the financial responsibility onto the departments. This move has led to a significant decrease in enrolment.

### *Part 1 Civil Servants Enrolled in Second-Language Training:*

2004-2005:	815
2005-2006:	280
2006-2007:	223
2007-2008:	262

These numbers are abysmal when one considers that of the possible 6,500<sup>1</sup> unilingual civil servants working in front-line government departments, only 262 took second-language training during the 2007-2008 fiscal year.

The Commissioner has long questioned the wisdom of the province's decision to decentralize funding for second-language training. He warned that forcing departments to try to find money within their own budgets would result in fewer people enrolling in such training. Indeed, the Office of the Commissioner has heard from individual civil servants who have been refused second-language training, with a lack of money being given as the reason.

***RECOMMENDATION: That the provincial government undertake an exhaustive study of its second-language training program with a specific examination of the possible reasons why the number of participants is so low as well as whether the program is achieving the desired results and to come up with a plan to implement any needed improvements.***

## ***Creation of the Toponymy Steering Committee***

In his 2006-2007 annual report, the Commissioner welcomed the creation of the province's Interdepartmental Committee on Toponymy within the Department of Wellness, Culture and Sport. The Committee was created for the purpose of discussing the naming of geographic features in the province. In an earlier report, the Commissioner had recommended the creation of a language planning board to advise government with regard to toponymy and implementing government language policies and standards. This is why he was pleased to learn of the creation of the Toponymy Steering Committee in February, 2008. Composed of representatives from the Anglophone, Francophone and Aboriginal communities, the Toponymy Steering Committee is a public mechanism that will allow members of interested communities to participate in the identification and establishment of place names throughout New Brunswick. Hédard Albert, Minister for Wellness, Culture and Sport, promised that the committee's work "will allow us to be respectful of our cultural communities and allow interested communities to participate in naming the geographic features located in their region."

Shortly after the announcement, the Commissioner participated in a day of reflection on toponymy organized by the Conseil pour l'aménagement du français au Nouveau-Brunswick that brought together stakeholders from across the province. He reminded the group of the importance of toponymy as a tool for underscoring and commemorating the province's past as well as its cultural and linguistic communities. He added that the province's forthcoming report on local governance could lead to the establishment of new administrative entities that will need to be named, bringing issues relating to toponymy to the forefront of public discussion on the topic.

<sup>1</sup> According to statistics provided by the Office of Human Resources, there are 11,505 Part 1 employees working for the provincial government. Of those, 50.9 per cent (or 5,856) are unilingual Anglophones, 5.6 per cent (or 644) are unilingual Francophones and 37.8 per cent (or 4,349) are bilingual.

## CHAPTER FOUR

### PROMOTING THE ADVANCEMENT OF ENGLISH AND FRENCH IN THE PROVINCE AND ADVANCING THE EQUALITY OF STATUS AND USE OF ENGLISH AND FRENCH

The purpose of this chapter is to inform the Legislative Assembly of the activities undertaken by the Commissioner of Official Languages to advance the use of English and French in the province.

#### *The Commissioner's General Philosophy on Promotion*

The Commissioner views his mandate to promote official languages as being comprised of three important components: promoting the *Official Languages Act* (OLA), celebrating achievements in the area of language, and helping to advance the equality of status and use of English and French.

The Office of the Commissioner of Official Languages has established general parameters for the promotion of programs he chooses to undertake. These include programs aimed at promoting the official language communities and the two official languages, bringing the two linguistic communities closer together, promoting the equality of status and use of the two languages, encouraging people to assert themselves in their language and recognize the importance of bilingualism and its benefits, creating a welcoming, inclusive environment for the minority linguistic community, and establishing partnerships in support of the objectives of the OLA.

The Office of the Commissioner of Official Languages wants to make citizens aware of their language rights and what they can do to secure them. Promotion is also undertaken in schools to inspire interest in the French language and pride in our province's linguistic heritage. The Commissioner also believes that an awareness of their linguistic rights can encourage young people to seek services in their official language of choice.

Lastly, the Commissioner believes that specific partnerships and projects with social, cultural and economic organizations will further the cause of official languages. He also advocates collaborative and productive relations between his office and government institutions for the purpose of introducing measures for implementing the OLA.

#### *Budget Process*

The province's Board of Management, comprised of government Ministers and chaired by the Minister of Finance, acts on matters relating to such issues as budget estimates and expenditures and is charged with reviewing departmental budgets. The budget of the Commissioner of Official Languages, as well as those of other independent officers of the Legislature, comes under the purview of the Board of Management.

Since the opening of his office in 2003, the Commissioner has made several presentations to the Legislative Administration Committee (LAC) asking for funding adjustments. Recently, the Commissioner was told that the LAC approved additional funding for his office and recommended it, through the Deputy Minister of Finance, to the Board of Management. The increase was refused.

The Commissioner believes that there is a serious problem inherent in the fact that his budget is ultimately controlled by the Board of Management. As his mandate requires him to investigate government departments following complaints under the *Official Languages Act* (OLA), he believes that the financial fate of his office should not be controlled by the

Ministers who lead those same departments. Instead, an office or agency under the control of the Legislative Assembly would be more consistent with the independence with which independent offices such as that of the Office of the Commissioner of Official Languages must operate.

### ***2Tongues Comic: The Adventures of Max Mallard***

The Office of the Commissioner built on the great success of its Internet-based youth program, 2tongues (see 2006-2007 annual report), with the creation of a bilingual comic book aimed at the same 9 to 14 year-old age group. The comic, which will be distributed free of charge to youth all over the province during the summer of 2008, communicates the same positive messages as the original 2tongues program, but with a new twist and in an exciting new format. The Adventures of Max Mallard promotes bilingualism and pride in New Brunswick in an entertaining way. Developed in collaboration with the Office of the Commissioner by Moncton company Razor Creative (who also created the initial 2tongues program), the comic features unique characters and a homegrown New Brunswick storyline. The graphics were created by Miramichi's own FatKat Animation, who had also collaborated on the original 2tongues program.



### ***Business and Bilingualism***

The Commissioner continued meeting business people and economic development groups around the province during the 2007-2008 fiscal period in order to encourage bilingual service in the private sector. Although the private sector is not obliged to serve the public in both official languages, many business people have opted to do so out of a sincere desire to provide better service to their clients. The Commissioner, too, believes that providing service in the official language of choice makes good business sense and has been making the case for bilingual service through the "Bilingualism is My Business" program. The Office of the Commissioner will continue in its efforts to convince the private sector of the importance of offering services and communicating with the public in both official languages.



### ***Linguistic Duality and You***

The Commissioner invited 21 English-speaking people 19 to 35 years of age to a forum in St. Andrews on October 25-27, 2007, called Linguistic Duality and You: A Discussion with English-Speaking New Brunswickers. The Commissioner was of the opinion that such opportunities had not been provided in the past. The people in the group have grown up with official bilingualism and the Commissioner and his staff were eager to get their thoughts on how, as a society, we are affected by official bilingualism and the impact it may or may not have on relations between the two linguistic groups. The participants were up for the challenge and offered honest and thought-provoking insights. The Commissioner is grateful to the Program on the Provision of Official Language Services, launched under the Canada/New Brunswick Agreement on the Provision of French-Language Services, for helping to fund this project.

## *Interesting Cases*

The Commissioner is sometimes asked to investigate matters that are not within his mandate. But while he is unable to make recommendations in such cases, he often uses them as opportunities to educate various groups on ways they can offer services in both official languages. What follows are a few such instances.

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### **New Brunswick Interscholastic Athletic Association (NBIAA)**

During the Commissioner's first term of office (2003), a complaint was filed against the New Brunswick Interscholastic Athletic Association (NBIAA) regarding its services and communications in French. That complaint also mentioned the NBIAA website, elements of which were available only in English. Subsequently, the Association des enseignantes et enseignants francophones du N.-B. (AEFNB) expressed similar concerns in a letter to the then Minister of Education. A copy of that letter was sent to the Commissioner.

The issue then became whether the Commissioner had authority to act in this case. The heart of the matter had to do with the status of the NBIAA. The link that existed between that association and the Department of Education was somewhat difficult to determine. In fact, a priori, there was nothing to indicate whether or not the association was an institution as defined in the *Official Languages Act* (OLA). All of this led the Department to request a legal opinion in January 2004.

Meanwhile, in reply to the AEFNB's letter, the Minister indicated that she had requested immediate removal of the online elements that were in English only until they were available in both official languages. However, the Minister added that, while the NBIAA used Department premises, it was an independent body. The Minister therefore encouraged the AEFNB to continue its efforts to get the NBIAA to understand the importance of its demands.

In September 2005, the Deputy Minister of Education, francophone sector, informed the Commissioner that he had received the legal opinion and that the Office of the Attorney General had not been able to establish a clear relationship between the Department and the NBIAA. He added, however, that, together with the NBIAA, the Department would look at some new organizational models that would make it possible to define that relationship.

In June 2007, the existing complaints in this matter were joined by a new one. Despite numerous exchanges between the Office of the Commissioner and the Department of Education, the issue remained unresolved. The Commissioner therefore decided to invite all the parties to a meeting in an effort to try to clarify matters.

The meeting was held on November 7, 2007 and was attended by representatives of the Department, the AEFNB, and the NBIAA. The various parties had the opportunity to discuss the relevant questions and the challenges they raised and to express their respective positions on these topics.

At the meeting, the Department of Education repeated its position regarding the status of the NBIAA and explained the Department's reluctance to conclude that this organization was a government institution. The reason given was that, since its beginning, the NBIAA had been an association of school principals. Since principals are employees of the school districts, not the Department, the Minister of Education has no direct authority over them. Lastly, our attention was drawn to the fact that the NBIAA was not created by provincial legislation and that there seems to be no official declaration making it an institution of the government.

The NBIAA in turn described the actions taken in order to rectify the situation that gave rise to the complaints. Among the successes of recent years, the NBIAA noted in particular that the documents it produces (calendars, manuals, regulations, insurance information, signs, posters, etc.) for distribution to the schools and teams are written in both official languages, that interpretation services are available at the NBIAA annual general meeting,

that the assistant director is bilingual, that there are Francophone members on its board of directors, and that hearings and appeals are held in both languages or in the client's language of choice. As for the NBIAA website, the association's representatives explained that the deficiencies in question were due to a software problem but that they were working to find a solution.

Ultimately, it emerged from this meeting that lack of communication between the various parties was at the root of the complaints filed with the Office of the Commissioner. Although the question as to whether the NBIAA is an institution under the OLA remains, the discussions generated by this meeting were, according to the participants, positive and should in principle create a climate of trust between the organizations concerned.

The Commissioner believes that better communication constitutes a major step toward the establishment of mechanisms that will make it possible not only to improve services and programs in both languages but also to resolve problems in a more timely and effective manner. It is important to note that, in the absence of a clear and precise determination of the NBIAA's status, the actions taken by the Commissioner in this matter stem from his mandate to promote the advancement of both linguistic communities.

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### **Consumer Research Centre – Shopper's Voice**

In connection with the promotional component of the Commissioner's mandate, his office had to deal with a complaint regarding a document entitled *Consumer Product Survey*, where the forms were solely in English.

The Commissioner took the opportunity to contact the centre having launched the survey in order to raise its awareness of the linguistic duality that characterizes New Brunswick. In addition, since the aim of this survey was to find out the habits of all of the province's consumers, the Commissioner emphasized the importance of having the questionnaires available in both official languages in order to obtain results that were representative of the Anglophone and Francophone communities.

In its reply, the establishment concerned indicated that the website [www.shoppers-voice.com](http://www.shoppers-voice.com) offered consumers the choice of participating in the survey in French or in English, as they preferred. Since this left the Commissioner somewhat perplexed, he wrote a second letter to the organization in order to express his view that it is preferable to take both language communities into account when sending out surveys by mail. That being so, he believes the best solution would be to distribute bilingual forms to the people of New Brunswick.

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### **Canadian Nurses Association (CNA)**

In July 2007, the Commissioner was contacted by a group of New Brunswick nurses expressing their dissatisfaction regarding the quality of the French version of the 2006 national exam for nurse practitioners.

Back in December 2006, these nurses contacted the Canadian Nurses Association (CNA) in order to express their discontent. In its reply, the CNA indicated that the exams had been the subject of rigorous preparation and analysis and that, after the questionnaire was checked, no errors alleged by the complainants had been detected. Believing that the alleged poor quality of the French was responsible for the high failure rate among Francophone candidates, the nurses were not convinced by the CNA's reply and turned to the Commissioner's office to voice their concerns.

It was therefore under the promotional component of the Commissioner's mandate that he contacted the association, while noting that he could not draw any conclusions in this matter since the complainants had been unable to support their allegations with examples. They had in fact signed a document preventing them from revealing the contents of the exam in question to anyone. In his letter, the Commissioner indicated his interest in working collaboratively with major institutions, such as the CNA, in order to promote the



advancement of both official languages in New Brunswick. He emphasized that, in the past, official documents translated from English to French had on occasion been poorly translated, and this sometimes aroused skepticism among Francophones. He therefore urged the CNA to be more open by showing greater transparency when such a problem arises in order to erase the slightest doubt as to the quality of language of its documents and thereby ensure respect of the principle of equality between Anglophone and Francophone candidates.

### ***Official Languages Promotion through Third Parties***

The Commissioner considers partnerships with other organizations working toward linguistic equality in our province to be a major element of his promotional mandate. The partnerships can take on different forms: in some cases, the Commissioner's staff lend their expertise to and work with other organizations on certain projects (as is the case with the Business and Bilingualism project mentioned earlier) and in other cases, the Office of the Commissioner will purchase promotional consideration in order to promote official languages. In the latter case, the Office of the Commissioner made financial contributions to the following groups during 2007-2008:

#### **Association francophone des parents du Nouveau-Brunswick**

The Office of the Commissioner provided support to the Association for the organization of the Congrès des parents 2007. The Congrès provided parents of Francophone school children from across the province with an opportunity to discuss all aspects of education, from bullying to learning challenges.

#### **Frye Festival**

The Office of the Commissioner participated in promoting the festival in schools and across the Moncton region.

From time to time, the Commissioner also writes letters of support for other organizations seeking financing from third parties. During the 2007-2008 year, he wrote one such letter of support for Dialogue New Brunswick.

### ***Promotional Programs***

#### **Heritage Fairs 2008**

The Office of the Commissioner sponsored the "2tongues! Award," to be handed out at the province's Regional Heritage Fairs during the spring of 2008 in both the Anglophone and Francophone sectors. In the Anglophone sector, for instance, the prize rewards students whose projects describe a person, group, or event in New Brunswick or Canadian history that contributed to the advent of official bilingualism in New Brunswick, or to the advancement of linguistic equality in New Brunswick.

The Commissioner believes that a major part of his mandate to promote the advancement of both official language communities begins with young people, and the Regional Heritage Fairs are an excellent way to encourage pride and openness with regard to language.

## Official Languages Presentation to MLA's

The Commissioner invited MLA's to a briefing on the *Official Languages Act* (OLA) and the work of his office on October 16, 2007. As he has been trying to convince the province for years of the necessity to proactively implement the OLA, he approached the briefing session as a chance to both discuss language rights and address the issues and challenges inherent in making the principles and obligations of the OLA a part of the everyday work of government.

More than twenty MLA's from both the government and opposition side of the Legislative Assembly, including several ministers, attended the briefing session. During the question and answer period that followed, the Commissioner was questioned in particular about his thoughts on the availability of second-language training for civil servants. He told the MLA's that he believes the province's decision to decentralize the funding for second-language training and download the responsibility onto individual departments was leading to a decrease in enrolment.



## Radio and Print Advertising Campaigns

The Office of the Commissioner of Official Languages launched a series of ads which air on Francophone community radio stations across the province. The ads, which provide practical information on language rights, were created by the Association des radios communautaires acadiennes du Nouveau-Brunswick, the group that represents French-language community radio stations.

The Office of the Commissioner also continued running the popular "Choice" ads in publications across the province.



## Bilingual Promotional Items Still Popular

The Office of the Commissioner of Official Languages distributed free of charge almost 500 "English-Français" and "Français-English" pins to merchants, private-sector groups and government institutions during the 2007-2008 fiscal year. The Office's table-top signs promoting bilingual service and "J'apprends le français! Parlez-moi." pins have also proven to be popular. The "J'apprends le français! Parlez-moi." pins have been greeted with enthusiasm by people learning French as they are meant to encourage them to speak the language without feeling self-conscious and to incite others to provide the wearer with opportunities to converse in French.



## Active Promotion by the Commissioner

To promote the *Official Languages Act* (OLA) and have the opportunity to talk about language rights and equality, the Commissioner regularly speaks to a variety of social groups across the province and elsewhere, takes part in conferences, and is a member of various groups whose goals are compatible with those of his Office. He also does media interviews.



## CHAPTER FIVE

### A LOOK AHEAD

The year 2009 will mark the fortieth anniversary of New Brunswick's first *Official Languages Act* (OLA), the historic statute that made the province Canada's first and only officially bilingual province. English and French were declared the official languages of New Brunswick, with "equality of status and equal rights and privileges as to their use." A groundbreaking and fundamental step toward the recognition of the Francophone reality in this province, the first OLA was followed by a series of measures and statutes, including the establishment of duality in the Department of Education in 1974.

The giant step forward brought about by the adoption of the OLA mirrored the revolution in Canadian rights and was a vital part of the positive trend that led to the *Canadian Charter of Rights and Freedoms* in our Constitution. A great accomplishment for such a small province, don't you think? New Brunswickers are pioneers in the recognition of language rights in this country and that's something for which we should all be very proud. We are a model of civility and respect both nationally and internationally because we have arrived at this place of modernity and mutual understanding through dialogue and empathy instead of fear and violence.

While we have accomplished much as a society, we must work to continue the advancement of the equality of both official language communities. And government must take the lead by proactively implementing the new OLA into the everyday workings of government, something it has thus far neglected to do. If our leaders wish to truly honour the vision of Premier Louis J. Robichaud, who brought in the first OLA, and of those New Brunswickers who worked tirelessly to ensure the equality we now enjoy, they must demonstrate by their firm leadership and actions that they, too, are committed to equality.