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# ANNUAL REPORT

OFFICE OF THE  
COMMISSIONER OF  
OFFICIAL LANGUAGES

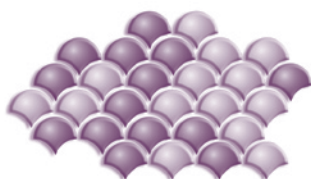


BUREAU DU  
COMMISSAIRE AUX  
LANGUES OFFICIELLES



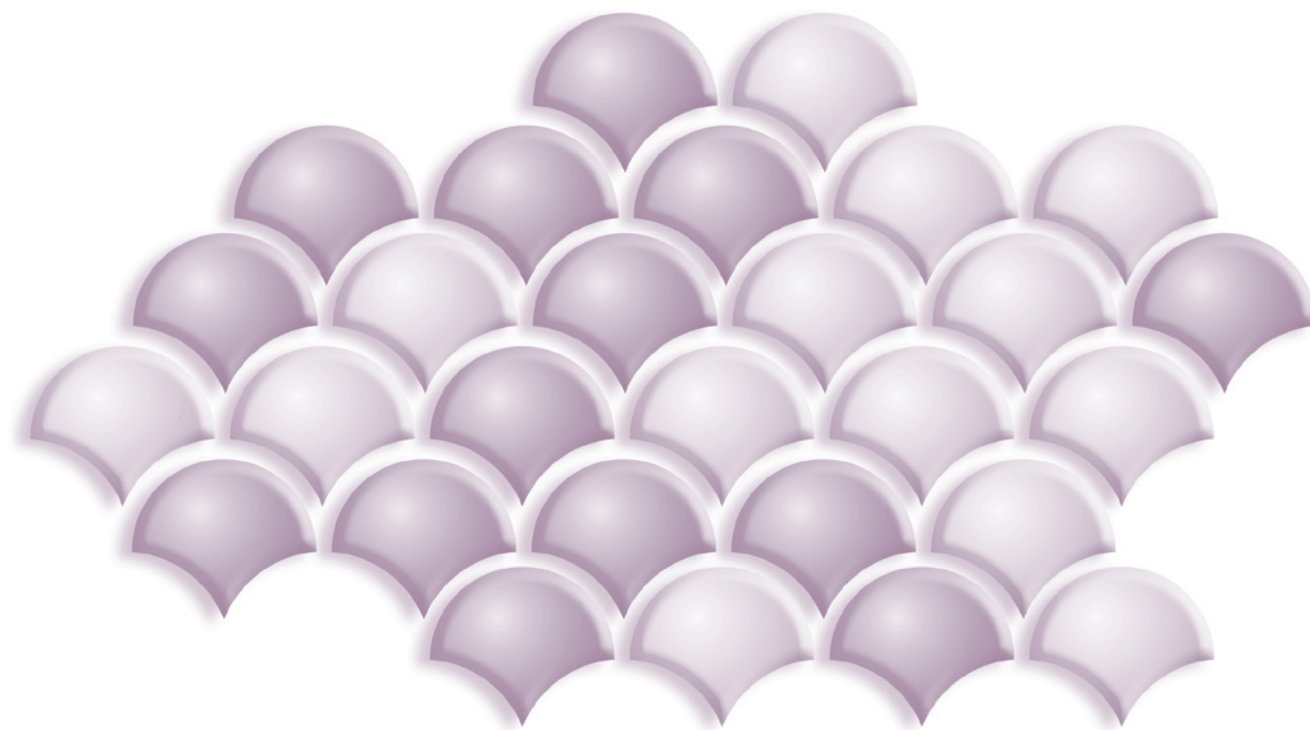
# Annual Report of the Commissioner of Official Languages for New Brunswick

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*.



2005 - 2006

## **Annual Report 2005-2006**

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**COMMISSIONER OF  
OFFICIAL LANGUAGES  
FOR NEW BRUNSWICK**



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

**The Hon. Eugene McGinley, Q.C.**

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, 2005 to March 31, 2006.

Respectfully submitted,

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

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## FROM THE COMMISSIONER OF OFFICIAL LANGUAGES

**Y**ou will see from reading this third annual report that, during fiscal 2005-2006, the Office of the Commissioner of Official Languages for New Brunswick once again worked tirelessly to fulfil its mandate under the *Official Languages Act*. My team continued its dealings with provincial government institutions to ensure they remain committed to the efforts required for ongoing progress toward true equality in service delivery and communication with the public in both official languages.

In my preceding annual report, I suggested that a master plan was needed in order for this continuing progress toward true equality to occur. That message was repeated often in our interactions with stakeholders, be it during contacts with institutions after complaints had been received or on the occasion of broader discussions on the topic of official languages.

Following the tabling of my 2004-2005 annual report, the government pledged that it would review the report and its recommendations and formulate a response. The Chair of the Committee of Deputy Ministers on Official Languages informed me that his committee had been instructed to study the report and identify the steps government should take in response to it. I interpreted that as good news, believing as I have since taking office that the Committee of Deputy Ministers on Official Languages has to play a more visible role. It has to be a leader in this matter within the Civil Service and convey a clear message emanating from the highest levels of senior management.

Unfortunately, as of this writing, my office had yet to receive any official response. We did learn, however, that a working group had been set up by the Committee and that it was in the process of carrying out that review. We can only hope that there will indeed be a response, that it will be a positive one and that it will be made known to us before the end of fiscal 2006-2007.

An annual report is, of course, a meaningful tool for a commissioner or ombudsman. Since neither position has any directive powers, it is crucial that government respond when recommendations are made to it through annual reports. Failure to respond swiftly could result in the impact of such reports and any potential benefits being significantly reduced.

I realize that the recommendations contained in my last annual report were extensive and that the government needs a certain amount of time in order to respond. In all fairness, it is true that the time lapse between the tabling of my 2004-2005 annual report and the end of fiscal 2005-2006 was very short. Consequently, I am awaiting the response of government with interest and will report next year on the actions taken pursuant to my recommendations.

This annual report provides a comprehensive overview of the complaints received by my office and the steps that were taken as a result. I would be remiss if I did not once again underscore the goodwill demonstrated by institutions while complaints were being dealt with. In all but a few cases, these institutions responded diligently and endeavoured to take the necessary corrective action in order to rectify the deficiencies brought to their attention by my team. That being said, allow me to reiterate the message contained in my earlier reports, namely that government has to do more than just respond properly to complaints. It has to take a proactive approach. The government and its institutions have to adopt positive measures in order to ensure compliance with the *Official Languages Act* and promote the cultural, economic, educational, and social development of the official language communities.



In fall 2005, the federal government amended its *Official Languages Act* so as to clarify Part VII of the Act. Many stakeholders had long been insisting that Part VII imposed a responsibility to take positive actions to promote the development of minority communities, and they were concerned that the federal government thought otherwise. The amendments that were made are a clear signal that the government is responsible for contributing to community development through positive measures.

In a way, by amending its *Official Languages Act*, the federal government borrowed from what was already in place in New Brunswick. The *Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick* clearly states that the provincial government has to take positive actions to foster the development of its linguistic communities.

The overhaul and passage of New Brunswick's "new" *Official Languages Act* in 2002 and the changes in government policy as regards language of service are two recent positive actions that are helping to advance language rights and community development. While we should congratulate ourselves on these major achievements, we must also acknowledge that they are but steps, with a long path stretching ahead of us and many more positive actions needing to be taken.



Michel A. Carrier, Q.C.

## A BRIEF LOOK AT PREVIOUS ANNUAL REPORTS

It is hard to believe that this is already the third annual report of the Office of the Commissioner of Official Languages. The three years since the Office was set up have been very productive ones. In a nutshell, the first annual report contained a description of the *Official Languages Act* and the rights and responsibilities stemming from it.

The report went on to explain the structure and organization of the Office of the Commissioner, its approach when complaints are received, and the actions taken to resolve such cases. In his first report, the Commissioner of Official Languages called upon the Premier and the Legislative Assembly to commit firmly to achieving the objectives of the *Official Languages Act*.

For its part, the second annual report painted a picture of the progress toward the equality of both official languages by highlighting court decisions affecting language rights in the province. The report also described the work done by the Office of the Commissioner in response to the many complaints concerning the municipal, school board, and provincial elections in 2003.

The Commissioner questioned the provincial government's decision to decentralize funding for its employee language training program within each department. A significant decrease in enrolment in such training was noted following that decision, a matter of concern to the Commissioner.

On the other hand, the Commissioner was encouraged by the goodwill and positive attitude demonstrated by municipalities and regional health authorities, even though they faced formidable challenges. Given the progress made in the area of language rights in the province and the new challenges created by those very significant changes, the Commissioner called for the establishment of a language planning board that would concern itself with toponymy and language planning in the province.

In this second annual report, the Commissioner acknowledged the government's efforts to comply with the *Official Languages Act* by amending the "language of service" component of its Official Languages Policy. The Commissioner felt, however, that this master plan was incomplete, since it did not cover the entire strategy for implementation of the *Official Languages Act*.

A significant part of the annual report was therefore devoted to the need for government to develop a master plan.

Among other things, this master plan would target reporting by government to the public with respect to implementation of the *Official Languages Act* and its regulations and greater autonomy for the official language coordinators within each institution.

The Commissioner was convinced that new guidelines on language of work were needed in order to implement the section of the Official Languages Policy concerning language of work. He called for the use of French in the workplace among Francophone civil servants working in bilingual or mostly English-speaking regions and the use of French among bilingual Anglophone civil servants to help them perfect their language skills even more. The Commissioner also recommended exchange programs so that employees could work in the other official language for a fixed period of time. The master plan would also endeavour to provide civil servants with writing tools such as word-processing software, dictionaries, the standardized Canadian multilingual keyboard, and Termium.

In the Commissioner's opinion, the Required Language Skills component of the Official Languages Policy had to be amended to include language training and language upgrading in the first language. He recommended that the Department of Training and Employment Development administer a program to assess the level of bilingualism of civil servants for training and development purposes and that the Department of Human Resources develop

and fund a centralized language training and upgrading program for bilingual civil servants at the provincial and local level.

In the Commissioner's view, the municipalities had to submit a bilingualism plan in order to identify their needs and thus have access to a language training program in order to satisfy the requirements of the *Official Languages Act*. Lastly, the Commissioner maintained that it was imperative that a language planning board be established as quickly as possible with a view to advising government on toponymy and taking action so as to realize the underlying principles of the *Official Languages Act*.

A good part of 2004-2005 was devoted to the promotion of French and English in New Brunswick. The Commissioner took a proactive approach and made it his mission to reach out to youth. The Office of the Commissioner set up a program to instil a positive attitude in youth toward official languages.

Now in its third year, the Office of the Commissioner of Official Languages is continuing to adjust its priorities to take into account changes made by various institutions and files as they evolve. It is also continuing to pursue its mission to safeguard the rights of and be responsive to the citizens of New Brunswick in keeping with linguistic conditions in their respective communities.

Of course, 2005-2006 was a year full of a variety of promotional activities vital to the advancement of bilingualism in New Brunswick, a key part of the mandate of the Office of the Commissioner of Official Languages.

## SUMMARY

Besides being an activity report as required by the *Official Languages Act*, this third annual report of the Office of the Commissioner of Official Languages is intended as a tool for promoting the province's two official languages and a reference work for the public at large and civil servants.

The Commissioner of Official Languages continues to fulfil his mandate by providing accurate information about the importance of official languages within government and its institutions. Our office was involved in language cases affecting New Brunswickers for the most part, both in their private lives and in the workplace. The improvements made, and challenges faced, by institutions in that regard are also cited because they constitute a major part of the overall language picture in New Brunswick.

In order to compare and check the progress made with regard to the advancement of official languages, the Commissioner of Official Languages in his annual report refers to rulings that were handed down by the courts during the year under review and impacted on language rights both provincially and nationally and on the interpretation of New Brunswick's *Official Languages Act*. The annual report also sets out the complaints that were received during the fiscal year and their follow-up.

This year, the Office of the Commissioner of Official Languages handled 118 complaints and 17 requests for information. A total of 58 complaints were admissible, 42 of which reported a lack of services in French and 16, a lack of services in English. Fifty complaints were deemed inadmissible because they did not come under the Commissioner's authority or did not concern an institution within the meaning of the Act. Ten complaints were referred to other institutions for consideration, e.g., the Ombudsman and the Human Rights Commission. As in previous years, complaints revolved around the active offer of services and services in French. We have included a summary of complaints resolved during the year so as to provide a more detailed snapshot of the complaints received by the Office of the Commissioner of Official Languages.

The investigation into the electoral process begun by the Office of the Commissioner of Official Languages and cited in last year's annual report was the first one of such scope. It took a while to make sure that all of the issues and challenges had been properly identified. Consequently, this annual report will contain a summary of the highlights.

Once again this year, the annual report contains a chapter on promotion. In addition to the promotional program begun last year, the Commissioner of Official Languages wishes to mention various areas he considers important for the advancement of official languages in the province, such as immigration and language issues, language of work, and French as a second language.

The impact that immigration and language issues can have on both linguistic communities makes it an increasingly important topic in the province of New Brunswick.

The Commissioner of Official Languages continues to take an interest in the language of work component of the province's Official Languages Policy. Promised amendments to the existing policy have yet to materialize, however.

The Commissioner has been studying the issue of French as a second language in the schools in order to identify the challenges and make suggestions. He will continue to review the situation and will intercede, if necessary, through reports and other publications.

This report also examines relations between the Office of the Commissioner of Official Languages and various institutions, such as the RCMP and select municipalities, to ensure that they are meeting their obligations under the *Official Languages Act* and therefore the needs of New Brunswickers, no matter where they live.



The Commissioner has also been looking at the issue of obligations of professional associations. Should the term “institution”, as defined by the *Official Languages Act*, include these associations?

Elsewhere in his report, the Commissioner cites the accomplishments of, and a few interesting cases involving, organizations and communities that he feels are worthy of mention. By meeting challenges with respect to language quality and working to provide services in both official languages, we contribute greatly to the advancement of true bilingualism in our communities and in the business world.

These positive actions help to promote the development of both linguistic communities and get across the all-important message that the government is committed to ensuring compliance with the principles contained in the *Official Languages Act*.

## CHAPTER ONE

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

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

In 2005-2006, two cases heard by the Supreme Court of Canada and amendments to Part VII of the federal *Official Languages Act* affected the province of New Brunswick.

**Charlebois v. the City of Saint John:** In fall 2005, Mr. Charlebois took the City of Saint John to court because he objected to receiving pleadings only in English, arguing that section 22 of the *Official Languages Act* of New Brunswick applied to the City.

Section 22 of the *Official Languages Act* (OLA) reads as follows:

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

Before declaring that the City of Saint John is required, in any oral or written pleadings, to use the official language chosen by Mr. Charlebois, the Court had to decide whether the word “institution” as used in the OLA includes municipalities. The Supreme Court of Canada ruled that it did not. Accordingly, section 22 of the OLA does not apply to the City of Saint John. Under the Court’s ruling, the City of Saint John or any other municipality may use the language of its choice with respect to oral or written pleadings.

**Paulin and the Société des Acadiens et Acadiennes du Nouveau-Brunswick v. Canada (The Royal Canadian Mounted Police):** In 2001, Marie-Claire Paulin and the SAANB took the RCMP to court because an RCMP officer had stopped Ms. Paulin for speeding in Woodstock and was unable to speak to her in French.

The Federal Court had to examine the following issues: (1) does the RCMP have a duty to comply with the special constitutional obligations of New Brunswick as set out in section 16.1 and subsections 16(2) and 20(2) of the *Canadian Charter of Rights and Freedoms*?; and (2) does the RCMP have a duty under paragraph 6(1)(d) of the Regulations to offer its services in both official languages throughout the area served by the Woodstock detachment?

On October 7, 2005, the Federal Court ruled that, while the RCMP is a federal institution, it must, while acting under provincial legislation, be bound by the special obligations of New Brunswick. The *Official Languages Act* of New Brunswick stipulates that a police force or agency shall ensure the availability of the means necessary to respond to the language of choice made by a member of the public.

The decision was appealed on November 7, 2005.

(Note: As of this writing, the Federal Court of Appeal had overturned the decision. Next year’s annual report will examine this court decision.)

**Part VII of the federal *Official Languages Act*:** In fall 2005, after several years and many hurdles along the way, the federal Commissioner of Official Languages succeeded in securing amendments to Part VII of the *Official Languages Act* of Canada concerning the development of linguistic minorities as well as the promotion and recognition of the use of both official languages across Canada.

From now on, federal institutions will have to take positive actions to honour these commitments. The Governor in Council may set conditions for fulfilment of these obligations stipulated in section 41(1) of the federal OLA.

According to the federal Commissioner of Official Languages, now that Part VII of the *Official Languages Act* has been clearly amended, the courts may intervene to ensure that the government plays a proactive role in minority communities across the country.

***Forum des maires de la Péninsule acadienne v. Canada (Canadian Food Inspection Agency)***: In October 1999, the Forum des maires de la Péninsule acadienne took the Canadian Food Inspection Agency to court, alleging that the administrative reorganization of the respondent was being carried out to the detriment of the French-speaking regions of northern New Brunswick. The Agency had transferred four inspectors from its office in Shippagan to its office in Shediac. A unilingual Anglophone manager with the Blacks Harbour office was also made responsible for supervision of the Food Inspection Office for the Acadian Peninsula. The Forum maintained that the decisions made by the respondent had an impact not only on service to the public but also on the Agency's ability to respect the right of staff of the Shippagan office to work in French.

In 2003, the Federal Court ruled that the Agency had transferred the positions without taking into account its obligations under either Part IV (duty to offer bilingual services to the public) or Part VII of the OLA (to consult minority official language community). The Federal Court therefore ruled in favour of the applicant on all the questions at issue.

The Agency appealed the ruling. The Federal Court of Appeal opted instead for a restrictive interpretation of Part VII and overturned the Federal Court ruling. The Forum des maires de la Péninsule acadienne then took its case to the Supreme Court of Canada. The appeal was withdrawn following the amendment in 2005 of Part VII of the federal OLA.

## CHAPTER TWO

### FILING AND HANDLING OF COMPLAINTS

#### *Filing a Complaint*

The *Official Languages Act* 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*.
- 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 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 and Conduct of the Commissioner as Regards Compliance with the Official Languages Act*

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 Act where there are alleged infringements of the Act. 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 Act. 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 Act 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 2004-2005***

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, 2004 and March 31, 2005**

The statistics below concern complaints that were received between April 1, 2004 and March 31, 2005 but were not resolved during that period. These complaints were therefore handled during the current fiscal year, that is, between April 1, 2005 and March 31, 2006.

**Table 1**

	<b>French</b>	<b>English</b>	<b>Total</b>
<b>Communications</b>	<b>39</b>	<b>7</b>	<b>46</b>
Admissible complaints*	37	3	40
Inadmissible complaints (NJU)	2	2	4
Complaints referred elsewhere (REF)**	0	0	0
Requests for information (INF)	0	2	2

\*Three 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>37</b>	<b>3</b>	<b>40</b>
Automated systems	0	0	0
In person	21	0	21
Signage	2	1	3
Telephone communications	3	0	3
Web sites	0	0	0
Documentation	6	1	7
Other	5	1	6

**Table 3****Admissible Complaints - Handling**

	French	English	Total
<b>Admissible complaints</b>	<b>37</b>	<b>3</b>	<b>40</b>
<b>A. Notice of investigation issued under subsection 43(13) of the OLA</b>	31	3	34
<b>B. Awaiting further information</b> (pending additional information from the complainant and/or the institution in order to determine whether or not an investigation may be launched).	1	0	1
<b>C. Files closed</b> (under subsection 43(11) of the OLA)	5	0	5

**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
Supply and Services	1	0	1	0	0	1
Office of the Chief Electoral Officer	13	0	13	0	0	13
Workplace Health, Safety and Compensation Commission of New Brunswick	1	1	0	0	1	0
Education	1	0	1	0	0	1
Finance	1	0	0	1	0	1
Natural Resources	1	0	1	0	0	1
Health*	7	2	5	0	2	5
Public Safety	2	0	1	1	0	2
Family and Community Services	2	1	1	0	1	1
Service New Brunswick	2	0	2	0	0	2
Tourism and Parks	1	0	0	1	0	1
Transportation	2	1	1	0	1	1
<b>TOTAL</b>	<b>34</b>	<b>5</b>	<b>26</b>	<b>3</b>	<b>5</b>	<b>29</b>

\* Six of these complaints related to the services of certain Regional Health Authorities (River Valley, South-East, Acadie-Bathurst, and Miramichi).

## *Follow-up on Complaints from 2005-2006*

### **Complaints Received Between April 1, 2005 and March 31, 2006**

The statistics below concern complaints that were received between April 1, 2005 and March 31, 2006 and their follow-up.

**Table 1**

	French	English	Total
<b>Communications</b>	<b>79</b>	<b>56</b>	<b>135</b>
Admissible complaints*	42	16	58
Inadmissible complaints (NJU)	29	21	50
Complaints referred elsewhere (REF)**	1	9	10
Requests for information (INF)	7	10	17

\* Three 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**

	French	English	Total
<b>Admissible complaints</b>	<b>42</b>	<b>16</b>	<b>58</b>
Automated systems	0	0	0
In person	6	3	9
Signage	5	7	12
Telephone communications	10	1	11
Web sites	2	0	2
Documentation	15	5	20
Other	4	0	4

**Table 3**

### **Admissible Complaints - Handling**

	French	English	Total
<b>Admissible complaints</b>	<b>42</b>	<b>16</b>	<b>58</b>
<b>A. Notice of investigation issued under subsection 43(13) of the OLA</b>	28	11	39
<b>B. Awaiting further information</b> (pending additional information from the complainant and/or the institution in order to determine whether or not an investigation may be launched).	5	1	6
<b>C. Files closed</b> (under subsection 43(11) of the OLA)	9	4	13

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

<b>Institution</b>	<b>No. Of Complaints</b>	<b>Under Investigation</b>	<b>Founded</b>	<b>Unfounded</b>	<b>Open Files</b>	<b>Closed Files</b>
Workplace Health, Safety and Compensation Commission of New Brunswick	1	1	0	0	1	0
Training and Employment Development	1	1	0	0	1	0
NB Power	2	2	0	0	2	0
Business New Brunswick	1	0	1	0	0	1
Environment and Local Government*	5	3	2	0	3	2
Finance	1	0	1	0	0	1
Justice and Consumer Affairs	2	2	0	0	2	0
Natural Resources	2	0	2	0	0	2
Health**	8	4	3	1	4	4
Public Safety	4	2	1	1	2	2
Family and Community Services	1	0	1	0	0	1
Tourism and Parks	8	8	0	0	8	0
Transportation	3	0	3	0	0	3
<b>TOTAL</b>	<b>39</b>	<b>23</b>	<b>14</b>	<b>2</b>	<b>23</b>	<b>16</b>

\* One of these complaints related to the Department of the Environment, another to services provided by the Department of Local Government, and the other three had to do with the services of a particular municipality (City of Miramichi).

\*\* Five of these complaints related to the services of certain Regional Health Authorities (Restigouche, River Valley, Beauséjour, Miramichi, and the Atlantic Health Sciences Corporation).

Between April 1, 2005 and March 31, 2006, the Office of the Commissioner of Official Languages received 118 complaints and 17 requests for information. Of that total, 58 complaints (49.2 %) were admissible, with 42 (72.4%) based on lack of service in French and 16 (27.6%) based on lack of service in English. Fifty complaints (42.3%) were deemed inadmissible on the grounds that they did not come under the Commissioner's authority or did not concern an institution within the meaning of the Act. Ten complaints (8.5%) were referred to other institutions for consideration.

Most of the complaints centred on the failure to actively offer services in French or the lack or inadequacy of services in French, be it in person or over the telephone. There were also complaints that road signs and other signage were not always in the province's two official languages. Some complaints had to do with documentation, such as forms, contracts, invoices, and other materials drafted in English only and distributed to the public. The other complaints cited deficiencies in communications by certain towns and cities with their citizens and in communications by certain institutions with the public, in particular surveys and telephone communications. These complaints were based mostly on the lack of French as language of service.

Problems were also noted in some regional health authorities located in predominantly Anglophone regions. The complaints show that despite their efforts, these institutions are still encountering difficulties in actively offering services and in particular in effectively



providing services of equal quality and in communications with patients and the public. There also seems to be some degree of lack of respect among some nursing staff with regard to persons asking to be served in French during admitting and triage functions.

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

The Commissioner is convinced of the need for the government to adopt a master plan on implementation of the *Official Languages Act* that would be universally applicable to all of the institutions concerned and take into account all aspects of language planning with regard to its obligations under 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 fiscal 2005-2006 were virtually unchanged from those of the two previous years. The Commissioner finds that the stances of institutions and their responses to complaints have undergone some improvement and are very positive. The institutions have shown themselves willing to do what is necessary to rectify situations having occurred within their premises.

### Complaints Resolved During the Year

**Institution:** Department of Natural Resources

**Complaint summary:** The complainant alleged that information provided on the back of fishing licences was deficient in that it was written in English only.

**Corrective action taken by the institution:** The Department of Natural Resources informed us that it had taken immediate steps to rectify the situation by covering the English text on all remaining fishing licences for the 2006 season.

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**Institution:** Miramichi Regional Health Authority

**Complaint summary:** The complainant alleged having obtained a copy of a Miramichi Regional Health Authority brochure announcing a series of lectures for women. While the brochure and the registration forms were available in French, it was stated at the bottom of the brochure that the lectures would take place in English only.

**Corrective action taken by the institution:** The Miramichi Regional Health Authority informed us that it had erred in not providing its services in both official languages. It indicated that in future, it would offer sessions in both French and English or provide simultaneous interpretation services for sessions offered to the public.

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**Institution:** Department of Finance, Atlantic Lottery Corporation

**Complaint summary:** The complainant alleged that the names of Atlantic Lottery Corporation lottery tickets and/or contests were deficient in that they were in English only. Also, in the "Cash Quiz" game, the category names, questions, and answers were in English only, whereas all of the instructions and rules were in both official languages.

**Corrective action taken by the institution:** The Atlantic Lottery Corporation informed us that it planned to review the standards concerned by the issues raised in the complaint

with a view to exploring the possibility of changing its “word game”-type tickets so that they contain English words, French words, and words that are identical in both English and French. We were further informed that the category names, questions, and clues printed above the numbers to be scratched on “Cash Quiz” tickets would appear in both English and French once a new version of the ticket was printed up. The Lottery Corporation also indicated that, in future, it would ensure that the ancillary elements of their tickets were also presented in both official languages, in accordance with its standards.

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**Institution:** Department of Transportation

**Complaint summary:** The complainant alleged having dialed 1-800-561-4063, a Department of Transportation number that the public can call to inquire about road conditions across the province. After listening to the recorded message and choosing the option for service in French, the complainant spoke French. However, the customer service agent was unable to serve her in the language of her choice.

**Corrective action taken by the institution:** The Department of Transportation informed us that it had reminded the information service provider of the need to fulfil the requirements of the contract with regard to bilingualism, and it stressed the fact that any recurrence of non-compliance with the obligation to provide bilingual services could result in cancellation of the contract. The department also informed us that it would notify the service provider in writing of its concerns with regard to this situation and that it would again stress the contractor’s obligation to provide 24/7 bilingual services.

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**Institution:** Department of the Environment and Local Government

**Complaint summary:** The complainant alleged having dialed 1-800-565-1633, a number for environmental emergencies. While the complainant was initially able to speak with staff in French, such was not the case when the departmental employee on duty that weekend telephoned the complainant to follow up on her call. The employee in question was unable to use French. After informing the complainant that he was the only departmental employee on duty for the entire province, she had no choice but to proceed in English.

**Corrective action taken by the institution:** The Department of the Environment and Local Government informed us that its duty inspectors who receive reports through the Canadian Coast Guard and the Provincial Mobile Communication Centre are supposed to ascertain the language of choice used by a complainant on first contact with the Canadian Coast Guard. Where an emergency requires that a complainant be called back and the language of first contact is French, or the person asks to be served in French, a bilingual inspector in the region concerned has to be notified to contact the complainant. In non-emergency situations where a person wishes to be served in French, the complainant does not have to be called back. Those incidents should be brought to the attention of a bilingual regional inspector the next scheduled working day. The department informed us that unilingual duty inspectors would be given the necessary training so that they can relay simple referral requests in French.

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**Institution:** Department of Public Safety

**Complaint summary:** The complainant alleged that the Department of Public Safety did not have a system in place offering equal service in the language of choice, since it took 65 days for her to receive an answer to a letter she had sent. The reply to her letter was apparently put on hold while it was being translated.

**Corrective action taken by the institution:** The Department of Public Safety informed us that steps had been taken to rectify the oversight in the internal correspondence routing process to prevent such situations from reoccurring.

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**Institution:** Department of Family and Community Services

**Complaint summary:** The complainant alleged that when she contacted Post-Adoption Services with the Department of Family and Community Services at (506) 444-4495, the person who answered could not serve her in French.

**Corrective action taken by the institution:** The Department of Family and Community Services informed us that when the bilingual social worker is absent for any length of time, Post-Adoption Services staff will have to ask bilingual administrative support staff to provide interpretive services in French, with the assistance of the bilingual supervisor, in cases with unique circumstances and deemed of an urgent nature. If any one of the two bilingual employees in the unit is absent for an extended period, the team will have to see to it that proper coverage is provided for both roles. Also, a memorandum will be circulated to bilingual administrative support staff reminding them of their responsibility to actively offer service to all departmental clients.

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**Institution:** Department of Business New Brunswick

**Complaint summary:** The complainant alleged a lack of active offer of service when he dialed (506) 869-6361, which is the telephone number for the Business Development Branch of the Business New Brunswick regional office in Moncton. Since the employee could not use the complainant's language of choice, the conversation therefore took place in English. The complainant nonetheless asked to be served in French, following which this employee said she would try to find someone who could call him back in French, but she could not guarantee that she would be successful. An employee from the Fredericton office subsequently called the complainant back in French, but since he was already on the telephone, the complainant asked the employee whether he could call him back that afternoon. The employee told him that he would not be in the office that afternoon and could not guarantee that service in French would be available during his absence.

**Corrective action taken by the institution:** The Department of Business New Brunswick expressed disappointment at the turn of events, given that three of the four staff assigned to the Business Development Branch in the Moncton office are bilingual. Furthermore, bilingual service is available at head office in Fredericton to assist the regions with the provision of bilingual services in both official languages. The department advised us that the issue was one of customer service and that it would notify the appropriate persons in order to rectify the situation.

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**Institution:** Department of Health and Wellness, Regional Public Health Office - Moncton

**Complaint summary:** The complainant alleged having gone to the Regional Public Health Office in Moncton and been greeted in English only by the commissionaire. Also, since the commissionaire was a unilingual Anglophone, he could not serve her in French, her language of choice.

**Corrective action taken by the institution:** The Department of Health and Wellness replied to us after consulting with the Department of Supply and Services, which is responsible for hiring commissionaires, and the Regional Public Health Office in Moncton. We were informed that to prevent such situations from happening again, Anglophone commissionaires had been instructed to say, "Un moment, s'il vous plaît" when a client speaks to them in French and to refer the person to the bilingual Public Health/Mental Health receptionists.

*Under the Official Languages Act, we are required to forward our investigation reports to the Premier. The latter deemed it appropriate, following this complaint, to send a memorandum to all ministers and deputy ministers concerning the obligations and responsibilities of security guards in government buildings. He informed them of the Commissioner's recommendation that contracts signed between departments and security services in buildings contain a clause clearly stating the responsibilities and obligations to provide services in both official languages in accordance with the Act.*

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**Institution:** Department of Public Safety

**Complaint summary:** The complainant alleged having been visited by an inspector from the Department of Public Safety who had come to inspect the elevator in his condominium building. The complainant alleged that the inspector had been unable to speak French to him on the occasion in question and that he had subsequently given him an inspection report in English only. However, the complainant did receive a French translation of the report at a later date.

**Corrective action taken by the institution:** The Department of Public Safety informed us that it would increase the number of bilingual staff to meet the demand. It also explained that written instructions that are given to clients following inspections are chosen by inspectors from an existing list that is generated electronically in English or French. This list had not yet been translated at the time of the inspection in question. The department did indicate, however, that the list is now available in both official languages.

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**Institution:** Atlantic Health Sciences Corporation, Saint John Regional Hospital

**Complaint summary:** The complainant alleged that bilingual service had been offered over the telephone by the reception at the Saint John Regional Hospital, i.e., the employee, as required, had actively offered service in both official languages. However, as soon as the complainant spoke to her in French, the employee apparently replied that she did not speak French and did not arrange to have the complainant's call transferred to someone who could have served her in French.

**Corrective action taken by the institution:** In addition to notifying us that it had completed the initial phase of an assessment of the language proficiency of its staff, the Atlantic Health Sciences Corporation informed us of its action plan aimed at fulfilling its obligations under the OLA with respect to delivery of services by the switchboard division.

- A meeting took place between the Human Resources Advisor and the Regional Telecommunications Manager and Switchboard Supervisor to review procedures and the importance of compliance with the *Official Languages Act*. This was done on July 13, 2005.
- The active offer-of-service procedure was posted in the switchboard operators' work area at the Saint John Regional Hospital. This component was also completed on July 13, 2005.
- A memorandum explaining active offer of service and the obligations of the Atlantic Health Sciences Corporation as regards compliance with the *Official Languages Act* was sent to all employees in the switchboard division. The employees had to sign a form acknowledging that they had received a copy of the memorandum and understood its contents. This was also completed on July 13, 2005.
- Two vacant positions in the switchboard division will be staffed with bilingual workers, i.e., one part-time administrative support position (level 2) and one full-time switchboard supervisor.
- One of the bilingual employees underwent an assessment of oral proficiency in French, which was conducted by Second Language Services of the Department of Training and Employment Development. Two other employees of the switchboard division will undergo this same assessment by September 1, 2005.

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**Institution:** Department of the Environment and Local Government

**Complaint summary:** The complainant alleged having dialed a Department of the Environment and Local Government number and having received an active offer of service from the receptionist, who greeted him as follows: "Environment and Local Government, bonjour". The complainant therefore continued in French, the official language of his choice, but the receptionist, who turned out to be a unilingual Anglophone, had to ask



him in English if he wished to be served in French. After the complainant responded in the affirmative, his call was transferred to someone who could serve him in French.

**Corrective action taken by the institution:** The Department of the Environment and Local Government informed us that it had reviewed the guidelines on active offer of service with the employee concerned. It insisted on the need for strict adherence to the policy by answering “Un moment, s’il vous plaît” and forwarding the call immediately to someone able to provide service in French.

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**Institution:** South-East Regional Health Authority, Moncton Hospital

**Complaint summary:** The complainant alleged that on several occasions, between the hours of 3:30 p.m. and 7:30 a.m., the nursing staff of Neuroscience Unit 4100 were observed being unable to communicate with patients in the official language of their choice, more specifically in French.

**Corrective action taken by the institution:** The South-East Regional Health Authority stated that its investigation had revealed that the observations made with respect to scheduling gaps were plausible. The institution added, however, that Neuroscience Unit 4100 did have the capacity to provide services in both official languages and that it was also able to call upon the services of designated bilingual employees from other health care units within the hospital when necessary to do so. The institution further suggested that absence of bilingual services from time to time was a result mostly of a shortage of qualified bilingual nursing staff to fill existing vacancies. It added that the shortage was not only a local problem but that such shortages existed nationally and internationally. Its response also stated that while it was difficult to be more specific due to the anonymous nature of the complaint, the institution would use the opportunity of the complaint to improve services at the hospital.

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

**Complaint summary:** The complainant alleged having gone for a blood test at the Miramichi Regional Hospital, where his triage number was called out in English only. The complainant then went to the reception desk where he identified himself and gave the reason for his visit in French to the Anglophone employee. The receptionist then asked the complainant for his birth date in English, and the complainant answered in French. The employee, seemingly at a loss, asked the complainant if he wished to be served in French, to which he replied “oui”. The complainant then had to wait three or four minutes for the bilingual employee to return and serve him in French. When the complainant went to have his blood taken, the nurse was a unilingual Anglophone. After realizing that the client was a Francophone, the nurse hurried to find another colleague who could serve him in French.

**Corrective action taken by the institution:** The Miramichi Regional Health Authority informed us that the Admissions Supervisor had met with all her staff, both individually and in groups, to remind them of the importance of serving patients/clients in the language of their choice and their obligation to do so. Also, the supervisor reminded all staff that when a client begins a conversation, staff must always answer in the client’s language of choice.

**Recommendations:** We deemed it appropriate to make the following recommendations in this case:

- That the institution make sure that work groups include at all times enough bilingual staff to meet demand in both official languages and that these employees be readily identifiable;
- That the institution develop effective ways to identify the official language chosen by the patient such that each care sector is aware of that choice and can follow through without the patient having to indicate his or her choice again;

- That the institution periodically remind its employees of their obligations, that management of the Miramichi Regional Health Authority post its policy on the subject in strategic locations and that it periodically circulate appropriate documentation to raise staff awareness with respect to the *Official Languages Act*; and
- That the institution take a proactive approach to the development of staff training in connection with the *Official Languages Act* and that this training focus not only on specific rights and obligations under the Act but also on the insidious effects that any non-compliance in this regard could have on patient well-being.

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**Institution:** Department of Natural Resources

**Complaint summary:** The complainant alleged that, while hunting in Northumberland County, he had been approached and spoken to in English only by a conservation officer, an employee of the Department of Natural Resources. The officer did not inform him that he had the choice of proceeding in either official language. The complainant explained that since he could not speak English very well, his brother, who it seems could get by in English more or less, had to act as interpreter so that the complainant could understand what was happening (arrest, seizure of rifle, request that he hand over the rifle case, and so on). When the time came to be given the Charter of Rights caution, the officer reportedly asked him whether he wished to receive it in French or English. Having chosen French, the complainant was then put through, via the radio in the officer's vehicle, to a Francophone officer with the Natural Resources office in Village Saint-Laurent. Following the conversation between the complainant and the Francophone officer, the conservation officer simply gave the complainant her business card and left.

A while after the incident, the complainant was visited at his home by a conservation officer, who served him with a summons instructing him to appear in Provincial Court in Doaktown on January 5, 2005. The complainant went to Provincial Court in Doaktown on the prescribed date. Shortly after arriving, the complainant was told that, since service could not be provided in French, his court appearance was being rescheduled to January 20 at Provincial Court in Miramichi. The complainant told us that the duty counsel could not serve him in French and that the Crown prosecutor was able to say only a few words in French. The complainant also stated that an RCMP officer who happened to be there acted as interpreter and was able to make him understand that the case was being transferred to Provincial Court in Miramichi.

The complainant then returned home. According to him, the entire trip took some five hours. The complainant appeared in Provincial Court in Miramichi on January 20, 2005 as instructed and was able at that time to proceed in the official language of his choice, i.e., French.

**Corrective action undertaken by the institution:** The Department of Natural Resources informed us that conservation officers have to contact a bilingual officer and that, if a bilingual conservation officer is unavailable, they have to contact the RCMP when someone wishes service in French. The investigation/charging process includes no reference by which the language of service required by clients is determined, so that process will be revised accordingly. The department is also working towards implementing the use of a ticketing system where the "language of choice" is clearly indicated. Once the revised investigation/charging process is in place, these inconveniences will be resolved, and individuals will be directed to the appropriate court from the outset.

**Recommendations:** We deemed it appropriate to make the following recommendations in this case:

- That the institution develop a training and awareness program with respect to active offer and that all its staff receive this training. That the institution pay particular attention to the effectiveness of these training and awareness sessions, that it develop tools to measure from time to time the impact of such measures on the employees, and

that it modify or repeat the sessions as needed to ensure that the message is received and understood by everyone;

- That the institution immediately take steps to analyze the current protocol in the light of this report and that it amend the protocol so as to ensure that it fulfils the obligation to provide equal service in both official languages; and
- That the institution 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 to provide services of equal quality in both official languages.

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**Institution:** Service New Brunswick, Perth-Andover Regional Office

**Complaint summary:** The complainant alleged a lack of service in French on the part of Service New Brunswick at the Registry Office in Perth-Andover. According to the complainant, the staff present at the time of the filing of his complaint were unable to provide service in French to lawyers from his association, such that they felt forced to communicate with this office in English in order to be understood and receive the services they needed. In addition, the complainant alleged that this situation was also happening to Francophone members of the public in the region served by this office when they went to the counter for service.

**Corrective action taken by the institution:** Service New Brunswick informed us that it had recruited and hired a bilingual employee for the centre in Perth-Andover. This employee started working at the Registry Office on June 19, 2005.

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**Institution:** Department of Justice, Clerk's and Sheriff's Offices - Moncton, Registrar's Office - Court of Appeal and Court of Queen's Bench - Fredericton

**Complaint summary:** The complainant alleged that there were general deficiencies in the provision of services in French at the Clerk's and Sheriff's Offices in Moncton and at the Registrar's Office of the Court of Appeal and the Court of Queen's Bench in Fredericton.

**Corrective action taken by the institution:** The Department of Justice informed us that the manager of the Clerk's Office in Moncton had met with the staff to ensure that the active offer of bilingual services was always made to identify the client's language of choice and see that service was provided in the language chosen. With respect to security services at the Court of Queen's Bench and at Provincial Court, the department advised us that, depending on demand for bilingual service in the courts, a bilingual officer was usually available to provide service in both official languages. If an officer is unable to provide this service in the language of choice, someone could certainly help that person fairly quickly. The department also indicated that a competition had been launched to recruit Justice officers for the Moncton region and that it planned to hire bilingual persons shortly (February 8, 2005). As for the Registrar's Office, the department informed us that the team had been reorganized in November 2004 and that it now included three bilingual persons able to provide customer service.

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**Institution:** Department of Public Safety, Saint John Regional Correctional Centre

**Complaint summary:** The complainant alleged not having been able to receive services in French when she was arrested by police in the Miramichi region. While the complainant was able to use the language of her choice when she appeared in Provincial Court, she reported an almost total lack of services in French while she was incarcerated and alleged that the only Francophone guard able to serve her in French was in fact assigned to the men's unit. When that guard was absent (depending on shifts), the Saint John Regional Correctional Centre, according to the complainant, failed to meet its obligations to serve her in the language of her choice.

**Corrective action taken by the institution:** The Department of Public Safety informed us that it had established a linguistic profile in co-operation with the Office of Human Resources, making sure that it met its needs in terms of service delivery. In addition to the six positions designated “bilingual”, the Centre has other bilingual staff, such as the Program Manager and a recently hired nurse who can be called in to help linguistically. Also, the department told us that it is possible to communicate by telephone with bilingual staff members at other correctional centres, such as the Moncton Detention Centre and the Madawaska Regional Correctional Centre.

**Recommendations:** We deemed it appropriate to make the following recommendations in this case:

- That the institution consider its official-language obligations when determining the composition of each work team to ensure that services are available in both official languages at all times;
- That the institution develop an effective way to identify its employees who are able to serve clients in both official languages; and
- That the institution undertake to regularly offer training to employees in sectors which deal with offenders on a daily basis and that it develop tools to assess from time to time the impact of these measures so as to underscore the importance of:
  - 1- respecting the choice of language made by a person at the time of incarceration and that this choice be conveyed automatically to all other levels of correctional services so that offenders do not have to repeat their choice along the way;
  - 2- adopting an attitude that exudes respect for the concept of equality of both linguistic communities as well as other principles underlying both the *Official Languages Act* and the *Canadian Charter of Rights and Freedoms*; and
  - 3- being mindful of the insidious and harmful effects that disrespectful behaviour on the part of staff in response to a request for services in an official language other than their own can have on attainment of the objectives of the OLA.

*Following our investigation report, the Department of Public Safety deemed it appropriate to take further corrective measures in the light of our recommendations. The minimum number of bilingual correctional services officers was increased. Work schedules were drawn up so as to ensure that two bilingual officers are on duty during each shift. All officers will be responsible for finding out the language of service chosen by clients when they are admitted to the correctional centre, and ensure that service is provided in the language chosen, unless the client instructs otherwise. Signs were put up in all units as a reminder that services are provided in both English and French. Also, staff responsibilities under the OLA are now part of the orientation given to all new correctional services officers at the Saint John Regional Correctional Centre. Current staff members have received training to remind them of those responsibilities.*

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**Institution:** South-East Regional Health Authority, Moncton Hospital

**Complaint summary:** The complainant, a unilingual Francophone, alleged having been unable to receive services in French from staff while she was a patient at the Moncton Hospital. The complainant also reported the disrespectful attitude of a unilingual Anglophone orderly. According to the complainant, this situation should not have occurred, since her sister had contacted the institution well in advance of her hospitalization to advise them that she was a unilingual Francophone and therefore wished to be served in French. It was not until the complainant’s sister contacted the institution again that bilingual care staff were made available for the complainant.

After the complainant was discharged from the hospital, the complainant’s sister contacted the institution again so that the Francophone patient who was sharing the complainant’s room could continue to receive care in her language (such care having ceased after the

complainant was discharged). The institution complied immediately. The complainant found it strange when a management official said to her, “Why don’t they say what they want?”, given the predominant language at the hospital and the fact that these two persons were unilingual Francophones.

**Corrective action undertaken by the institution:** The South-East Regional Health Authority informed us that it was taking definitive steps to achieve compliance with its obligations under the *Official Languages Act*, in particular by developing measures to identify the official language chosen by a patient and by formulating linguistic requirements within work teams/units.

**Recommendations:** We deemed it appropriate to make the following recommendations in this case:

- That the institution ensure that work teams include enough bilingual staff at all times to meet the demand in both official languages and that these staff be readily identifiable;
- That the institution develop effective ways to identify the official language chosen by the patient such that each care sector is aware of this choice and can follow through without the patient having to repeat it while in hospital, and that the institution notify the Commissioner of Official Languages once these measures have been finalized;
- That the institution remind its staff periodically of their obligations and that the management of the South-East Regional Health Authority post its policy on the subject in strategic locations and periodically circulate appropriate documentation designed to raise staff awareness with respect to the *Official Languages Act*; and
- That the institution take a proactive approach to the development of staff training in connection with the *Official Languages Act* and that this training focus not only on specific rights and obligations under the Act but also on the insidious effects that any deficiencies in that regard could have on the mental and emotional well-being of patients who see these rights being flouted.

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**Institution:** River Valley Health Authority, Dr. Everett Chalmers Hospital

**Complaint summary:** The complainant alleged a lack of active offer and of delivery of service in French by a nurse at the triage desk at the Dr. Everett Chalmers Hospital in Fredericton. In addition, the complainant objected to the attitude of a nurse and her comments (“You can parlez-vous”) about him to another employee.

**Corrective action taken by the institution:** In response to the claimant’s allegations, the River Valley Health Authority told us that it sincerely regretted what had happened to the complainant. It went on to indicate that, in the past, training sessions on the active offer of service had been given to ER staff and that the Health Authority planned to continue offering such training sessions in future. It also advised us that it would offer training sessions to impress upon staff the impact that behaviour such as that alleged by the complainant can have.

**Recommendations:** We deemed it appropriate to make the following recommendations in this case:

- That the training be repeated regularly for all sectors and given especially to staff in sectors that deal with the public on a daily basis;
- 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 disrespectful or impertinent behaviour can have on persons who are simply availing themselves of their rights; and



- That the institution pay special attention to the effectiveness of training and awareness-raising sessions, that it develop tools to measure from time to time the impact that these sessions have on staff, and that it make any changes needed to ensure that the message is received and understood by all.

## Results of the Investigation into the Electoral Process

In June 2003, the Office of the Commissioner of Official Languages began an investigation into the electoral process following several complaints concerning access to services in the language of choice.

In the results of his investigation published in December 2003, the Commissioner concluded that the language rights of New Brunswickers, as stipulated in the OLA, had not been respected in several areas of the electoral process. Those areas included active offer, the selection criteria for election officers, the selection of election officers where there is a lack of competent staff in the language concerned, communications with the offices of returning officers, the lists of potential election officers, and the obligation to publish in both official languages.

A total of 13 recommendations were submitted by the Commissioner. That interim report asked the institution to respond to the recommendations. However, since the institution, at that time, had to prepare for the upcoming triennial elections (municipal, school, and health authority elections), scheduled for May 2004, an extension of the time frame for providing feedback was granted. In May 2004, following the triennial elections, the Chief Electoral Officer sent her response to the Office of the Commissioner. That response and further exchanges with the institution seemed to show that the institution did not fully understand the details or the obligations associated with the OLA and the rights of New Brunswick's official language communities.

After the triennial elections, the Office of the Commissioner received additional complaints, most relating to failures or deficiencies similar to those expressed in the complaints following the 2003 provincial elections. It was therefore decided to amalgamate the study of those complaints with the process already under way.

In this matter, the Commissioner made full use of the tools at his disposal, as an ombudsman, to urge the institution to come up with viable, acceptable solutions aimed at correcting a series of shortcomings noted by the public. After several exchanges, the Office of the Commissioner detected a change in the attitude of the staff of the Office of the Chief Electoral Officer and a greater understanding of its language responsibilities with respect to the electorate.

The Commissioner subsequently submitted his final report on bilingualism within the electoral process. That report picks up on the recommendations made to the institution in the interim report. While recognizing the progress achieved by the institution, the Commissioner notes that work still needs to be done if the institution wishes eventually to comply with its commitments all along the line and act upon the Commissioner's recommendations. The next elections should clearly demonstrate those improvements.

(Editor's Note: As of this writing, the Office of the Commissioner had received several complaints of the same type following the provincial elections of September 2006. Another investigation is under way.)

## An Interesting Case

In May 2005, an article in the *Times & Transcript*, "Education Bill's Translation Causes Concern", reported that the French-language version of Bill 33, *Healthy Students Act*, tabled by the Official Opposition, contained a number of grammatical and syntactical errors.

The Office of the Commissioner of Official Languages studied the matter to determine whether it came under its jurisdiction under the OLA. We contacted the Clerk of the Legislative Assembly and the Leader of the Opposition to help clarify our role in the matter.

The Clerk explained in detail the internal management of the Legislative Assembly, the responsibility of the Legislative Administration Committee (LAC), which, under subsection 104(2) of the Standing Rules of the Legislative Assembly, is responsible for all matters relating to the Legislative Assembly and MLAs, including funding for the Office of the Official Opposition and the way in which the latter administers its budget based on its priorities. She explained that it was the responsibility of each caucus office to call upon qualified persons from the private sector to draft its bills.

In a letter to the three party heads and the parties concerned, the Commissioner of Official Languages wrote that, under section 11 of the OLA, bills are tabled in the Legislative Assembly simultaneously in both official languages, and they are also adopted and assented to in both official languages.

Far from wishing to interfere in a political matter, the Commissioner is concerned with the services provided for New Brunswickers. He wants to ensure that elected officials comply with the provisions and principles of the OLA. He is therefore calling upon the party leaders to establish a structure within their respective parties to ensure that bills tabled in the Legislature are consistent with the mission and spirit of the OLA.

## Conclusion

Even though the Commissioner of Official Languages notes that there is a better understanding and a good sense of accountability on the part of government and its institutions when it comes to meeting public demand and that official languages and bilingualism in New Brunswick have evolved to a certain extent, there is still much work to be done before New Brunswickers truly enjoy the bilingualism that our elected officials tout so much in speeches outside the province.

The grounds for the complaints received show that the province and its institutions, while responding well to complaints, are not going far enough when it comes to official languages. In the Commissioner's opinion, this shows a certain degree of inertia on the part of government. To ensure continuing, gradual progress toward true equality with respect to official languages and to prevent complaints from recurring year after year, the government should adopt a proactive approach as opposed to a reactive one. It should come up with a master plan, as the Commissioner has been recommending since the start of his mandate.

The Commissioner is convinced of the need for government to anticipate situations and to work seriously to implement mechanisms in all its institutions concerned so as to be able to guarantee the active offer of services and the delivery of these services in the public's official language of choice. These mechanisms should be active throughout government, from Deputy Ministers, administrators, and directors to seasonal and contract employees. These mechanisms should be part of hiring, decision making, programs, and projects directly affecting the citizens of New Brunswick.

A master plan would enhance the approaches of government and its institutions and would have a positive impact on the population. In turn, this would speed up the progression of official languages with a view to achieving true linguistic equality for the citizens of New Brunswick.

## CHAPTER THREE

### DEALINGS WITH INSTITUTIONS

The Commissioner of Official Languages, like the Ombudsman, is appointed by a government authority that guarantees his independence. The Commissioner's role is that of a mediator and conciliator. Since the Office of the Commissioner of Official Languages investigates when a complaint targets a government department or institution, the Commissioner cannot act as a guide. He simply 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 2005-2006.

#### *Delivery of Service by the Royal Canadian Mounted Police*

In 2001, Marie-Claire Paulin and the SAANB took the RCMP to court after Ms. Paulin had been stopped by an RCMP officer from the Woodstock Detachment who spoke to her only in English.

On October 7, 2005, the Federal Court ruled that, while the RCMP is a federal institution, when acting under provincial legislation, it must be bound by the specific obligations of that province. Madame Justice Gauthier gave the RCMP one year to comply with the requirements of the OLA. The ruling was appealed on November 7 of the year under review.

During the past fiscal year, the Commissioner of Official Languages had regular contacts with the Premier and other stakeholders, including the RCMP representative from J Division (New Brunswick), concerning this issue. The Commissioner argued that all members of the public, when communicating with a peace officer, are entitled to be served in the language of their choice and that they must be informed of that choice. The RCMP is required to provide bilingual services across New Brunswick under the *Official Languages Act* of New Brunswick.

In a letter sent in 2005, the Commissioner of Official Languages recommended to Premier Lord that he take steps immediately to clarify the situation, as he anticipated lengthy delays in the case. The Commissioner was delighted that, in one of its press releases, the RCMP made a commitment to provide bilingual police services. However, the Commissioner stressed the fact that responsibility for ensuring that linguistic obligations were being met lay with the provincial government.

Since the Provincial Police Service Agreement is silent on the issue of language rights, the Commissioner of Official Languages believes that it would definitely be appropriate for the government to enter into discussions with the RCMP to ensure that the government's priorities and objectives with respect to official languages are given due consideration and form an integral part of that agreement.

The Provincial Police Service Agreement took effect on April 1, 1992 and runs for 20 years. The Commissioner believes that we should not wait for the Agreement to lapse before taking concrete steps. He therefore proposes as follows:

#### **Recommendation No. 1**

**That the provincial government undertake steps with the federal government to have added to the Provincial Police Service Agreement a specific clause clearly stating that the RCMP, while acting as a provincial or municipal police force, is subject to the obligations contained in the *Official Languages Act* of New Brunswick in sections 31(1), 31(2), 31(3), and 32.**

### ***The Municipalities Concerned***

According to section 36 of the OLA, “A municipality or city to which subsection 35(1), (2) or section 37 applies shall offer the services and communications prescribed by regulation in both official languages.”

To make it easier for the 15 municipalities concerned to provide services and communications for their residents in both official languages, the Office of the Commissioner of Official Languages helped launch an Intranet site called the Municipality Info Centre.

This site is hosted via the Commissioner’s own Web site. Only the municipalities concerned and affected by section 36 have access to the site. The purpose of this information-sharing tool is to facilitate the provision of services in both official languages. By sharing information, municipalities can attain this objective more quickly and at reduced cost.

The Intranet site is now on line. It is now up to the municipalities to use it. The Commissioner recommends that a language coordinator from each municipality concerned be assigned to ensure that the site works properly and is always accessible.

### ***A Special Case***

In 2002, the municipality of Rexton drafted a 10-year action plan for meeting the requirements of the OLA. During the transition period, it sought financial assistance from the Department of the Environment and Local Government, which gave it \$25,000 to hire a bilingual employee. The transition period ended on December 31, 2005. The department therefore could not renew its assistance to the municipality of Rexton.

The Mayor of Rexton embarked on a lengthy process involving contacts with the Department of the Environment and Local Government and the Department of Intergovernmental and International Relations in an effort to continue receiving financial assistance over the course of the 10-year action plan.

In his first annual report, the Commissioner of Official Languages wrote:

*Most of the municipalities targeted by subsections 35(1) and 35(2) can fulfil their official-language responsibilities without too much difficulty. However, while certain small English-speaking municipalities located in predominantly Francophone regions would like to comply with the Act, for them, this is proportionately a very heavy burden. In such circumstances, the Government should consider providing them with the means and resources they need to offer their services in both official languages. It would then be complying with the spirit of section 5 of the Act, which states that nothing in the Official Language Act limits the authority of the Legislature or the Government to advance the equality of status and use of English and French.*

The Commissioner therefore became involved in this matter and sent a letter to the Deputy Minister of Environment and Local Government and to the Premier, asking them to review their position since Rexton’s situation was unique.

In the Commissioner’s view, the municipalities concerned must succeed in providing municipal services in both official languages. Naturally, small communities face more challenges than their larger counterparts. It should be kept in mind that the government is still the chief enforcer of the *Official Languages Act* and must therefore work closely with the municipalities concerned to ensure they meet their obligations under the Act. However, such government assistance cannot go on indefinitely. The municipalities have to find ways to meet the requirements of the Act by themselves.

The situation experienced by Rexton shows that our suggestion in the previous annual report was valid. We therefore repeat our recommendation and encourage the government to take action.

**Recommendation No. 2**

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

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

***Language of Work***

New Brunswick's Official Languages Policy is intended to ensure the provision of services of equal quality in both official languages by departments, government organizations, regional health authorities, Crown corporations, institutions, and third-party enterprises that provide public services. New Brunswickers can therefore expect to be served in the language of their choice, regardless of where they live in the province, without undue delay.

In our 2004-2005 annual report, we acknowledged that the language of service component of the policy had been updated, but we added that the government should have clear, updated guidelines on language of work. The Official Languages and Workplace Equity Branch of the Office of Human Resources has promised a review of the language of work component, but that review is a long time coming.

We therefore reiterate our position to the government regarding its Official Languages Policy and suggest that it review the language of work component so that civil servants can work in their first official language and pursue their careers in that language.

The government should establish guidelines for implementation of the Official Languages Policy section on language of work. Use of the minority language and the opportunity for bilingual Anglophone civil servants to use French in their workplaces should be encouraged. An exchange program enabling civil servants to work in their second language for a fixed period of time could be set up. Work tools should be made available to those who have to write in French or English, such as dictionaries, word-processing software, the standardized Canadian multilingual keyboard, and Termium.

## CHAPTER FOUR

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

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 both official languages in the province.

#### *Office of the Commissioner's General Philosophy on Promotion*

In his 2004-2005 annual report, the Commissioner cited three important components of his mandate to promote official languages: promoting the *Official Languages Act*, celebrating achievements in the area of language, and helping to advance the equality of status and use of French and English.

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 Commissioner can act as an agent of change within government to ensure compliance with the intent of the OLA. He realizes that change in the area of language rights in New Brunswick will take time and will not occur at the same pace across the province. It will require a well-structured information, education, and incentive program targeting people and institutions in order for change to take place as smoothly as possible.

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 reach out to youth so as to encourage them to change their attitudes and behaviour with respect to the French language. Pride in their mother tongue could encourage youth to ask for services in the language of their 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 with a view to the introduction of measures for implementing the OLA.

According to section 43(10) of the OLA, in order to fulfil his role, the Commissioner may conduct investigations on his own initiative and make recommendations stemming from these investigations. The Commissioner examined the following issues in fiscal 2005-2006:

#### *Education*

##### **French as a Second Language**

The teaching of French Second Language has been part of the education system for almost as long as Canada and New Brunswick have been officially bilingual jurisdictions. In the late 60s both enacted their respective *Official Languages Act*. Within a few years of these historical events, French as a second language (FSL) was being taught throughout Canada through Immersion programs or otherwise. For over 30 years, hundreds of thousands of our students have participated in these programs. Much time, energy, and money have been



allocated to the development and implementation of FSL programs throughout Canada. One would have thought that these decades of activities in this area would have produced large numbers of bilingual citizens. Yet the results of the national census held in 2001 seemed to paint a different picture.

In 2002, Statistic Canada reported that the rate of French-English bilingualism in Canada stood at 17.7%. While 43.4% of Francophones indicated that they were bilingual, only 9% of Anglophone Canadians answered that they were proficient in both official languages. This figure falls to 7.1% when the bilingual Anglophone population living in the province of Quebec is not included. Sixty-six (66) percent of Quebec Anglophones are bilingual while New Brunswick sits in second place with 15%.

While no one seemed to have come up with what should have been the acceptable rates, it would appear that both the governments of Canada and New Brunswick were not satisfied with such results and decided to take action to address what many perceived to be a dismal and disappointing situation.

In March 2002, the federal government launched its *Action Plan for Official Languages*. This plan, referred to as the "Dion" plan, recognized the many challenges facing second language training in Canada and concluded that measures had to be implemented in order to enhance the various programs and initiatives in this area. It was noted that the numbers of students in French Second Language programs (FSL) had not increased over the previous 10 years, whether it be in the Core French or Immersion programs. After some progress was made in the 1970s and the 1980s, FSL training in the country did not appear to be progressing any further. The authors tried to provide some explanation for this phenomenon by quoting a report by the Canadian Parents for French (CPF). That report warns that the quality of French Second Language instruction is threatened by inadequate teaching materials, a lack of qualified teachers, and the high drop-out rate among students in the secondary program, often due to the impression that they will not be able to obtain post-secondary education in French.

While recognizing that the proportion of bilingual Francophones and Anglophones in the 15 to 19 age group was around 24%, the federal government set as an objective of its Action Plan to raise this proportion to 50% by 2013. To achieve this goal, it undertook to provide assistance to the provinces and territories and to make funds available, among other things, to improve Core English and French, to revitalize immersion, to increase the number of teachers, to provide bilingual graduates the opportunity to put their skills to good use, and to promote research in the area of second language education.

In April 2003, the government of New Brunswick unveiled a comprehensive policy statement for New Brunswick schools with bold targets and objectives to build a quality K-12 education system. The initiative known as the *Quality Learning Agenda* (QLA) specifically targeted second language training as one area where improvements were needed and offered the following:

*We will capitalize on our status as Canada's only officially bilingual province to provide our young people with effective second language competence and proficiency in English and French. We will use this foundation as a springboard for learning additional languages as we are doing right now with Spanish. The new online Spanish course has already been attracting increasing numbers of students in anglophone and francophone schools alike.*

*French immersion programming will remain a strong, viable program option for anglophone students. The basic second language programs for anglophone and francophone students will also be enhanced to improve success. An intensive program is currently being piloted and tested in Grade 5 in four anglophone districts to improve the French second language capability of students in the English program. To ensure we meet our commitment to providing every young New Brunswicker with the advantages resulting from second language mastery, new provincial targets for second and third language oral proficiency are being set. Specific actions we will take include:*

- *Within ten years, 70% of all high school graduates, English and French, will be able to function effectively when speaking their second official language.*

Following the unveiling of these two government initiatives, one could understand that there was excitement and genuine enchantment within the FSL community. It was seen as a response to what many had suggested was dearly needed to revitalize and reenergize the system.

Early in our mandate, which began in April 2003, we heard from a number of people who were concerned about what appeared to be a lack of concrete measures which, according to them, should have naturally been brought forth as part of the new government agendas. They expressed disappointment at the apparent lack of progress and the absence of new initiatives and suggested that we should examine the situation and intervene as required.

As a result, we decided to embark upon a consultation process designed to gather information on FSL in the province. It was obvious at the outset that, given the limited resources, both financial and human, we could not do a complete and exhaustive study of this area. Being well aware that there had been several studies and research projects in the recent past that had looked at many, if not most, of the elements involved in the planning and the delivery of FSL programs, we wanted mostly to hear from the people in the field and to report on that input. We were confident that the level of expertise in our province in this area would allow us to gather pertinent information and provide us with a true picture of the situation. Our assumption proved to be accurate.

We embarked on a series of visits and meetings which allowed us to meet with people involved at every level of the delivery of FSL programs as well as with experts in the field. This list included District superintendents, Directors of Education, Department of Education officials, district FSL agents, school principals, and teachers. We were also able to consult with experts and researchers in the area of FSL. We had an opportunity to discuss FSL matters with parents and with representatives of Canadian Parents for French. And finally and certainly not the least, we were also able to chat with former FSL students.

As a result of this consultation process, we were able to better understand the system and the challenges it presently faces. It has allowed us to discover what has been accomplished and what should, in the opinion of the people consulted, be done in order to improve the system and reach or even surpass the goals that have been set for FSL programs. While we cannot, for the purpose of this report, write on all aspects of the delivery of FSL programs in New Brunswick, we do try to provide some context and address the issues that seem to have been brought up most often during our discussions and which have led to our suggestions and recommendations. The list of such topics includes Policy 309, issues related to the overall management of FSL programs, and matters pertaining to the programs themselves.

### ***Policy 309***

French Second Language education has been offered in New Brunswick schools for many decades. In 1994, the Department of Education adopted Policy 309. This policy remains in place and is relatively unchanged since its adoption. This policy has as its mission statement that “all New Brunswick students will have the opportunity to acquire proficiency in French”.

The policy establishes that the FSL curriculum will include three programs:

- Core French;
- Early Immersion, and
- Late Immersion.

The policy also establishes the objectives of the programs, how they will be taught, the minimum teaching time for each, the responsibilities of school districts, the levels of competence that must be reached by students in the respective programs, and more.

The policy has been and remains the prime directive in the province and it is to be applied in a similar fashion in all districts.

We assume that Policy 309 was adopted following discussions and negotiations involving a wide sector of the education community. We were told that it was adopted to ensure consistency and provide structure to FSL education in the province. We did discover however that it still engenders discussion and disagreement as to its interpretation and application. Some have suggested that the department should increase its efforts to ensure that the policy is strictly adhered to in all areas of the province while others have suggested that it should be more flexible so as to allow districts to address issues and problems that may not be similar from one district to another. One thing is certain: most have strong opinions about the policy and it appears that there would be some benefits in revisiting the policy, amending it as needed, and ensuring that at the end of the process all are on the same page with respect to the interpretation and the requirements it imposes on districts, schools, and teachers.

## **Management**

### **Human Resources**

Early in our consultation process, it was brought to our attention that, while the provincial government had, in its *Quality Learning Agenda*, made a clear commitment to enhance FSL programs, it had not considered it necessary to add to its human resources in the FSL sector. Some of the people interviewed had expected this to be a natural and needed response if we expected to revitalize the system. It was pointed out that in 2004-2005, the FSL unit in Fredericton consisted of one person only. In addition, this specialist also had to find the time and energy to oversee the third language program. In the past, the same unit has had up to three positions. In my discussions with senior department officials, it was stated candidly that the workload of the specialist was such that they did not understand how he could manage to cover all the bases.

What should be the adequate number of personnel at the department? While no one came up with a specific number, it was pointed out that other provinces such as Saskatchewan, Newfoundland and our neighbours to the east, Nova Scotia, all have more personnel in FSL at head office. While New Brunswick has a substantially higher rate of FSL students than those other jurisdictions, we have not seen fit to staff the FSL section more generously. It was suggested that the only officially bilingual province, especially one that has set high expectations with respect to the bilingualism of its graduates, should not be lagging behind when it comes to the personnel required to guide and support the efforts of district regional supervisors and teachers.

Concerns about personnel were also expressed with respect to the number of FSL supervisors in the districts and especially pertaining to the additional responsibilities tacked on to their workload over the years.

We were informed that in the mid-eighties there were approximately 30 FSL supervisors in the districts. Not only is this number down to 9, additional responsibilities or tasks have been added to their job description. The result seems to be that most of them do not have the time and energy needed to assist and guide teachers who could benefit greatly from their input and good counsel. Again, people expected that the new era, launched with the unveiling of the governments' plans, would have seen improvements in the situation faced by district supervisors in FSL. It has been relayed to us that this situation is not unique to the FSL sector nor is it peculiar to the Anglophone section of the Department of Education. Cuts and reductions of personnel have occurred throughout, which prompted a senior government official to share privately with us that although he understood very well that it is not an easy task to "slice the pie", government must be prepared to treat the department of Education differently than other departments when it comes to "across the board" cuts. It was suggested that such decisions in the past decades are now hampering the Department in its mission.

## **Financial Resources**

When the federal and provincial governments unveiled their respective plans in 2002-2003, it was expected that this would result in significant increases in financial resources for FSL programs. Many have indicated that they have not in fact seen such significant injections of funds in FSL programs. There seems to be a general lack of knowledge as to what has been actually earmarked for FSL and what has actually been spent. Questions were raised about whether all of the federal funds transferred to the province for FSL did actually find their way down to the FSL programs and projects. Questions were also raised as to whether the monies transferred from the province to the district were actually used for FSL programs. It would appear that much of the frustration comes from the lack of a clear and complete account which allows those interested to easily find out what funding is available for FSL and to determine how these funds are in fact disbursed. Some have suggested that the department must do a better job at providing such information and also that it must insist that districts do the same.

### ***A few comments about the FSL Programs***

#### **Core French**

If there was one constant in all of the meetings in this process, it was that the Core French program, as it has been offered for many decades, is inadequate and in dire need of major changes. This is not necessarily surprising and only confirms what we had heard and read previously with respect to the program. Many have suggested that it has been taught the same way, using the same resources and approach for many decades. We were told that there is not one other program in our provincial education system that has not been the subject of amendments and improvements over the years. Are these exaggerations? Whether they are or not, it became very clear as we went from one meeting to another that the value of this program is seriously called into question. We were told that it is disliked by teachers, students, parents and other involved in the system. Some have even volunteered that many teachers actually detest having to teach it and that most students cannot wait for the day when they no longer have to take the program. Strong comments which should have brought about a strong response and, according to some, such a response should have come many years ago. That said, during the course of our review, we were able to discover that something is being done. There are and have been pilot projects in place which are designed to tackle the weaknesses in the delivery of the Core French programs. Some are already demonstrating positive results.

During our visit to the Miramichi area, we were informed that the district, with the assistance of the Department of Education, had launched a pilot project in an attempt to address the problems with the Core French program. Using a different teaching method, they were apparently able to revitalize this program in a way that, in a very short time, changed the attitude and response of teachers, students, and even parents. We were invited to see this in action. We visited a number of these classes. Limited pedagogical training and expertise did not allow us to fully assess the program, but there was no questioning that there was genuine appreciation and enjoyment in those classrooms. Discussions with teachers and school management following those classroom visits were also very positive.

As well, we were informed that an Intensive French pilot project is providing excellent results and was offered in many of the districts. Again, from all accounts, this relatively new and innovative program is proven to be an effective pedagogical approach and one that has given very positive results here in New Brunswick and elsewhere in Canada. The success of the Intensive French program has led some people to suggest that serious consideration should be given to replacing the first three years of the Core French program with an Intensive French program to be offered in the fourth year. According to the proponents of this approach, this would free up resources and assist in the management of FSL programs generally without weakening the system. In fact, they see it as the potential to finally offer

a program that will bring positive results and allow the students to reach a much higher level of bilingualism.

It is in fact comforting to see that efforts are being made to come up with a better way to offer Core French in our schools. The need to do so becomes quite apparent when one realizes that 70% of the students learn their second language through the Core French program.

Another point which was seen as problematic and that could have reflected poorly on the attitude vis-à-vis the Core French program is the fact that, while students must take Core French, there is no requirement that they must pass the course. It was suggested that this policy sends a very poor message about the importance of the program itself and the importance of learning a second language. Apparently this is the case for Core French only and not the other subjects. They seriously question this approach and wonder what has motivated the department to allow this situation to exist. Some have suggested that this decision was made many years ago and was politically motivated in the sense that, at that time, it was felt that to insist may create some turmoil. While some have stated that they could understand the motivation, they suggest that we are living in a different time. They refer to recent surveys and other indications that show a strong support for official languages and bilingualism and add that it is time to revisit this decision.

## **Immersion**

The consultation process did confirm, as in fact noted in the 2002 federal government *Action Plan for Official Languages*, that the number of registrations for Immersion programs has not increased over the past few years. This is not the case for all areas of the province but it has raised enough concern for people to bring it up in our discussions. While many have volunteered some explanations as to why this has happened, there does not seem to be a consensus that this was caused by one predominant factor.

While studies and a greater number of experts and specialists in the field are unwavering in their resolve that it has been and remains the best approach to learn and retain the second language, myths and somewhat unfounded criticisms still persist. It is true that Immersion is a topic that receives substantial attention. We have been told that the program has been “studied to death”. It became apparent very early in the consultation process that concerns conveyed about Immersion had less to do with the teaching method itself than the management of the whole system. As stated above, the overwhelming opinion expressed by experts in the FSL field is that Immersion has been and remains the best approach and has given the best results. There is nothing that we have heard, seen or read, before, during or after the consultation process that would suggest otherwise.

There are obvious problems and concerns with respect to the delivery, and this report in no way wishes to minimize or demean the concerns expressed. Those problems however do not justify any consideration to deviate from this program.

The most common problems or concerns are well known and have been highlighted many times privately and publicly.

One major concern, and one that was certainly shared with us in many of our meetings during this process, is the problem of recruiting and retaining qualified teaching personnel. This is not unique to New Brunswick and in fact, as we stated above, it was one of the problems that the federal government said it wanted to address in its Action Plan.

Some have suggested that the solution is simple. There is a demand, yet the supply is not sufficient. So increase the supply! Those who suggest this are aware that it is not as simple as it sounds. However, they suggest that there is a structure in place that can be used to address this problem. They suggest that there should be a concentrated and genuine effort by all involved, but especially governments and post-secondary institutions, to come up with a plan to encourage more graduates to opt for this career. Some also suggest that the seriousness of the problem and the importance of FSL education are such that a program



of incentives should be created not only to entice more students to study in the field of FSL education but also to retain them once they have graduated and /or are hired. Most agree that there are no easy solutions. Indeed no one in our process came up with specific, sure-fire remedies. Many, however, stated that this must be at the top of the priorities if FSL programs are to live up to their full potential. As stated earlier this challenge is felt elsewhere in Canada. It was suggested to us that, as the only officially bilingual province and the jurisdiction with the highest rate of FSL students, it would not only be normal for us to take the lead in the training of FSL teachers for our needs but also to fill the need in other parts of the country. We have the post-secondary institutions and the expertise to be able to take on such a project.

We have also heard from those who criticized the program because it, by its very nature, creates a “streaming” effect within the education system. Immersion classes provide better learning environments to the detriment of the non-Immersion classes we were told. Again the concerns are not with the quality of the Immersion program itself but rather with how it impacts on the rest of the system. According to some of the people consulted, many of whom involved in the delivery and/or administration of the program, this criticism, while it may have had some legitimacy in the early days of Immersion, it is no longer as much of an issue today. Again it is important not to simply dismiss the criticisms in this area. However, we have been told repeatedly that the solution resides more with measures to address the challenges faced in the non-Immersion programs than with measures that would see the reduction or elimination of Immersion.

### **Promotion of FSL**

Another topic that came up during the consultation process was the matter of promotion of FSL programs or more particularly the lack thereof. Policy 309 requires that information must be provided to parents on the various FSL programs. We were told however that the approach used to educate the parents differs from one district to another. It was suggested that in some districts, promotion is done with enthusiasm and in such a way as to provide as much information as possible. Efforts are made to comfort parents and to dispel some of the myths and confusion that may exist from time to time. In other areas, we are told that the information provided is minimal and that there is an understanding that we must be frugal with the details in order not to create a demand that would have to be met. Again, it would be presumptuous to suggest that we have a complete understanding of the promotion efforts or that we have been able to come up with universal solutions to ensure that these efforts are enhanced and consistent across the province. While we cannot do this, we can suggest to the department that it must take the steps to fully review the promotion efforts everywhere and to come up with measures that will ensure universality in the information provided and guarantee conformity.

### **Seventy (70) percent in 2013**

During our consultation process, we were able to speak to over 50 people who are directly or peripherally involved in FSL programs in New Brunswick. All are well attuned to the management and delivery of the programs. Of all the people consulted, only one suggested that there was a chance that we would be able to meet the objective set out in the *Quality Learning Agenda*. The person who suggested that we may be able to meet the objective was somewhat unclear as to whether we would have to reduce levels of proficiency in order to reach the target. All others were unequivocal in stating that the goal that starting in 2013, 70% of all high school graduates, English and French, will be able to function effectively when speaking their second official language is unattainable. Most indicated that, unless the Core French program was changed drastically and soon, we would not come close to the target. Some have suggested that, if some of the pilot projects become permanent programs, the chances of reaching the targets in 2015 or 2016 are greatly enhanced.



## ***Conclusion and Suggestions***

Changes are needed. With respect to Core French, to quote a report by the Atlantic Provinces Education Foundation we consulted, “a paradigm shift in methodology and curriculum content of the Core French program is paramount”.

It is clear that the FSL community is vibrant and that both within the education system and outside there are people who have identified the problems and who can take part in finding the solutions. We have been able to observe that there is sufficient knowledge, imagination and good will to bring about the solutions required to improve the FSL programs and the results. What is essential however is that the provincial government and the Department of Education move firmly and convincingly on some of the problems and challenges identified.

We feel that it may be helpful to pass on some of the suggestions that have been communicated to us during this process. We list them without necessarily establishing priorities but **we recommend** that government look at them closely and act on all of them. Obviously the methods to be used and the timing of their implementation are for the government to establish but it is important, according to the people consulted, that all items receive consideration.

Here are our suggestions:

1. With respect to Policy 309, the department must determine whether it is still relevant, or whether it must be amended or improved, to take into account what some perceive as a new reality. For instance, there is strong support for the policy to add Intensive French to the list of programs as it appears to be a viable remedy for the ailing Core French program. In addition, the department must amend the policy as it pertains to the Time-on task section to ensure that it does not allow for creative interpretations, which would be detrimental to the overall goals.
2. The department must make it clear that Immersion is the most effective FSL program and that it will continue to be offered in all areas of the province. This declaration must be accompanied with information that refutes criticisms and that replaces the myths that are still circulating in some circles with facts and dates that show that these myths are not founded.
3. Not only must some of the myths be attacked head-on, there is also a need to provide complete and concise information on FSL. This information must not only be made available to student and parents, but be part of a promotion program that ensures that the benefits of FSL education to the individual and to the community are laid out in a way that will serve to encourage and bolster the confidence of parents who wish to ensure that their children will get the best education possible while learning a second language. Any timidity in the approach may well act as a deterrent. The department must ensure that all districts actively and enthusiastically promote FSL programs. If the department is not convinced that this can be accomplished, it should also look at the benefit of offering its own promotion program.
4. With respect to the need to produce more FSL teachers, it is suggested that the government immediately initiate discussions with post-secondary institutions in the province to determine the best way to proceed to address the shortage. Government must look at ways to encourage students to choose this profession and must try to come up with programs with incentives to entice the graduates to locate in areas where the demand is not met.
5. That the government take all steps to take advantage of federal monies available under the Action Plan. In addition, that it ensure that all funds earmarked for FSL be utilized for that purpose.
6. That, in light of the concerns with respect to the insufficient number of personnel in Fredericton and the concerns about the excessive workload for supervisors in the districts, the department re-evaluate its Human Resources in FSL. Also that it be prepared

to add to its personnel in that area so as to ensure that FSL teachers in this province are able to receive the support and guidance they need from supervisors and others.

7. That the department along with the districts review the programs and the funding so as to enhance the out-of-classroom experiences in FSL.

In closing, it must be noted that, just prior to going to print, we were informed that the department has indeed made serious efforts to address some of the problems, many of which were referred to above. A specialist in FSL, from outside New Brunswick, has in fact told us that New Brunswick, even with some of the difficulties it is facing, is still leading the pack in so many areas and especially in the testing of the Intensive French program.

### **Challenges Faced by a Francophone Community**

In fall 2005, the media reported on a specific situation in Bouctouche, in southeastern New Brunswick. According to the Atlantic Institute for Market Studies, École Clément-Cormier ranked last out of 21 schools in terms of literacy. The reasons behind this showing were said to be that, even though 97% of the students came from Francophone families, 11% of them did not speak French at home, and almost no reading took place in the home. Community representatives all agreed that “chiac” was prevalent throughout the community and in the school.

This situation has many consequences. According to one peace officer, the school dropout rate is higher there than elsewhere in New Brunswick, and some dropouts turn to drugs and stealing to support their habit. The Mayor of Bouctouche noted that companies do not want to locate in Bouctouche because of the poor level of French, and students are not meeting admission requirements at the Université de Moncton and have to take upgrading courses. Studies show that household incomes are lower and the unemployment rate is higher in this region than elsewhere in the province. Families are therefore moving to give their children a better quality of life.

The proud community of Bouctouche took strong action in response to this sad reality. It launched a project to instil pride in the French language and developed a strategy to raise public awareness of literacy. The community of Bouctouche raised \$25,000 to purchase books for elementary school students. The province of New Brunswick contributed \$10,000 of that amount. Stakeholders from the Bouctouche region are in the process of establishing a Francization committee to improve the quality and visibility of French in businesses and institutions.

### **Immigration and Linguistic Realities**

In November 2002, the federal Commissioner of Official Languages published a report entitled *Official Languages and Immigration*. That report confirmed that 200,000 to 250,000 foreigners choose to settle in Canada. According to the report, immigration policy should help maintain a balance between Francophone and Anglophone populations across the country, but unfortunately, that is not always the case. The number of immigrants in communities where an official language is spoken in a minority context is too low compared with the national average, a major concern for Francophone minorities.

According to the report, there seems to be a blatant imbalance between the percentage of Anglophone and Francophone immigrants. According to the statistics, less than one in 20 minority Francophones is an immigrant. There should be four times as many, since one out of four Anglophones in Canada was born in another country.

Francophone immigrants also face numerous challenges before they feel that they belong in Acadian communities. According to the *Strategic Framework to Foster Immigration to Francophone Minority Communities*, diversity can be a problem in any minority community whose members are very attached to their collective identity. If the community sees

assimilation with the majority society as a threat, it will naturally tend to turn inward and be reluctant to see its identity redefined by immigration. According to the Strategic Framework, the Acadian community had to turn inward, but its inaction comes at a price. New Brunswick's Francophone population has the lowest proportion of immigrants in the country (1.08%).

This situation prompted the Office of the Commissioner of Official Languages to examine existing practices and programs in Canada and New Brunswick with respect to immigration to this province.

In recent years, the federal and provincial governments as well as Francophone communities have tried to rectify the situation and improve the demographic profile of Francophone minority communities.

The SAANB, for example, is taking concrete steps to promote the integration of Francophone new arrivals. It is encouraging dialogue between new arrivals and Acadians as a way of finding common ground to forge an identity that is both complementary and less exclusive from an ethnic perspective for all Francophones in New Brunswick.

The *Canada Immigration Act* stipulates that immigration policy must benefit official language minority communities. Both the federal and provincial governments have to make sure that an acceptable number of candidates selected under the Provincial Nominee Program are Francophones. The purpose of the federal-provincial Nominee Program is to allow communities to establish their own selection criteria and designate qualified candidates.

The Provincial Nominee Program clearly recognizes New Brunswick's status as a bilingual province. Two officers are currently assigned to the Francophonie market and are working closely with various Francophone immigration stakeholders in the province.

Hats off to the small municipality of Saint-Léonard, the first community outside Quebec to set up an immigration pilot project called Carrefour d'immigration rurale (CIR). The aim of this three-year project is to develop a unique approach to attracting and integrating Francophone immigrants into rural communities.

In its first year of existence, the CIR facilitated the arrival and integration of some 20 residents in the northwestern part of the province. Four families from Africa, China, and Haiti settled in Saint-Léonard, Grand Falls, and Edmundston last year.

A reception centre is slated to open in Moncton in May 2006. The goal of the facility is to offer a personalized welcome to Francophone immigrants who settle in the Greater Moncton area.

Despite its status as an officially bilingual province, New Brunswick is at a disadvantage in terms of language training in both official languages. Francophone immigrants in minority settings have to cope with learning a second language, but language courses are available only up to level 3, i.e., below the level required to hold a bilingual position in New Brunswick.

The Commissioner of Official Languages believes that the government has an obligation to maintain the province's linguistic balance. The education system could play a greater role in the inclusion and integration of Francophone immigrant families in minority settings. A program of studies targeting multiculturalism would help instil open-mindedness in youth.

The Commissioner applauds the initiative shown by the municipality of Saint-Léonard and fervently hopes that this pilot project is mimicked in other New Brunswick minority language communities.

The above programs are proof that New Brunswick and its communities are on the right track. Francophone minority communities must participate in the settlement and integration of immigrant families who move there. To maintain a strong sense of belonging, Francophone rural communities have to support immigrant families during the early years if they hope to see these families contribute to their development. In the Commissioner's views, social

inclusion must be advocated if New Brunswick is to become a welcoming destination for immigrants, as well as, and more to the point, one that will encourage them to stay.

### ***Promotional Program***

A number of projects began in 2004-2005 under the promotional component of the Commissioner's mandate and continued in 2005-2006. The summaries of the following projects serve to illustrate the year-over-year continuity of work undertaken by his Office.

***Pins*** – To encourage merchants to advertise the active offer of services in both official languages to their customers, the Office of the Commissioner ordered 1,000 "Français-English" and 1,000 "English-Français" pins. The Commissioner distributed some 300 pins to merchants having expressed an interest in them.

***Booklet on language rights*** – To inform New Brunswickers about their language rights in an easy-to-understand manner, the Office of the Commissioner of Official Languages and PLEIS-NB (Public Legal Education and Information Service of New Brunswick) published and distributed a bilingual booklet entitled *Official Languages: Your Rights in New Brunswick*. More than 10,000 copies were distributed to schools, libraries, regional health authorities, municipalities, and other organizations.

***Municipal questionnaire*** – The Office of the Commissioner prepared a questionnaire for municipalities which are subject to the *Official Languages Act*. The questionnaire was used to determine their level of success and the challenges they face in respecting their obligations. Following meetings with municipal representatives, the Commissioner was able to conclude that the municipalities are resolved to comply with the OLA.

***Telephone survey*** – In partnership with the Association des juristes d'expression française du Nouveau-Brunswick, a telephone survey of Francophones was conducted to determine to what extent they were aware of their language rights and whether lawyers practising in predominantly English-speaking communities were informing clients of those rights. The findings will help to pinpoint deficiencies and determine whether information and awareness campaigns are needed.

***Dialogue NB Award*** – With the co-operation of the Office of the Commissioner of Official Languages, Dialogue NB presents its annual Lieutenant-Governor's Dialogue Award to individuals and organizations promoting and fostering respect for the two official language communities. In June 2005, this prestigious award was given to the Northrop Frye International Literary Festival, Alex Fancy, and Bernard Imbeault in the Community Organizations/Public Institutions, Individuals, and Businesses categories, respectively.

***Speakers' bureau*** – The Office of the Commissioner of Official Languages also worked with Dialogue NB to establish a speakers' bureau that would put together a series of positive, dynamic presentations on bilingualism in order to build pride with regard to our efforts at linguistic inclusion.

***Advertisements in newspapers*** – To continue promoting the official languages among members of the public and inform them about recourses available to them under the OLA, the Office produced three advertisements in English and three in French bearing the slogan *Choice: It's mine*. These messages were carried in the province's newspapers in fiscal 2005-2006.

**Radio spots** – For the same reasons, the Office also developed a series of radio spots. Each spot addresses in clear and simple language a specific aspect of the OLA. The campaign also serves to support French community radio stations as tools for promoting the development of the French language and culture in minority settings.

**www.2tongues.ca Internet site** – To inform youth about their language rights and to instil in them a positive attitude and pride toward their own language, the Office of the Commissioner, together with Razor Creative, a Moncton-based advertising and design firm, created [www.2tongues.ca](http://www.2tongues.ca) a bilingual and interactive Web site. The purpose of the site is to encourage youth aged 9 to 14 to learn about official languages in a fun-filled and innovative way. The site is constantly evolving.

During the summer of 2005, the Office of the Commissioner hired two bilingual students to distribute items to promote the site, such as frisbees, T-shirts and tattoos. They went to festivals, celebration and meeting places, parks, campgrounds, and beaches. Over the year, thousands of young persons visited this dynamic Web site.

**Northrop Frye International Literary Festival** – To broaden the scope of the Northrop Frye International Literary Festival, whose mission is to enable the public to discover cultural diversity, a partnership between the Office of the Commissioner and the Festival was established. The Office contributed to the Northrop Frye International Literary Festival because some of the Festival's programming is aimed at students and helps to promote multicultural understanding.

**Active promotion by the Commissioner** – To promote the *Official Languages Act* and have the opportunity to talk about real bilingualism, the Commissioner of Official Languages 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.

## CHAPTER FIVE

### OUTLOOK FOR THE FUTURE

#### *Integration of New Brunswick Professional Associations*

New Brunswickers are more familiar with their language rights now that the Office of the Commissioner of Official Languages has been promoting them. We continue to receive complaints about professional associations in the province, but owing to the ambiguity surrounding the term “institution,” handling those complaints presents problems.

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

The issue has yet to be resolved despite numerous discussions with civil servants. We believe that we should therefore continue to address the issue. To do so, we have to learn more about the way in which professional associations are established and operate on a daily basis. We are in the process of studying the enabling legislation of professional associations and contacting each organization in order to compile a comprehensive database of relevant information with a view to presenting our findings and recommendations to government. We already know that a good many professional associations provide their services in both official languages.

#### **Recommendation No. 3**

**That the government undertake the necessary steps to clarify the obligations of New Brunswick professional associations and that there be discussions to determine these obligations.**

**That, since the professional associations deal with the public on a regular basis, they provide their services in both official languages.**

#### *A Success Story: Promotion of Bilingualism and the Business Community*

The business community has no legal obligation to serve its customers in the official language of their choice. Many agree that, in an officially bilingual province, it definitely makes good sense to encourage the business community to offer its services in the public's official language of choice. We should therefore start considering promoting bilingualism in the business community.

This is not a new concept, since Avantage Saint John Advantage (ASJA), a team of professionals from various segments of the Saint John economy, has been promoting the financial and cultural benefits of bilingualism in Saint John for a while now and offering a model for linguistic and economic co-operation.

Over the past few years, newspapers have published articles about the economic impact of Francophone minority communities in the province's major urban centres. Merchants from both linguistic communities in Saint John decided to capitalize on this economic reality by establishing an organization consisting of Anglophone and Francophone business people.

The Commissioner believes that ASJA deserves to be congratulated on its positive influence on the promotion of both official languages in the Greater Saint John area. In addition to reaching its goals, ASJA is helping to give bilingual Anglophones who have put so much



effort into learning a second language an opportunity to use it so as to preserve and even enhance it. The project is also helping to promote the advancement and equality of the two linguistic communities.

The idea of establishing a partnership between Dialogue NB, Avantage Saint John Advantage, and the Office of the Commissioner of Official Languages was put forward by the Commissioner in February 2006 with a view to turning the project into a province-wide initiative. To that end, the Commissioner proposes that communities follow the example of Avantage Saint John Advantage.