

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



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

INVESTIGATION REPORT

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

FILES 2015-2587, 2015-2601, 2015-2610

VITALITÉ HEALTH NETWORK

Subject: Allegations of deficiencies with respect to communication and service in English

**SENT TO: THE PREMIER
THE CHIEF EXECUTIVE OFFICER OF THE INSTITUTION
THE CLERK OF THE EXECUTIVE COUNCIL
THE COMPLAINANTS**

March 2016

TABLE OF CONTENTS

<u>I. INTRODUCTION</u>	3
<u>II. COMPLAINTS AND INVESTIGATIONS</u>	3
A. <i>File 2015-2587 – Grand Falls General Hospital</i>	
1. Investigation	3
2. Investigation	4
a) Questions from the OCOLNB	4
b) Response from the Institution	4
i) Institution’s position regarding the incident	4
ii) Measures taken by the institution	5
B. <i>File 2015-2601 – Edmundston Regional Hospital</i>	
1. Complaint	5
2. Investigation	6
a) Questions from the OCOLNB	6
b) Response from the Institution	7
i) Institution’s position regarding the incident	7
ii) Measures taken by the institution	7
C. <i>File 2015-2610 – Dr. Georges-L.-Dumont University Hospital</i>	
1. Complaint	8
2. Investigation	8
a) Questions from the OCOLNB	8
b) Response from the Institution	8
i) Institution’s position regarding the incident	8
ii) Measures taken by the institution	9
<u>III. OBSERVATIONS AND ANALYSIS</u>	9
<u>IV. CONCLUSION</u>	10
<u>V. RECOMMENDATIONS</u>	11

I. INTRODUCTION

Three complaints were received at the Office of the Commissioner of Official Languages for New Brunswick (“OCOLNB”) on November 17, November 23 and December 4, 2015. Each complaint deals with allegations of deficiencies with respect to the same establishment, the Vitalité Health Network (“Vitalité” or “institution”). We therefore chose to merge the results of our investigation within one report.

To permit a greater understanding of our investigation, we chose to proceed per complaint, combining the questions from the Office of the Commissioner of Official Languages for New Brunswick and the response from the institution for each complaint.

Having been satisfied that all the admissibility criteria had been met and that no reason to refuse or cease to investigate these complaints was apparent, a letter in lieu of notice of intention to investigate was sent to the CEO of the Vitalité Health Network on January 11, 2016, in accordance with the provisions of subsection 43(13) of the OLA. In this letter, we stated that we were seeking the CEO’s cooperation with this investigation and that we would appreciate him providing us with his position with respect to the allegations below and any additional information which could assist us in making a determination in this case. The CEO of Vitalité provided his responses in three separate letters dated February 15, 2016. The questions we posed to the institution and a summary of its response for each complaint are as follows:

II. COMPLAINTS AND INVESTIGATIONS

A. *FILE 2015-2587 – GRAND FALLS GENERAL HOSPITAL*

1. Complaint

According to the complainant, there are two signs in the blood collection laboratory of the Grand Falls General Hospital to inform the public of the professionalism of the technicians. Both signs are in French only. More signs in French only are posted in the waiting area, the elevators and the treatment rooms.

The complainant also alleges having received a voicemail in French only from the scheduling office of the hospital on November 17, 2015. The complainant believes that, upon returning the call, the same person answered the phone. The complainant spoke in English to the employee, who responded in English without a problem.

Signs and voicemail are in French only.

2. Investigation

a) Questions from the OCOLNB

Signage

In a 2013 investigation related to a similar matter (file 2013-1984), we commended the institution for taking the initiative to look into signage at all its hospitals with a view to ensuring compliance and asked to be kept apprised of the progress made. As no information on this matter has been forwarded to our office since the aforementioned year, we again request a copy of your comprehensive signage replacement plan and associated timelines for each hospital.

Message left on complainant's voicemail

As stated in our introduction, we also asked for the CEO's position with respect to the allegation relating to a voicemail left in French only from the scheduling office.

b) Response from the institution

i) Institution's position regarding the incident:

Signage

Signage was indeed only in French in the locations stated in the complaint. Although all permanent public directional signage (area and department names) are bilingual and in compliance with the requirements of the Official Languages Act, signs provided by professional colleges or other organizations are occasionally posted on the walls by staff members. Although these are temporary and removable signs, they should be bilingual.

Signage was indeed only in French.

Message left on complainant's voicemail

Although no Central Scheduling staff member remembers having left a message in French only on a voice mailbox for a patient whose language of choice is English, it is possible that a mistake has been made.

It is possible that a mistake has been made.

ii) Measures taken by the institution:

Signage

The signs referred to by the complainant were removed from the locations described in the complaint.

Although the directive on using signs in both official languages for all communications with the public appears in the Network's Official Languages Policy and in the online module, a memorandum will be sent to all managers as a reminder.

Then the Network Official Languages Department will conduct an audit of permanent and temporary signage in all Network facilities to check compliance with bilingual public signage.

As for complaint 2013-1884 regarding exit signs at the Dr. Georges-L.-Dumont University Hospital Centre to which you are referring in your letter, our commitment was to replace thirty (30) signs a year. The first signs were replaced following your investigation report in 2014. Thirty signs were then replaced 2015. In a few months, an additional thirty signs will be replaced. We will continue replacing these signs every year until all of them comply with official languages obligations.

Message left on complainant's voicemail

The following directive was communicated to all Reception, Admitting and Central Scheduling employees in the Northwest Zone:

- *Always check the preferred language documented in the patient's record before contacting him or her.*
- *Always leave a message in the patient's preferred language.*
- *If the patient's preferred language is unknown, leave a message in both official languages.*

B. FILE 2015-2601 – EDMUNDSTON REGIONAL HOSPITAL

1. Complaint

According to the complainant, the complainant's father-in-law was admitted to the Edmundston Regional Hospital for cognitive assessments and long-term care placement. On November 23, 2015, at approximately 6:30 pm, the complainant's spouse called the nursing unit of the surgical unit on the 4th floor to inquire about the patient. The employee who answered the phone spoke very little English, and

The Network will conduct an audit of signage in all its facilities.

The employee on the phone spoke very little English.

the complainant's spouse could not understand the employee. The employee transferred the call to another number, and the spouse gave the phone to the complainant. When the complainant inquired about the status of the patient, the person at the other end of the line hung up the phone.

The complainant dialed the same number. Since the employee on the 4th floor spoke very little English, the complainant spoke in French. The employee at the nursing unit provided the complainant with a second number. The complainant dialed that second number, but whoever took the call could not speak enough English to offer service in the language of choice of the complainant, which is English.

The complainant alleges that at no time during these conversations did the nurses have sufficient competency to offer service in English.

2. Investigation

a) Questions from the OCOLNB

In an extensive report made public in March 2015 regarding the Vitalité Health Network, the Commissioner made several recommendations, including the following:

- That Vitalité assess its staffing needs for each work team and assess its actual personnel complement.
- That Vitalité use the information gathered above to identify its actual staffing deficiencies for each work team and develop a plan to fill the gaps in a timely manner.
- That Vitalité establish internal procedures for staff use outlining specific steps employees must take to ensure the delivery of services in the language of choice of all members of the public at all times.
- That Vitalité continue to hold training sessions to educate its staff with respect to its linguistic obligations including how respectful behavior can impact quality service in both official languages.

1. What are the current requirements for bilingual and unilingual staff at the Edmundston Regional Hospital and what is the current complement of bilingual and unilingual staff?
2. What measures are in place to ensure that services are provided in the language of choice of the patients and their families and friends at all times at the Edmundston Regional Hospital?

Recommendations made by the Commissioner in a previous report.

b) Response from the institution

i) Institution's position regarding the incident:

The evaluation conducted with the Medical and Surgical sector showed that employees have little recollection of these events. The Network feels that there may have been shortcomings.

The Network feels that there may have been shortcomings.

ii) Measures taken by the institution:

In this regard, the concerned Director committed herself to ensuring that all employees complete the online training on official languages. Also, the following guidelines were explained again to employees:

- 1. Always greet the public in both official languages by employing a salutation in both languages in person and on the telephone (e.g., "Hello, bonjour!").*
- 2. Continue conversation in the language chosen by the member of the public.*
- 3. If unable to do so, obtain help from a co-worker who is fluent in the member of the public's language of choice.*

The Director also committed herself to identifying bilingual employees (intermediate and advanced), drawing up a list, and making it available to the staff in order to better equip them to follow the above procedure.

A commitment was made to identify bilingual employees.

In developing linguistic profiles, the Network is currently defining the preference of clients in its various facilities. In the next few weeks, the data on the language of choice of clients will be communicated to managers. These data should help to improve the composition of work teams. In the upcoming year, it is anticipated that the second language skills of some employees will be evaluated. Employees in the clinical sectors of the Edmundston Regional Hospital will be targeted first.

In its response, the institution also stated that, in the summer of 2015, the active offer of service on the telephone in facilities in the Northwest Zone was measured. The results were communicated to all zone managers in December 2015. A commitment was made to implement strategies to achieve a 100% compliance rate in the e-learning module on official

languages obligations. Also, copies of the presentation were distributed to all managers to be used to raise their staff's awareness.

C. FILE 2015-2610 – DR. GEORGES-L.-DUMONT UNIVERSITY HOSPITAL

1. Complaint

According to the complainant, between 8:45 and 10:00 am, on December 4, 2015, at the Emergency Department of the Dr. Georges-L.-Dumont Hospital, the announcements for directing patients to examination rooms were made in French only; for example, "Jane Smith, salle deux". It was a male voice the majority of the time, but a female made announcements as well. When they called the complainant's partner, the announcement was in French only. The couple's first language is English.

2. Investigation

a) Questions from the OCOLNB

The Vitalité Health Network's website states the following:

The Network is committed to delivering high-quality services to the public, that is, services actively offered in both official languages and available in the client's language of choice, in all its facilities and programs. The Network distributes all information directed to the public in French and English simultaneously.

1. Does your institution's official languages policy include communications via an intercom system?
2. If so, what is your position on the situation as described by the complainant?

b) Response from the Institution

i) Institution's position regarding the incident:

According to our Official Languages Policy, the Network must ensure that public signage and other publications and communications directed to the public are in both official languages. This includes written and verbal communications. Communications in both official languages on an intercom are definitely included in the Network's policy.

Announcements at the Emergency Department were made in French only.

Communications in both official languages on an intercom are definitely included in the Network's policy.

The internal evaluation revealed that the announcement made by the physician on the intercom in the Emergency Department was indeed issued in French only. As regards the announcement made by the nurse, she stated that she always uses both official languages when calling patients in the waiting room (e.g., John Smith, salle 2, John Smith, Room 2).

ii) Measures taken by the institution:

Following this complaint, the Emergency Department Nurse Manager reminded physicians and nurses about the directive that announcements on the intercom to patients in the waiting room should always be made in both official languages.

The information provided for all three complaints is sufficient for us to proceed with our analysis of these matters and complete our task.

III. OBSERVATIONS AND ANALYSIS

In all three cases under investigation, the hospitals operate under the Vitalité Health Network which triggers the application of paragraph 33(1) of the *Official Languages Act* of New Brunswick (OLA). Subsection 33(1) reads as follows:

33(1) *For the purposes of the provision of health services in the Province and notwithstanding the definition of “institution” in section 1, an institution in sections 27 and 28 refers to the network of health establishments, facilities and programs under the jurisdiction of the Department of Health or the regional health authorities under the Regional Health Authorities Act.*

Sections 27 and 28 of the OLA outline the following:

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

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

28.1 *An institution shall ensure that appropriate measures are taken to make it known to members of the public that its services are available in the official language of their choice.*

Files 2015-2587 and 2015-2610 also trigger the application of section 29 of the OLA, which states the following:

Announcement made by the physician on the intercom was in French only.

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

In his response, the CEO of the institution does not deny any of the allegations made by the three complainants against the Vitalité Health Network. We therefore conclude that the three complaints **are founded**.

The OLA requires that every department of every health establishment under the Vitalité Health Network provide bilingual services to the citizens of New Brunswick. Consequently, every department requires a team with the necessary linguistic capabilities to ensure that all clients receive a service in their language of choice at all times.

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

What's more, to our question regarding the institution's comprehensive signage replacement plan and associated timelines for each hospital under the Vitalité Health Network, the institution failed to provide us with a detailed answer, choosing instead to limit its signage commitment to the Dr. Georges-L.-Dumont University Hospital Centre.

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

IV. CONCLUSION

The Commissioner's mandate is to make recommendations where appropriate with the objective that the implementation of such recommendations will result in improved compliance with the OLA.

Having said this, we fully acknowledge the institution's prompt response and applaud the numerous corrective measures already taken by the institution with respect to the three complaints filed at our office.

However, in a previous investigative report (file 2013-1984) dated April 2014, the institution had stated the following:

The institution does not deny the allegations. We therefore conclude that the three complaints **are founded**.

At the present time, there are no procedures in place to assist personnel who do not have the linguistic capacity to provide service in both official languages.

We applaud the numerous corrective measures already taken by the institution.

To rectify the situation, Vitalité intends to progressively change the French "exit" signs for pictogram signs. The number of signs to be replaced throughout the Dr. Georges-L-Dumont University Hospital Centre was estimated at 250. We are planning on replacing 30 signs a year, prioritizing the highest-traffic areas. At this pace everything should be done by 2022. At the same time, an evaluation is under way to check compliance in other Vitalité Health Network hospitals.

To our repeated request for a copy of its comprehensive signage plan and associated timeline for each hospital, the institution chose to limit its response to the Dr. Georges-L-Dumont Hospital. Almost two years after our first request, we have yet to receive a comprehensive answer on signage from the institution for every health establishment under its umbrella.

Furthermore, the associated timeline for replacing the unilingual signs at the Dr. Georges-L-Dumont Hospital only is set for 2022. We believe it is unreasonable for an institution to take eight years before it can fully respect its obligations under the OLA.

In addition, one year after our recommendations, the Vitalité Health Network has still not responded to our request concerning the requirements for bilingual and unilingual staff and the complement of bilingual and unilingual staff for each of its health establishments.

And, most importantly, the Commissioner notes with disappointment that most of the recommendations submitted in April 2015 have yet to be fully implemented.

In light of the information as stated in this report, the commissioner deems it necessary to make recommendations to the Vitalité Health Network.

V. RECOMMENDATIONS

The Commissioner makes the following recommendations:

THAT Vitalité ensure that all signs posted by or for Vitalité in all its health establishments be in both official languages.

THAT the institution step up efforts to revise its sign replacement schedule to ensure full compliance with the OLA and provide our office with a copy.

THAT the institution provide our office with a status report on the implementation of the four recommendations mentioned earlier and made in March 2015,

Almost two years after our first request, we have yet to receive an answer on signage for every health establishment under Vitalité's umbrella.

Most of the recommendations submitted in April 2015 have yet to be fully implemented.

pertaining to files 2013-2011, 2014-2062 and 2014-2179, by the end of June 2016.

In accordance with subsection 43(16) of the OLA, we respectfully submit this report to the Premier, to the Chief Executive Officer of the institution and to the complainants. We also believe it is appropriate to forward this to the Clerk of the Executive Council Office.

In the event that the complainants are not satisfied with our conclusions, they may apply to the Court of Queen's Bench of New Brunswick for a remedy under subsection 43(18) of the OLA.

[Original signed by]

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

Dated at Fredericton,
in the Province of New Brunswick
this 31th day of March 2016