



Investigation Report

FILE NUMBER 23-24-200

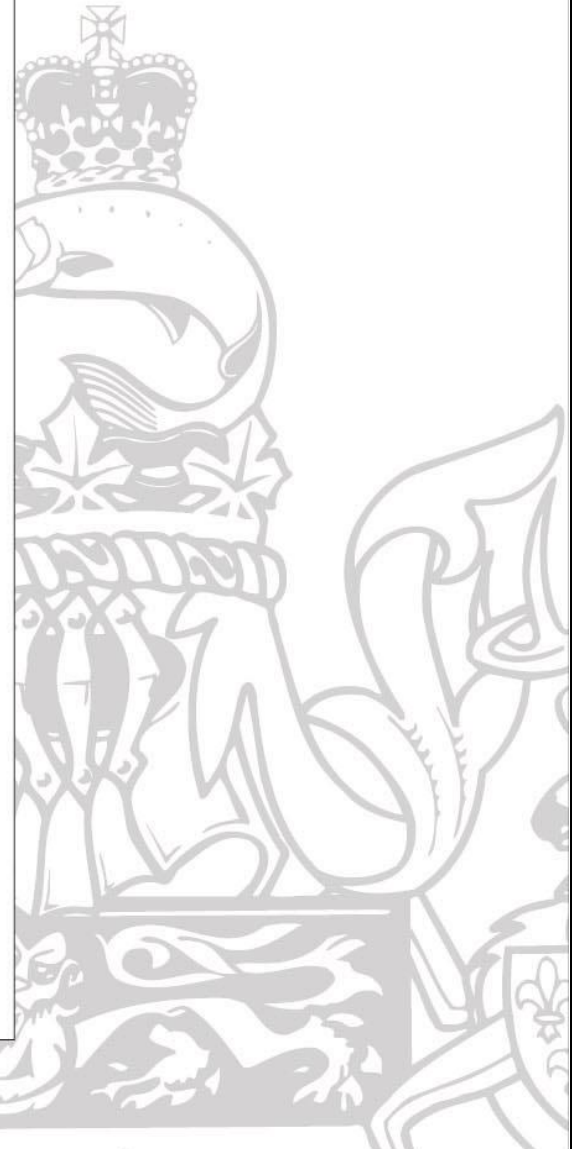
INSTITUTION IN QUESTION Vitalité Health Network –
Edmundston Regional Hospital

SUBJECT Alleged deficiencies in the provision
of services in French

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**REPORT DISTRIBUTED TO THE
FOLLOWING PERSONS** President and CEO, Vitalité Health
Network
Complainant
Premier
Clerk of the Executive Council
Executive Director of the Secretariat
of Official Languages

ISSUE DATE March 2025



Summary

This report was prepared following an investigation into a complaint against Vitalité Health Network (the institution). More specifically, the complainant alleges deficiencies in the provision of services in French in the emergency room and the imaging department at Edmundston Regional Hospital.

Upon conclusion of this investigation, the Office of the Commissioner of Official Languages finds, for the reasons set out in this report, that the complaint is **founded** and that the institution failed to meet its linguistic obligations under the *Official Languages Act* of New Brunswick (OLA).

Having established that the complaint is founded, the Commissioner makes the following recommendations:

1. **THAT the institution continue to regularly remind all employees, visiting healthcare professionals and providers of its linguistic obligations under the *Official Languages Act* and of its official language policies and procedures to ensure that service of equal quality is available in both official languages for all services, without undue delay;**
2. **THAT, in particular, the institution regularly remind all employees and visiting healthcare professionals of the importance of making an active offer of service in both official languages and maintaining the continuity of service in the language of choice of all members of the public;**
3. **THAT, in the future, the institution ensure that its legislative official language obligations are clearly stated in all contracts with service providers, as is the case for other government institutions;**
4. **THAT the institution continue its efforts to recruit bilingual healthcare professionals and develop a substantive bilingual staff recruitment plan and timetable for identifying new talent pools of healthcare professionals here and elsewhere to immediately correct deficiencies in the provision of services of equal quality in both official languages at Edmundston Regional Hospital and all its other healthcare facilities;**
5. **THAT the institution immediately draw up a contingency plan detailing the process to be followed by its staff members who are unable to serve patients or other members of the public in their official language of choice;**

6. **THAT the institution ensure that the content of its contingency plan is accessible in multiple formats so that its employees may easily view and consult it as needed;**
7. **THAT the institution:**
 - continue to conduct** regular random checks to ensure that its employees and visiting healthcare professionals at all service points are complying with the *Official Languages Act* of New Brunswick at all times; and
 - develop and adopt** a strategy for addressing this issue should the outcomes of its random checks continue to reveal failure to comply with making the active offer of service.

Complaint

The details of the complainant's allegations are as follows:

The complainant went to Edmundston Regional Hospital on March 5, 2024, for an appointment in the imaging department. According to the complainant, the incident occurred in the emergency room as well as at the magnetic resonance imaging (MRI) appointment. The complainant stated:

[Translation]

The magnetic resonance technologist was unilingual Anglophone. Her instructions were in English only during the test other than a pre-recorded message telling us when to take deep breaths. She indicated during our conversation that if she had not come from Calgary, all MRI tests in Edmundston that week would have been cancelled due to a shortage of staff. No bilingual or French-speaking technologists were available. The technologist informed me that this was her fourth time in Edmundston since September.

Abbreviations and Terms Used

OCOL	Office of the Commissioner of Official Languages
The hospital	Edmundston Regional Hospital
The institution	Vitalité Health Network
OLA	<i>Official Languages Act</i> of New Brunswick

Investigation

Alternative resolution attempt

After the complaint was filed on March 5, 2024, the OCOL decided to proceed via its alternative complaint resolution process, pursuant to subsection 43(10.1) of the OLA. This provision simplifies the complaint process while allowing for the quick and effective resolution of the issue.

The OCOL issued an alternative resolution letter dated March 31, 2024, informing the institution of the complaint. This letter invited the institution to communicate with the OCOL if it denied the allegations or required additional information. If the institution acknowledged that violations of the OLA had occurred, the OCOL asked that it confirm in writing the steps it had taken or would be taking to comply with the requirements of the OLA and avoid a recurrence of this type of incident.

To resolve the situation, the OCOL proposed the following measures:

- that your institution remind its providers of visiting staff of its obligations under the OLA so that all members of both official linguistic communities receive service of equal quality in both official languages;
- that your institution remind visiting staff and all employees of the procedures to follow if they are unable to respond to members of the public in their official language of choice;
- that your institution continue to conduct random checks of its employees and visiting staff concerning the active offer and continuity of service for all members of both official linguistic communities at all times without undue delay.

In its response dated May 28, 2024, the institution shared the following:

[Translation]

Further to your letter dated March 31, 2024, Vitalité Health Network has followed up regarding the above-mentioned complaint.

It is true that this service was forced to act quickly and call in an external resource. However, our language of service obligations do remain the same, regardless of the situation. In this regard:

- *The manager of the service in question has reiterated the usual procedure to employees (regular employees or employees from an external provider).*
- *A reminder will also be sent to external staffing agencies.*
- *We are continuing to conduct random checks of the active offer.*

Thank you for bringing this matter to our attention and for helping us improve the quality of services offered by Vitalité Health Network.

Investigation under subsection 43(13) of the OLA

After receiving the institution's response, the OCOL decided to proceed with an investigation under subsection 43(13) of the *Official Languages Act* of New Brunswick (OLA), as the institution's responses did not provide enough detail.

In a notice of investigation dated September 5, 2024, to the president and CEO of Vitalité Health Network, the Commissioner stated the following:

[Translation]

Although your response of May 28, 2024, indicated you were implementing the measures we proposed in our alternative resolution letter of March 31, 2024, the OCOL is of the opinion that the letter is not sufficiently detailed for us to ascertain whether the measures taken by your institution are sufficient to prevent this type of incident from recurring. We consequently ask that you reassess your response to provide additional details as to how your institution handled the situation that was brought to your attention.

In the notice of investigation, the institution was asked to inform the OCOL of its assessment of the facts concerning the allegations made by the complainant, provide any additional information that may be useful in this matter and answer a series of questions.

Response from the institution

On October 15, 2024, the institution sent its response to the OCOL. However, no assessment of the facts was included.

The institution's response concluded as follows:

[Translation]

Thank you again for bringing this matter to our attention and for helping us improve the quality of services offered by Vitalité Health Network.

Analysis

Relevant provisions of the OLA in this matter are as follows:

COMMUNICATION WITH THE PUBLIC

Communications with government and its institutions

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.

Obligations of institutions

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.

Services provided by third parties

30 When the Province or an institution engages a third party to provide a service on its behalf, the Province or the institution, as the case may be, is responsible for ensuring that its obligations under sections 27 to 29 are met by the third party.

COMMUNICATION AVEC LE PUBLIC

Communication avec le gouvernement et ses institutions

27 Le public a le droit de communiquer avec toute institution et d'en recevoir les services dans la langue officielle de son choix.

Obligation des institutions

28 Il incombe aux institutions de veiller à ce que le public puisse communiquer avec elles et en recevoir les services dans la langue officielle de son choix.

28.1 Il incombe aux institutions de veiller à ce que les mesures voulues soient prises pour informer le public que leurs services lui sont offerts dans la langue officielle de son choix.

Prestation de services pour le compte de la province

30 Si elle fait appel à un tiers afin qu'il fournisse des services pour son compte, la province ou une institution, le cas échéant, est chargée de veiller à ce qu'il honore les obligations que lui imposent les articles 27 à 29.

The complainant alleges that they did not receive service in French when they went to the emergency department at Edmundston Regional Hospital or at their magnetic resonance imaging (MRI) appointment. The situation of fact reported by the complainant is not denied by the institution.

The questions asked by the Office of the Commissioner of Official Languages (OCOL) in the notice of investigation covered several points, including compliance with the OLA, providers of visiting

healthcare staff, the contingency plan for employees, regular official languages checks and equal quality of service.

After examining the institution's responses to the questions asked by the OCOL in the notice of investigation, the OCOL finds that the complaint is **founded**.

Language of work and language of service

There are two health networks in New Brunswick: Vitalité and Horizon. Each network has an internal language of operation (French for Vitalité and English for Horizon). This is what is called the "language of work."

Although the regional health authorities established under the *Regional Health Authorities Act* may determine an official language for the daily operations of the healthcare establishments, facilities and programs under their jurisdiction, as set out under sections 33 and 34 of the OLA, they are still required to comply with sections 27 to 28.1 and section 30 of the OLA. Under the *Regional Health Authorities Act* and the OLA, each network must ensure that members of the public receive health services in their official language of choice at all times. This is what is called the "language of service."

Compliance with the OLA

The obligations imposed by the OLA are clear: the institution must be able to communicate with the public and offer its services to members of the public in both official languages. Furthermore, the institution must inform members of the public on first contact that its services are available in both official languages. In other words, members of the public should not have to request service in either official language, as both languages should already have been offered by the institution's employees. This is what is called the "active offer of service."

The active offer of service in both official languages is extremely important, because if the offer is made in only one language, it is often unlikely that members of the public who wish to be served in the other official language will assert their language rights. Instead, they tend to accept being served in the language the employee uses to greet them. That is why a greeting such as "Hello/Bonjour" is so important, as it invites members of the public to use either of the two official languages when communicating with or receiving service from a government institution.

[Translation]

The concept of the active offer is therefore fundamental, and it is central to the purpose of language rights: ensuring respect for the individuals within a society and the equal status, rights and privileges of the English and French languages and linguistic communities.

Michel Doucet, *Les droits linguistiques au Nouveau-Brunswick*
[*Language rights in New Brunswick*], 2017.

The term “active offer” is clearly defined in the following section of the OLA:

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.

28.1 Il incombe aux institutions de veiller à ce que les mesures voulues soient prises pour informer le public que leurs services lui sont offerts dans la langue officielle de son choix.

The purpose of the active offer of service is to determine the official language of choice of members of the public, which, once established, must be respected. This is what is called “continuity of service.” If an institution fails to maintain continuity of service, then there is a chance that the public will accept being served in the language used by the institution’s employee, which is contrary to obligations under the OLA. In some cases, this may force members of the public to assert their language rights.

The complainant did not indicate whether they received an active offer of service in both official languages at their appointment at Edmundston Regional Hospital. However, unless the institution indicates otherwise, during the conversation with the magnetic resonance technologist in English only, the technologist indicated that

[translation]

if she had not come from Calgary, all MRI tests in Edmundston that week would have been cancelled due to a shortage of staff. No bilingual or French-speaking technologists were available.

The OCOL can only assume that the complainant indicated their choice to be served in French. However, continuity of service in their language was not respected. According to the OCOL, this situation goes against the institution’s linguistic obligations under the OLA, as service of equal quality must be available in both official languages at all times without undue delay. However, according to the complainant, this did not occur.

The OCOL therefore asked the institution the following question:

[Translation]

In your opinion, what caused the situation that occurred on March 5, 2024, as reported by the complainant?

The institution provided the following response:

[Translation]

Increasing staff shortages have forced the department to rely on visiting healthcare professionals to avoid service interruptions.

The OLA makes no exceptions for special circumstances; an institution governed by the OLA must be able to uphold its linguistic obligations at all times regardless of unforeseen circumstances. Although the institution stated that it is experiencing “staff shortages,” it is the institution’s responsibility to use all possible means to ensure that all its services are available in both official languages. Members of the public should not have to switch and use an official language other than their language of choice.

As indicated above, in its response to the OCOL’s alternative resolution letter, the institution stated:

[Translation]

It is true that this service was forced to act quickly and call in an external resource. However, our language of service obligations do remain the same, regardless of the situation.

(Emphasis added)

This response indicates to the OCOL that the institution is well aware of its linguistic obligations, but there appears to be a discrepancy between this assertion by the institution and the situation the complainant experienced. Despite the fact that the technologist indicated that there were no bilingual technologists and that the appointments would have been cancelled had she not been there, the situation at issue could have been avoided had the technologist followed (or been aware of) the institution’s instructions to ensure equal service in both official languages.

The OCOL then asked the following question:

[Translation]

What specific measures has your institution put in place since our alternative resolution letter on March 31, 2024, to prevent the situation brought to your attention from recurring and to ensure that your institution complies with all its linguistic obligations under the OLA at all times without undue delay?

The institution responded as follows:

[Translation]

- *The manager of the service in question has reiterated the usual procedure to employees (regular employees or employees from an external provider).*

- *The Vice-President of Risk Management and Financial Services has sent a reminder to external staffing agencies.*

At this point, the OCOL makes the following recommendations to ensure that employees and visiting healthcare professionals continue to comply with the institution's linguistic obligations:

Recommendation No. 1:

The Office of the Commissioner recommends that the institution continue to regularly remind all employees, visiting healthcare professionals and providers of its linguistic obligations under the *Official Languages Act* and of its official language policies and procedures to ensure that service of equal quality is available in both official languages for all services, without undue delay.

Recommendation No. 2:

The Office of the Commissioner recommends that, in particular, the institution regularly remind all employees and visiting healthcare professionals of the importance of making an active offer of service in both official languages and maintaining the continuity of service in the language of choice of all members of the public.

Providers of visiting healthcare professionals

In its response, the institution indicated that it had to use providers of visiting healthcare professionals to [*translation*] "avoid service interruptions." The healthcare sector in the province, across the country and internationally is facing a labour shortage that impacts day-to-day operations at healthcare facilities. In the previous section, the OCOL indicated that despite the challenges caused by a shortage of staff, government institutions must, under the OLA, provide service of equal quality in both official languages regardless.

Section 30 of the OLA highlights the importance of the responsibility of institutions in relation to services provided through third parties:

30 When the Province or an institution engages a third party to provide a service on its behalf, the Province or the institution, as the case may be, is responsible for ensuring that its obligations under sections 27 to 29 are met by the third party.

30 Si elle fait appel à un tiers afin qu'il fournisse des services pour son compte, la province ou une institution, le cas échéant, est chargée de veiller à ce qu'il honore les obligations que lui imposent les articles 27 à 29.

The OCOL asked the following question regarding the institution's service providers:

[Translation]

How did you inform your providers of visiting healthcare professionals about your institution's linguistic obligations?

The institution offered this explanation:

[Translation]

The Vice-President of Risk Management and Financial Services has sent a reminder to providers of visiting healthcare professionals. An internal memo will also be shared with all Network managers as well as providers of visiting healthcare professionals. This memo will specify our official language obligations and the procedure to follow regarding the active offer and services in the public's language of choice. We are also exploring the possibility of incorporating clauses outlining our official language obligations under law into our contracts with providers of visiting healthcare professionals.

The OCOL is somewhat surprised that the institution does not already include its linguistic obligations in contracts with service providers. It is also surprising that the institution, whose language of work is French, does not consider the issue of official languages to be a priority when awarding contracts to service providers. While the OCOL acknowledges that in today's healthcare landscape, the institution is sometimes obliged to meet its requirements through use of third-party service providers, it must not do so at the expense of its linguistic obligations.

The OCOL therefore makes the following recommendation:

Recommendation No. 3:

The Office of the Commissioner recommends that, in the future, the institution ensure that its legislative official language obligations are clearly stated in all contracts with service providers, as is the case for other government institutions.

While the OCOL is aware that the institution is already making efforts to recruit bilingual healthcare professionals, it offers the following recommendation to support the institution:

Recommendation No. 4:

The Office of the Commissioner recommends that the institution continue its efforts to recruit bilingual healthcare professionals and develop a substantive bilingual staff recruitment plan and timetable for identifying new talent pools of healthcare professionals here and elsewhere to immediately correct deficiencies in the provision of services of equal quality in both official languages at Edmundston Regional Hospital and all its other healthcare facilities.

To gain a better understanding of the relationship between the institution and its service providers, the OCOL asked the following question concerning visiting healthcare professionals and the institution's linguistic obligations:

[*Translation*]

Who is responsible for informing visiting healthcare professionals of your institution's linguistic obligations? Please elaborate.

The institution replied as follows:

[*Translation*]

Based on our contractual relationship with providers of visiting healthcare professionals, it is up to these providers to convey the applicable legislative requirements. Managers also regularly communicate these requirements to all members of their teams.

As this situation demonstrates, it is essential that all visiting healthcare professionals from across Canada and elsewhere be informed of the importance of the institution's linguistic obligations and why they exist. These persons may not be aware of New Brunswick's status as an officially bilingual province and, consequently, of the OLA provisions that guarantee service of equal quality in both official languages without undue delay.

The OCOL is of the opinion that under section 30, the institution is first and foremost responsible for ensuring that the service provider and the visiting healthcare professionals are aware of their linguistic obligations. The OCOL adds that regular reminders to visiting healthcare professionals on the part of the service provider and the institution's managers can only be helpful in guiding them. However, the OCOL cautions the institution that it should not rely solely on its provider to issue these reminders. The responsibility rests with the institution to ensure the substantive equality of the two official languages and, in this case, to ensure that its third party complies with the linguistic obligations of the institution on whose behalf it provides services.

Contingency plan

To be deemed compliant with the OLA, an institution must offer services of equal quality in both official languages, at all times and without undue delay. When a member of the public, whether a patient or another member of the public, expresses their choice of official language in response to the active offer, the institution must take the necessary measures to ensure that the person can communicate with the institution and receive services in that language—that is, to maintain the continuity of service. Since institutions may use a team approach to offer their services in both official languages, an important aspect of this is the contingency plan—an alternative procedure whereby unilingual employees can ensure service is provided in the other official

language by requesting the assistance of a colleague who has the language proficiency required to provide the service.

In its notice of investigation, the OCOL asked this question:

[Translation]

Please outline the procedures in the contingency plan for visiting healthcare professionals, as well as your other employees, to ensure that all members of the public can receive services in their official language of choice.

The institution replied as follows:

[Translation]

All employees, including visiting healthcare professionals, are required to make the active offer at all service points to maintain respect for the public's language of choice.

The procedure is as follows: Always greet members of the public in both official languages using a bilingual greeting (i.e. part of the greeting being in each language).

- Continue the conversation in the person's official language of choice.*
- If you are not proficient in the language chosen, request assistance from a colleague who is fluent in the member of the public's language of choice.*

However, the complainant indicated that she was not served at all in French either in the emergency department or at her appointment in the imaging department. Moreover, the magnetic resonance technologist, a visiting healthcare professional, advised the complainant in English that if she had not come from Calgary, no appointments would have taken place in that department that week. This situation shows either that the magnetic resonance technologist was unaware of the institution's linguistic obligations or that she simply ignored or had forgotten about them.

As mentioned above, to fully comply with the institution's linguistic obligations, the visiting technologist should have made an active offer of service in both official languages to the complainant, who would then have requested service in French. The visiting technologist, upon hearing the complainant's response, should have said, "Un moment s'il vous plaît" and sought out "assistance from a colleague who is fluent in the member of the public's language of choice." This is not what happened. Instead, the visiting technologist continued speaking with the complainant in English and even told her that no "bilingual or French-speaking technologists were available." However, based on the institution's responses, this is not its official languages procedure.

Additionally, in the OCOL's opinion, stating that no bilingual colleagues were available is contrary to the Official Languages – Language of Service Policy and Guidelines¹ of the Government of New Brunswick:

Under no circumstances should an employee apologize for a lack of language skills or enter into a conversation with a client in the language not chosen by the client.

.....
If the employee extending the active offer of service is unable to serve the client in the language chosen, the employee should say “Un moment, s’il vous plaît” or “One moment please” depending on the language used by the client and immediately request that an employee with the required language skills serve the client. An employee should not proceed to serve the client in the language not chosen by the client.

It is important to note that the language of choice refers to the client's language of choice and not the employee's language of choice.

This situation demonstrates a fundamental need for the institution to remind all employees, including visiting healthcare professionals, of its official languages' procedures on an ongoing basis. Since the OCOL is unable to ascertain whether the visiting technologist was aware of the procedure or whether she simply ignored or had forgotten it, the OCOL again recommends that the institution officially develop a clear, specific contingency plan in writing and that this contingency plan be made readily available to all internal and visiting employees.

In a previous investigation report from March 2024 (file number 23-24-052),² the institution informed the OCOL as follows:

[Translation]

As explained in the follow-up to a previous complaint, Vitalité Health Network does not have a contingency plan because resources are adequate for providing service in the public's language of choice.

In the present case, the institution's response does not indicate that the procedure to which it refers is a written document. Despite the institution's assurance that it has adequate resources to provide service in both official languages, in both the previous case and this one, the complainants did not receive service in their language of choice. The OCOL is of the opinion that in instances where resources are inadequate, the contingency plan could be a support for employees and visiting healthcare professionals who lack the language proficiency to provide service directly in a member of the public's language of choice.

¹ <https://www.gnb.ca/en/org/languages/service.html>

² Unpublished report.

Based on the OCOL's experience in dealing with previous complaints, an accessible contingency plan in writing is a tangible tool that reminds all employees of the procedures in place. Employees must understand the contingency plan, and it must be available in clearly identified locations so that employees can easily locate and follow it. It serves as a reference that employees can go to and consult. The contingency plan may be printed for individual use, stored in a location shared among multiple employees or even made available on a shared computer network. The OCOL believes that having a contingency plan in writing can help avoid omissions and oversights (human error) when providing service.

Although the institution stated that an internal memo on its procedures has been distributed to managers and providers, it did not indicate whether this memo has also been shared with all its employees and visiting healthcare professionals. The visiting healthcare professionals may not always be the same individuals, and they may not always be aware of the procedures to be followed. Managers may also not always be available to prompt employees and visiting healthcare professionals with reminders. In the OCOL's opinion, having a contingency plan in writing would help mitigate situations where employees or visiting healthcare professionals are not proficient in a second official language.

The OCOL therefore reiterates the following two recommendations from a previous investigation report³ directed at the institution:

Recommendation No. 5:

The Office of the Commissioner recommends that the institution immediately draw up a contingency plan detailing the process to be followed by its staff members who are unable to serve patients or other members of the public in their official language of choice.

Recommendation No. 6:

The Office of the Commissioner recommends that the institution ensure that the content of its contingency plan is accessible in multiple formats so that its employees may easily view and consult it as needed.

Random checks and employees

According to the institution's responses to the OCOL's alternative resolution letter, the institution conducts random checks to ensure that employees are respecting the language rights of patients and other members of the public.

The OCOL asked the following question:

³ Ibid.

[Translation]

How do you follow up with managers to ensure that your staff can offer service of equal quality in the two official languages at all times based on the linguistic profiles of all departments at all healthcare facilities under your authority? Please specify.

The institution stated as follows:

[Translation]

Managers are regularly reminded and made aware of the Network's official language obligations; there is also a training module outlining the main principles applicable in this regard. In practice on the front lines, operational constraints and staff shortages result in teams comprised of diverse employees with varying language skills that are able to provide services in either official language as required. Bilingualism refers to the proficiency level of the team as a whole, and this solution has a clearly defined procedure for ensuring employees have fast access to the support of another team member on site in order to offer services of equal quality in both official languages.

However, in order for bilingualism at the team level to work properly, internal and visiting employees must be aware of and follow the procedures. In this situation, official languages procedures were not followed. The institution needs to intensify its efforts to ensure that all employees, both internal and visiting, are aware of and follow these procedures to provide all members of the public with service of equal quality in the official language of their choice. The OCOL therefore recommends that the institution continue its random checks for compliance with its linguistic obligations to ensure that its employees are providing service of equal quality at all times in the official language of choice of all members of the public:

Recommendation No. 7:

The Office of the Commissioner recommends that the institution:

continue to conduct regular random checks to ensure that its employees and visiting healthcare professionals at all service points are complying with the *Official Languages Act* of New Brunswick at all times; and

develop and adopt a strategy for addressing this issue should the outcomes of its random checks continue to reveal failure to comply with making the active offer of service.

Equal quality of service

In *R. v. Beaulac*, [1999] 1 SCR 768, the Supreme Court of Canada clearly indicated as follows:

39 [. . .] *in the context of institutional bilingualism, an application for service in the language of the official minority language group must not be treated as though there was one primary official language and a duty to accommodate with regard to the use of the other official language. The governing principle is that of the equality of both official languages.*

The OCOL notes that the institution is not respecting the equality of New Brunswick's two official linguistic communities if it does not insist that its service providers and visiting healthcare professionals meet all of its official languages requirements.

Although the complaint is founded and the OCOL has issued the above recommendations concerning the contingency plan among other aspects, the OCOL notes that the institution clearly understands its linguistic obligations under the OLA.

Lastly, the institution's responses show that it has implemented, or will be implementing, the necessary measures to ensure compliance with its obligations under the OLA. Additionally, the institution has confirmed having already taken corrective measures such as reminding employees, visiting healthcare professionals and service providers of the proper procedure to follow to effectively serve members of the public in the official language of their choice.

Conclusion and Recommendations

The investigation of the Office of the Commissioner of Official Languages made it possible to establish that, for the reasons stated in this report, the complaint is **founded** and Vitalité Health Network failed to meet its obligations under the *Official Languages Act* of New Brunswick (OLA).

Having established that the complaint is founded, the Commissioner makes the following recommendations:

1. **THAT the institution continue to regularly remind all employees, visiting healthcare professionals and providers of its linguistic obligations under the *Official Languages Act* and of its official language policies and procedures to ensure that service of equal quality is available in both official languages for all services, without undue delay;**
2. **THAT, in particular, the institution regularly remind all employees and visiting healthcare professionals of the importance of making an active offer of service in both official languages and maintaining the continuity of service in the language of choice of all members of the public;**
3. **THAT, in the future, the institution ensure that its legislative official language obligations are clearly stated in all contracts with service providers, as is the case for other government institutions;**
4. **THAT the institution continue its efforts to recruit bilingual healthcare professionals and develop a substantive bilingual staff recruitment plan and timetable for identifying new talent pools of healthcare professionals here and elsewhere to immediately correct deficiencies in the provision of services of equal quality in both official languages at Edmundston Regional Hospital and all its other healthcare facilities;**
5. **THAT the institution immediately draw up a contingency plan detailing the process to be followed by its staff members who are unable to serve patients or other members of the public in their official language of choice;**
6. **THAT the institution ensure that the content of its contingency plan is accessible in multiple formats so that its employees may easily view and consult it as needed;**
7. **THAT the institution:**

continue to conduct regular random checks to ensure that its employees and visiting healthcare professionals at all service points are complying with the *Official Languages Act* of New Brunswick at all times; and

develop and adopt a strategy for addressing this issue should the outcomes of its random checks continue to reveal failure to comply with making the active offer of service.

The Office of the Commissioner would like to thank the institution for its cooperation during the course of this investigation.

Pursuant to subsection 43(16) of the OLA, we submit this report to the President and Chief Executive Officer of Vitalité Health Network, the complainant and the Premier. We also submit it to the Clerk of the Executive Council and to the Executive Director of the Secretariat of Official Languages.

Pursuant to subsection 43(18) of the OLA, if the complainant is dissatisfied with the conclusions presented following this investigation, they may apply to the Court of King's Bench of New Brunswick for a remedy.

Shirley C. MacLean, K.C.
Commissioner of Official Languages for New Brunswick

Signed at the City of Fredericton,
Province of New Brunswick
March 5, 2025