

Annual Report

Office of the Commissioner
of Official Languages

2023
2024

OFFICE OF THE COMMISSIONER
OF OFFICIAL LANGUAGES
FOR NEW BRUNSWICK



COMMISSARIAT AUX
LANGUES OFFICIELLES DU
NOUVEAU-BRUNSWICK

2023-2024 Annual Report

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ANNUAL REPORT

Office of the Commissioner of
Official Languages
for New Brunswick

2023-2024



**Protecting and
promoting New Brunswickers'
language rights**



January 2025

Hon. Francine Landry
Speaker of the Legislative Assembly

Mrs. Speaker,

Pursuant to subsection 43(21) of the *Official Languages Act*, I am pleased to submit the report with respect to the activities of the Office of the Commissioner of Official Languages for New Brunswick for the period from April 1, 2023, to March 31, 2024.

Should members of the Procedure, Privileges, and Legislative Officers Committee wish that I appear before them to answer any questions related to our report, we would be pleased to accommodate them at their earliest convenience.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'S. MacLean'.

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



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FOREWORD

New Brunswick: Canada's only officially bilingual province

The Constitution of Canada states that English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the Legislature and the Government of New Brunswick.

The Official Languages Act

The *Official Languages Act* (OLA) of New Brunswick requires the following institutions and organizations to offer and provide their services in both official languages:

- institutions of the Legislative Assembly and the Government of New Brunswick;
- provincial departments;
- regional health authorities and hospitals;
- Crown corporations (e.g., NB Power, Service New Brunswick);
- the province's courts;
- policing services;
- any board, commission or council, or any other body or office established to perform a governmental function; and
- professional associations that regulate a profession in New Brunswick.

In addition, the OLA imposes linguistic obligations on the following:

- cities (Bathurst, Campbellton, Dieppe, Edmundston, Fredericton, Miramichi, Moncton, and Saint John);
- municipalities with an official language minority of at least 20% of the population; and
- Regional Service Commissions 1, 2, 3, 5, 6, 7, 9, and 11.

Exceptions

It should be noted that the OLA does not apply to distinct educational institutions or distinct cultural institutions. School districts, public schools, community centres, community colleges, and universities do not have to offer services in both official languages. Moreover, the OLA does not apply to the English and French sections of the Department of Education and Early Childhood Development.

Private sector

The OLA does not apply to private sector enterprises, except in cases where they offer services to the public on behalf of a public body that has obligations under the OLA.

Active offer

Institutions and organizations with obligations under the OLA have an obligation to inform citizens that their services are available in both official languages. To do so, staff must greet members of the public and answer the telephone in both official languages. It is not up to citizens to request services in their language, it is the institution's obligation to make that offer. The active offer must also be provided through bilingual signage.

The position of the Commissioner of Official Languages

The OLA established the position of Commissioner of Official Languages in 2002.

In November 2019, Shirley MacLean was appointed to the position. Her mandate began in January 2020. She became the third person to hold the position.

The Commissioner has a dual mission: to investigate and make recommendations with respect to compliance with the *Act*, and to promote the advancement of both official languages in the province.

The Commissioner of Official Languages is an officer of the Legislative Assembly and is independent of government.

Annual report

The OLA provides that the Commissioner must prepare and submit to the Legislative Assembly an annual report with respect to the activities of the Office of the Commissioner of Official Languages for New Brunswick. This report provides a description of the activities carried out between April 1, 2023, and March 31, 2024.



COMMISSIONER'S MESSAGE

Official Language: New Opportunities?

I am writing this year's Commissioner's Message just days following our provincial election and although this Annual Report covers the period from April 1, 2023, to March 31, 2024, the recent election results are certainly what is currently making headlines in our province right now. Change is in the air!

I must take the opportunity to remind all of us that the Premier of New Brunswick is the person who is responsible for the application of the *Official Languages Act* and as the Commissioner of Official Languages it is my role to ensure the obligations pursuant to the *Official Languages Act* are respected.

Last year, when I wrote my message, the amendments to the *Official Languages Act* in the context of the 10-year review of the *Act* had just been implemented. At that time, I pointed out that I had consistently stated when speaking to the review process, that any amendments made to the *Act* must ensure that there is real progress towards the equality of New Brunswick's two official languages and our two official linguistic communities. One of the main mechanisms that has been able to effect this real progress over the history of the *Official Languages Act*, has been amendments to that legislation through ongoing review processes.

Unfortunately, apart from the creation of the Secretariat of Official Languages, the most recent review process for the OLA was an opportunity missed. In effect, this meant it was a step backwards for language rights in this province, and especially for our francophone linguistic minority. The input of hundreds of individuals and groups to the review process, and the resulting recommendations of Commissioners McLaughlin and Finn were almost completely ignored.

I therefore call on Premier Holt to take the opportunity to reverse this lack of action and adopt further recommendations that were contained in the Finn-McLaughlin Report so that once again we can see what New Brunswickers have observed with each review of the OLA: meaningful amendments that will bring us ever closer to the true equality of our two linguistic communities.

This does not mean re-opening the review process. The work has already been done – I ask the new government to implement some of these positive measures which were recommended in the Finn-McLaughlin Report.

Lack of equality in healthcare services to francophones

In the 2023-2024 fiscal year, which is the focus of this report, I felt compelled to issue a press release as a result of numerous complaints my office received about the eVisitNB platform. As many of us know, eVisitNB is what many New Brunswickers use if they need to access health care. Many New Brunswickers do not have a family doctor or a Nurse Practitioner and the eVisitNB platform is the sole manner by which they can access healthcare services without going directly to an emergency room. I published the title of both the French and English versions of the press release in English: “I am not able to understand your request well enough to provide treatment.” This was intentional on my part as a reflection of how very disturbing I found the complaints. They all described situations where francophones used the platform to request healthcare services and were told that their requests could not be understood enough to be provided the services. One complainant was questioned whether they were sure if they wanted to continue in French, as it may lead to a longer wait time! In another case a complainant was required to proceed in English to obtain services. In all cases, the complainants did not receive the health services they requested in the language of their choice, French. This is not acceptable.

The eVisitNB platform is provided by eVisitNB Inc., a private company that provides services on behalf of the Department of Health. As such, they are a third party under section 30 of the *Act* which means they essentially step into the shoes of the Department of Health and have the same official language obligations. I have been following up on the implementation of my recommendations and I am unsatisfied with the seeming lack of engagement of the Department of Health to rectify the issues that contribute to the ongoing breaches of official language obligations demonstrated on the eVisitNB platform.

In a time where there is an increasing lack of access to primary health care and alternatives are being sought, decision makers oftenturn to technology to find solutions. When these solutions are created, government departments must respect the obligations under the *Official Languages Act*. In the case of the eVisitNB platform, the Department of Health did not do this and is continuing to disrespect these obligations.

The Supreme Court of Canada in *R v Beaulac* 1999 CanLII 684 clearly set out that administrative inconvenience is not a relevant factor when providing services,

“...the existence of language rights requires that the government comply with the provisions of the Act by maintaining a proper institutional infrastructure and providing services in both official languages on an equal basis. As mentioned earlier, 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.”

Our office continues to manage complaints from both official language communities, but our complaints relate mainly to lack of provision to services in French.

Again, our investigations revealed a lack of provision of services across many sectors. In most cases, the institutions concerned work with us to remedy specific issues and to take steps to avoid reoccurrence of the same problem.

Promotion: Hello, Bonjour

There are times when being the Commissioner of Official Languages is so much fun! For instance, in February 2024, we launched a promotional campaign and contest for schools called “Hello, Bonjour – Stories of Language / Histoires de langues.”

For this campaign, we created two interactive online games for students in grades 4 to 5 and grades 6 to 7 where they learned about official languages in New Brunswick and Canada by playing the games. In addition, we were able to obtain funding to offer five students from each of the two groups the chance to win a laptop by sending us a creative project telling us what they learned using the game. The response from students was amazing and we received texts, poems, artwork, music, and raps. My team and I launched the promotion in a number of schools across the province and we received an overwhelming welcome from these schools, their teachers and the students themselves.

We recorded some testimonials from students and teachers expressing their appreciation for the promotion. We are hoping to be able to continue the promotion this year. I truly believe that education is the key to understanding each other and with this promotion we were able to put this belief into reality!

Promotion: Two Official Languages, One Heart

We also created another promotional campaign: “Two Official Languages, One Heart.” I wanted to create a public promotion sending a positive message that as New Brunswickers we are all very similar and our two official languages are just part of who we are.

Social media is often used by a vocal minority to disseminate myths about any number of issues, and myths about our official languages sometimes form part of that. It is important to provide positive messaging around debunking these myths and supporting the majority of New Brunswickers who support bilingualism and official languages legislation. That promotional campaign included beautiful imaging of New Brunswick and New Brunswickers living their lives together.

When I look back on the last year as Commissioner I must question where we are when it comes to official languages. Yes, I am disappointed in the result of the process of the review of *the Official Languages Act*. However, I am hopeful as I write this message that we will continue to make progress to move the dial towards true equality of our two official linguistic communities. I will be continuing to put pressure on government institutions, especially in the public health sector, to ensure that the security of all New Brunswickers is protected, because when linguistic obligations are ignored or treated as an afterthought, the health and safety of an individual may be placed in danger. It is my responsibility to bring these issues to the forefront and I will continue to do so.

The background features several overlapping, wavy bands of color. From top to bottom, there is a light yellow band, a medium yellow band, a large orange band, a yellow band, and a light yellow band. The text is centered within the orange band.

LANGUAGE MATTERS



LANGUAGE MATTERS

Municipal Language Obligations

In 2002, when the Legislative Assembly adopted the new *Official Languages Act (OLA)*, linguistic obligations were established for all cities and municipalities with an official language minority of at least 20% of their total population.

The Office of the Commissioner would like to highlight that the OLA defines a municipality as being within the meaning of subsection 1(1) of the *Local Governance Act*.

There are currently 16 municipalities with linguistic obligations under the OLA. Those include the province's eight cities and the eight towns and villages that meet the official language minority population threshold.

The 16 municipalities with linguistic obligations must adopt and publish their by-laws and the minutes of municipal council meetings in both official languages. In addition, they must publish certain information and offer a range of services in both English and French. More details on the linguistic obligations of these municipalities can be found in Factsheet 5 – Municipal and regional services. This fact sheet, which has been updated since the municipal reform, can be found on the following pages of this report and on the website of the Office of the Commissioner: <https://officiallanguages.nb.ca/content/factsheet-5-municipal-and-regional-services/>.

Although the OLA requires that certain municipalities offer services in both official languages, there is no law preventing a municipality from adopting language policies to serve its citizens in the official language of their choice and to build bridges between the two official linguistic communities. In fact, under section 37 of the OLA, any municipality may declare itself bound by the obligations of the *Act*. The Office of the Commissioner encourages all initiatives that foster harmony between the two official linguistic communities and that contribute to achieving substantive equality.

However, it is also important to be aware that New Brunswick is facing a significant decline in the demographic weight of its Francophone population. Statistics show a worrying trend in the number of people who speak French as a first language and the use of French at home. There is an undeniable erosion of French in New Brunswick, and we must take steps to curb and reverse this decline.

As a result, some Francophone municipalities with no linguistic obligations under the OLA have decided to adopt language or signage policies to encourage the use and promotion of French.

The Office of the Commissioner received several complaints about these policies in the 2023–2024 fiscal year. However, since the municipalities targeted by these complaints were not subject to the OLA, there was no violation of language rights as defined in the Act, and they were therefore inadmissible.

Many municipalities in the province operate in English only, with unilingual services, traffic signs and more. As mentioned, while the Office of the Commissioner always encourages the adoption of policies aimed at serving both official linguistic communities, these municipalities are in no way violating rights under the OLA. The same applies to Francophone municipalities that choose to operate solely in French, with French-only services, traffic signs, etc. They are well within their rights to do so.

For there to be substantive equality of both official languages, neither may be treated as the primary language. In other words, the fact that one language is the majority in New Brunswick has no effect on the application of the OLA. While it may be surprising for Anglophone members of the public to see signs or other municipal communication in French only when in a Francophone community with no linguistic obligations, this is not a violation of their language rights. In fact, this is the reality for many Francophone members of the public who live in or travel to Anglophone communities.

In addition, it is important to note that even within municipalities with linguistic obligations, private companies have no linguistic obligations with respect to their services to members of the public or their public signage. It would not be a breach of the OLA for a municipality to decide to adopt a signage policy targeting private companies, but the Commissioner would have no right of oversight in that regard.

The following pages show Factsheet 5 – Municipal and regional services, updated in June 2024.

Your language rights in New Brunswick

A summary of your rights under the *Official Languages Act* of New Brunswick

FACTSHEET 5 - Municipal and regional services

Municipal services: what you need to know

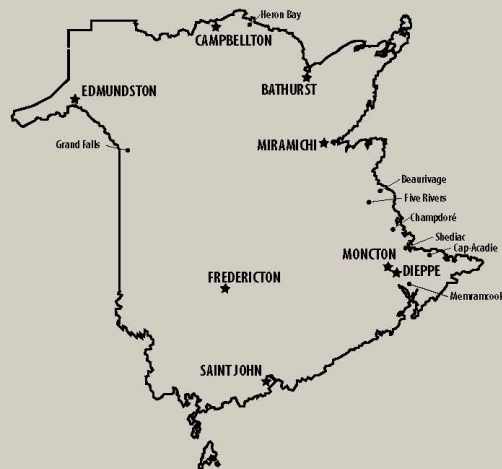
In New Brunswick, municipalities whose official language minority population represents at least 20% of its total population, and all cities have language obligations. Amendments to the *Local Governance Act* in 2023 created a new local governance structure which includes 77 local governments and 12 rural districts. Of these new entities, the following Towns and Villages have obligations pursuant to the *Official Languages Act*:

- Town of Beaurivage
- Town of Champdoré
- Town of Grand Falls
- Village of Memramcook
- Town of Cap-Acadie
- Village of Five Rivers
- Town of Heron Bay
- Town of Shediac

All cities, as well as the 8 towns and villages mentioned above must adopt and publish their by-laws and minutes of council proceedings in both official languages. They must also publish information and offer services in English and French, specifically:

- public notices of a general nature, including tender notifications, advertisements, public education material and council agendas
- websites
- building and facility signs
- traffic signs
- responses to public inquiries, whether verbal, written or electronic, including reception services, complaints and reported incidents
- invoices and responses to inquiries related to billing services
- tickets, warnings and public notices, information and responses to inquiries related to by-law enforcement services
- public notices, information and responses to inquiries related to:
 - recreational, leisure and cultural services
 - public works and utilities
 - public transit services
- licences, licence applications and public notices, information and responses to inquiries related to municipal licensing services
- inspection services, permits, permit applications and public notices, information and responses to inquiries related to building inspection services
- public notices, information, educational programs and responses to inquiries related to crime prevention services and fire prevention services
- public notices, information and responses to inquiries related to community planning and development services and services related to the administration of the *Community Planning Act*

All New Brunswick's cities, as well as 8 towns and villages have language obligations.



Answers to your questions

Since when do cities and some other municipalities have language obligations?

In 2002, the New Brunswick Legislative Assembly adopted a new official languages act. This act established language obligations for all cities, as well as for municipalities whose official language minority population represents at least 20% of its total population.

Regional services: what you need to know

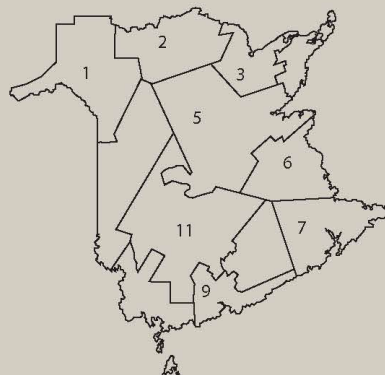
Eight of the twelve Regional Service Commissions* (see map) must offer the following services and communications in both official languages:

- All public notices of a general nature, tender notifications, advertisements and public education material, information on building and facility signs
- Agendas and minutes of regular and special meetings of a regional service commission
- Responses to public inquiries, whether verbal, written or electronic, including reception services, complaints and reported incidents
- Invoices and responses to inquiries related to billing services

*Regional Service Commissions that have language obligations are:

- those serving an area with an official language minority population of at least 20% of its total population,
- those whose area includes a city,
- those whose area includes a municipality with an official language minority population of at least 20% of its total population.

Eight of the twelve Regional Service Commissions have language obligations.



Northwest Regional Service Commission (1)
Restigouche Regional Service Commission (2)
Chaleur Regional Service Commission (3)
Greater Miramichi Regional Service Commission (5)
Kent Regional Service Commission (6)
Southeast Regional Service Commission (7)
Fundy Regional Service Commission (9)
Capital Regional Service Commission (11)

If your rights are not respected...

There may be circumstances when public bodies do not respect your language rights. If that is the case, we invite you to contact us. Filing a complaint is easy, and the investigations we conduct help improve the quality of bilingual services. To learn more, simply click on this [link](#).

How to contact us

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LANGUAGE MATTERS

Technology and Official Languages

Technology is playing an increasingly important role in people’s daily lives around the world. In general, the evolution of technology has made a positive contribution to people’s quality of life and societal progress by streamlining everyday tasks and even offering new solutions to long-standing problems.

This has been our experience here in New Brunswick as we are receiving more and more government services through technology. Recent years have certainly seen great strides and major changes in the way in which the government delivers its services to the public.

The new technologies we use are often borrowed from or conceived elsewhere, but have the language rights specific to New Brunswick been overlooked in the process?

Technological progress is important, but it must not come at the expense of the constitutional rights of New Brunswickers to have access to services and communications of equal quality in the two official languages from the provincial government.

The last annual report, for fiscal year 2022–2023, set out a number of technology-related complaints. Since these complaints concerned issues such as the language displayed on a payment terminal, an institution’s online transaction identifiers and email addresses, the Office of the Commissioner made frequent use of the alternative complaint resolution process to ensure that the necessary corrections were made promptly. That said, these numerous complaints have nevertheless highlighted the fact that official languages and the equal status of the two official language communities have not always been considered when designing and deploying new systems.

In this respect, the issues surrounding technology and language rights are not limited to those raised above. In fact, numerous complaints investigated by the Office of the Commissioner during the 2023–2024 fiscal year illustrate the scope of this problem – specifically, those targeting the eVisitNB virtual consultation platform. This platform is intended to provide access to primary health care for those who do not have a family doctor or nurse practitioner. In fact, it is a solution proposed to the growing problem of the lack of, and the waiting list for, primary care providers.

The private company eVisitNB Inc. operates a virtual consultation platform on behalf of the Department of Health and, in so doing, acts as its third party under section 30 of the OLA. Accordingly, the services provided by eVisitNB must respect the linguistic rights of members of the public in New Brunswick.

Unfortunately, this was not the case in the complaints in question, and the investigations conducted by the Office of the Commissioner revealed that serious breaches of the OLA had been committed. In view of this worrying situation, the Commissioner deemed it appropriate to publish the investigation reports online and issue a press release publicly denouncing the violations.

In short, many Francophones were denied consultation services, via a message in English only, because they had submitted their request in French. Please see pages 34 to 36 of this report for summaries of the complaints and investigations.

Based on these investigations, the technology used by this platform was not designed taking language rights into consideration, and correcting the situation after the fact has clearly been challenging. There also appears to be a lack of understanding on the part of the institution or supplier as to linguistic obligations and the equality of the two official language communities. The solutions proposed by the institution in this regard impose additional steps for Francophone members of the public seeking to receive service in their preferred official language that Anglophone members of the public do not have to follow. Additionally, the onus is on members of the public to follow the instructions properly to access services in French, while the OLA clearly states that it is the institution's responsibility to ensure that members of the public are able to choose their preferred official language at all times.

The active offer of service is a key component in the delivery of services in both official languages regardless of whether this service is delivered in person, via telephone or email, or using other forms of technology.

The *Official Languages Act* takes precedence over nearly all other legislation in New Brunswick, and the preamble to the OLA explicitly refers to the provisions regarding New Brunswick's official languages in the *Canadian Charter of Rights and Freedoms*. Its importance cannot be overstated. The problems encountered with eVisitNB have shown just how difficult it can be to modify basic elements of a platform after the fact, but that does not whatsoever change the fact that corrections need to be made.

Language rights must therefore be made a priority when considering any new program, software or process for delivering services to the people of New Brunswick.

Translation and interpretation technology

Another aspect of technology and official languages that is increasingly raising questions is the use of translation software or devices. Generally speaking, technological advances in translation may be beneficial, but it is important to stress that under no circumstances can translation devices replace the in-person delivery of services in both official languages.

In fact, the Office of the Commissioner has ruled in previous investigations that an institution cannot use a translation device or interpretation system to fully meet its linguistic obligations. Under the rights granted by the OLA, neither official language may be treated as the primary language, and service in the other language may never be considered an accommodation.

The use of translation technology to provide service to a member of the public is, in itself, an accommodation and does not correspond to service of equal quality in the two official languages.

However, the use of translation technology is acceptable when a member of the public does not speak either official language. It is important to note that English and French are recognized as the two official languages of New Brunswick not only under the OLA but also under subsection 16(2) of the *Canadian Charter of Rights and Freedoms*. Accordingly, the use of translation technology in cases where members of the public speak neither French nor English does not constitute a violation of language rights under the OLA.

Additionally, according to *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*, the Francophone and Anglophone communities have equal status and equal rights and privileges. If either of the two official language communities obtains its services through translation software, the service is, in itself, an unequal service, and the equality of the official language communities is not respected.

But what about simultaneous interpretation?

First, the Office of the Commissioner wishes to point out that simultaneous interpretation ensures access to information in both official languages and that interpreters make a demonstrated, careful effort to remain faithful to the message in the original language. That said, the standard to be met when providing simultaneous interpretation is not perfection, as there is a certain margin for human error.

Regarding this point, the section of this report on summaries of actions taken by the Office of the Commissioner in response to complaints addresses cases in which the Commissioner ruled on the matter of the use of simultaneous interpretation.

In New Brunswick, simultaneous interpretation is used at certain events, notably press conferences, to communicate with both official language communities in their preferred official language.

That said, as stated above, substantive equality requires that neither official language be treated as the primary language and that the provision of services in the minority language never be considered an accommodation. While an institution may make use of simultaneous interpretation services to ensure that all information is conveyed in both official languages throughout the course of an event, it is therefore essential that the institution have spokespersons with the necessary language skills to convey its messages directly to both official language communities in their language of choice.

The use of simultaneous interpretation to communicate with one of the two linguistic communities is not a balanced use of the two official languages. In this case, the interpretation is instead an accommodation made toward one of the official language communities and is therefore a violation of rights under the OLA.

As for the Legislative Assembly, sections 6 and 7 of the OLA stipulate that English and French are the official languages of the Legislature and indicate that simultaneous interpretation of the debates and other proceedings of the Legislative Assembly shall be made available. These sections ensure that all persons have the right to use the official language of their choice during any debate or other proceeding of the Legislative Assembly or its committees while also upholding citizens' right to have access to these proceedings in their preferred official language.

In conclusion, although institutions may use technology with the best of intentions, close attention must be paid to the language rights of New Brunswickers from the very start of the design process in relation to any new program or system. Under no circumstances may an institution make use of technology to avoid its linguistic obligations pursuant to the *Official Languages Act* of New Brunswick.



LANGUAGE MATTERS

Youth and Bilingualism

Youth are the future: it's a well-known expression that has become even more relevant in view of the declining demographic weight of Francophones in New Brunswick. In fact, conversations around the renewal of the Francophone population have been gaining momentum throughout the province's Francophone community.

Statistics reveal worrying trends with regard to the use of the French language, and there is no doubt that young Francophones are increasingly speaking English amongst themselves at both school and home. It is important to recognize that the problem of the decline of French in New Brunswick was not created by today's youth, although they are experiencing the consequences and have inherited the responsibility to reverse these trends.

What is more, young people today face a completely different reality from previous generations, having grown up in the glare of social media and cutting-edge technologies at their fingertips. The long-term impact of social media on youth in general remains to be determined, but there is an added element of risk for Francophone youth, since English is predominant on social media and other technological platforms.

The popularity of out-of-province English-language television shows, movies and music has long been viewed as a factor contributing to assimilation. This is all the more true today with TikTok, Instagram, YouTube and other social media platforms as well as streaming services such as Netflix, Disney+, Spotify and Apple Music to name but a few. As a result, English is omnipresent in the lives of young Francophones, even in predominantly French-speaking communities. Anecdotally, it is easy to assert that young Francophones learn English faster and more readily than previous generations.

The *Official Languages Act* (OLA) was adopted in 1969. This means it has been 55 years since New Brunswick recognized English and French as official languages and language rights came into effect. Today's young people were born in an officially bilingual province with clearly defined language rights. In fact, most of their parents were also born after the OLA's adoption. The question then becomes, have the perception and recognition of language rights changed among both Francophone and Anglophone children?

There is a fear that young Francophones may take for granted the French language and their language rights, which exist thanks to the diligent efforts of previous generations. People may also be pessimistic about the idea of greater openness to official bilingualism among English-speaking youth.

That said, the experience of the Office of the Commissioner during the roll-out of the *Hello, Bonjour – Stories of Language* campaign in schools across the province brings hope. For more information on this initiative, please see the promotion section of this report on pages 77 to 81. To summarize, the Office of the Commissioner launched a promotional campaign to help students learn more about the concept of official languages and the requirements of the OLA in a fun way through use of interactive online games.

As part of the launch, the Commissioner and members of her team visited one school in every school district to present the interactive games to students. It is important to note that all students in grades 4 to 7 were invited to these presentations regardless of whether they were enrolled in a second-language program. The purpose of these games is not to learn the other official language but rather to learn more about the language rights that apply to all New Brunswickers.

Since the games are in question-and-answer format, demonstrating them was primarily an interactive exercise with the students. Each question was asked aloud, and students raised their hands if they wanted to try to answer.

Student participation was excellent! At every school we visited, Anglophone or Francophone, rural or urban, we saw a high level of participation and student engagement. The Office of the Commissioner team was wowed by young people's interest in taking part in the conversation and learning about official languages. What was even more remarkable was the students' knowledge about official languages.

Students and teachers at each school visited were also invited to take part in video interviews about the campaign. Based on the responses we got, especially from the students, today's youth have a positive view of official languages and are proud to live in Canada's only officially bilingual province. The short videos that came out of this show some of the inspiring conversations we had. The two videos, one in English and one in French and each with subtitles in the other official language, were posted on the Office of the Commissioner YouTube pages.

All in all, this experience has given us renewed optimism about the future of official languages in New Brunswick. Yes, there are certainly challenges to overcome with regard to the use of the French language and the declining demographic weight of Francophones, but the cause is far from lost.

We must therefore continue to motivate youth by providing them with tools that challenge them to take an interest in protecting their language rights and learning the French language.

The will and the desire are clearly there. Young people show a positive attitude towards official languages that can certainly assist in debunking long-standing myths about official languages and, in so doing, promote harmony between the Anglophone and Francophone populations.

Young people are indeed the future of our province, and, if the experience of the *Hello, Bonjour – Stories of Language* campaign is an example of what is to come, the future looks bright for official languages in New Brunswick and the true equality of our two official language communities.



IMMIGRATION AND OFFICIAL LANGUAGES

One of the responsibilities of the Commissioner of Official Languages for New Brunswick is to promote the advancement of English and French in the province. In this regard, immigration plays an important role in the vitality of the two official languages. The Commissioner's interventions with respect to immigration are therefore aligned with this promotional role. Also, it should be noted that the *Canadian Charter of Rights and Freedoms* affirms that New Brunswick's Anglophone and Francophone linguistic communities have equality of status. Government immigration policies and programs must therefore benefit both communities equally.

Provincial immigration results

On July 3, 2014, the provincial government released its first *New Brunswick Francophone Immigration Action Plan 2014-2017*. The aim of the plan is for immigration to better reflect the linguistic makeup of the province. New Brunswick committed to try to ensure that 33% of newcomers under the New Brunswick Provincial Nominee Program (NBPNP) would be Francophones or Francophiles by 2020. To do this, an annual increase of 3% was planned, with an intermediate target of 23% for 2017.

The NBPNP is the main provincial immigration program. It is made possible through an agreement with the Government of Canada. Through the NBPNP, New Brunswick can select qualified businesspeople and skilled workers from around the world who want to live in New Brunswick and contribute to the provincial economy.

In March 2017, the provincial government signed the Canada-New Brunswick Immigration Agreement. This agreement includes an annex directed at increasing the number of French-speaking immigrants destined to New Brunswick.

Since 2017, the provincial government also administers the Atlantic Immigration Pilot (AIP). This pilot program helps employers in New Brunswick hire foreign skilled workers who want to immigrate to the province and international graduates who want to stay in the region after completing their post-secondary education.

In August 2019, the provincial government launched *New Beginnings: A Population Growth Strategy for New Brunswick 2019-2024*, which includes, among other measures, a continued target of 2% annual increase in its French-speaking nominations (to reach 33% by 2024).

The table below shows the percentage of nominee certificates delivered through the NBPNP and AIP, broken down according to the official language(s) spoken by candidates.

It should be noted that the provincial government has aligned its immigration-related reporting to the federal practice of following the calendar year, which explains the reporting differences that can be seen in the table below.

New Brunswick Provincial Nominee Program (by fiscal year)		
French-speaking nominees	Bilingual nominees (English and French)	English-speaking nominees
2013-2014: 1.3%	2013-2014: 6.9%	2013-2014: 91.8%
2014-2015: 7.4%	2014-2015: 5.3%	2014-2015: 87.3%
2015-2016: 18%	2015-2016: 2%	2015-2016: 80%
2016-2017: 11%	2016-2017: 6%	2016-2017: 81%
2017-2018: 8.1%	2017-2018: 12.8%	2017-2018: 79.1%
Atlantic Immigration Pilot and New Brunswick Provincial Nominee Program (by calendar year)		
French-speaking candidates	English-speaking candidates	
2018: 19%	2018: 81%	
2019: 24%	2019: 76%	
2020: 27%	2020: 73%	
2021: 28%	2021: 72%	
2022: 32%	2022: 68%	
2023: 21%	2023: 79%	



COMPLIANCE WITH THE
OFFICIAL LANGUAGES ACT
OF NEW BRUNSWICK



ROLE OF THE COMMISSIONER

With regard to the compliance with the *Official Languages Act*

The Commissioner conducts investigations concerning the application of the *Official Languages Act* (OLA), either pursuant to a complaint made to the Commissioner or on the Commissioner's own initiative. If the Commissioner determines that a complaint is founded, recommendations may be made in the investigation report to improve compliance with the OLA. The Commissioner makes every effort to follow up on complaints as soon as possible by first determining the admissibility of each complaint and then, when appropriate, by intervening with the institutions concerned. The Commissioner works discreetly and in a spirit of co-operation with the institutions concerned and favours a supportive and collaborative approach. However, the Commissioner will not, if confronted by a blatant lack of co-operation on the part of an institution, shy away from publicly denouncing such resistance.

Filing of complaints

Anyone wishing to file a complaint may do so either in person, in writing, or by phone. The Office of the Commissioner's website describes the procedure for filing a complaint. All complaints received are considered confidential, and the Office of the Commissioner takes all necessary steps to safeguard the anonymity of complainants.

Under subsection 43.01(2) of the OLA, if the Commissioner is in a conflict of interest with respect to a matter referred to the Commissioner, the Commissioner may delegate in writing to any person any power with respect to that matter, including the power to prepare a report.

Under subsection 43(11) of the OLA, the Commissioner may refuse to investigate or cease to investigate any complaint if, in the Commissioner's opinion, the complaint:

- is trivial, frivolous, or vexatious;
- is not made in good faith;
- does not involve a contravention or failure to comply with the *Act*;
- does not come within the authority of the Commissioner.

In such cases, the Commissioner must provide the complainant with reasons for such a decision.

If the complainant is not satisfied with the Commissioner's findings after carrying out an investigation, they may seek a remedy before the Court of King's Bench of New Brunswick. A judge may decide on the remedy that is deemed fair and appropriate in the circumstances. It should be noted that nothing in the OLA precludes a complainant from applying directly to the Court of King's Bench instead of filing a complaint with the Office of the Commissioner. However, such a process entails costs for the person initiating it.



COMPLAINTS RECEIVED

Between April 1, 2023 and March 31, 2024

Between April 1, 2023, and March 31, 2024, the Office of the Commissioner received **131** complaints.

Of that number, **66** were admissible, with **8** based on lack of service in English and **58** on lack of service in French.

A total of **65** complaints were deemed inadmissible on the grounds that they did not come under the Commissioner's authority or did not concern an institution within the meaning of the OLA.

In addition, the Office of the Commissioner received **84** requests for information.

Main steps in the complaint-handling process

- The Office of the Commissioner receives the complaint and determines if it is admissible for investigation.
- If the complaint is admissible for investigation, the Commissioner notifies the institution concerned of the intention to investigate. It should be noted that the Commissioner may, when considered appropriate, attempt to resolve a complaint without conducting an investigation (see the alternative resolution process on the next page).
- The investigation is carried out.
- At the end of the investigation, the Commissioner forwards her report to the Premier, the Clerk of the Executive Council, the administrative head of the institution concerned, and the complainant. The Commissioner may include in the report any recommendations deemed appropriate as well as any opinion or reasons supporting the recommendations.
- If the Commissioner considers it to be in the public interest, the Commissioner may publish an investigation report.



THE ALTERNATIVE RESOLUTION PROCESS

The Commissioner may attempt to resolve a complaint without conducting an investigation. Various situations may lend themselves to such an approach.

For example, this process can be used in cases that have already been investigated by the Office of the Commissioner and resulted in the institution taking corrective action. This approach can also be used in cases when typical investigation timelines might be prejudicial to complainants.

The decision to settle a complaint without an investigation is made on a case-by-case basis. It is heavily contingent on the cooperation of the targeted institution and the institution's willingness to take corrective action.

If an alternative resolution fails, the Commissioner will not hesitate to initiate an investigation to decide if a complaint is founded or not.



INADMISSIBLE COMPLAINTS

Each year, the Office of the Commissioner of Official Languages receives a number of complaints that are not admissible for investigation because they do not involve a violation of or failure to comply with the OLA or do not come within the authority of the Commissioner. These complaints are grouped in the following categories:

General comments and complaints not within mandate

These complaints are not admissible on the basis that the subject matter of the complaint does not involve a violation of or failure to comply with the OLA or does not come within the authority of the Commissioner for a reason other than those detailed below.

Human resources management in the public service

Complaints reported in this category are deemed inadmissible on the basis that the Commissioner's mandate does not include the management of human resources in the public service.

Private sector

The OLA does not apply to private sector enterprises, except in cases where they offer services to the public on behalf of a body that has obligations under the OLA. Therefore, it is not within the authority of the Commissioner to conduct an investigation targeting a private enterprise that, for example, distributes flyers or displays signs in only one official language.

Education sector

The OLA does not apply to distinct educational institutions. Therefore, school districts, public schools, community centres, community colleges, and universities do not have to offer services in both official languages. Moreover, the OLA does not apply to the English and French sections of the Department of Education and Early Childhood Development.

Excluded municipalities

Under the OLA, only the eight cities in the province (Bathurst, Campbellton, Dieppe, Edmundston, Fredericton, Miramichi, Moncton and Saint John) and municipalities with an official language minority of at least 20% of their total population have language obligations. Thus, complaints targeting municipalities without obligations under the OLA are not deemed admissible.

Federal institutions

Federal institutions are subject to the *Official Languages Act* of Canada; it is not within the mandate of the Commissioner of Official Languages for New Brunswick to investigate complaints with respect to those institutions.

Medical records

Legislative provisions regarding the language used in medical records are included in section 9 of the *Personal Health Information Privacy and Access Act*. The Commissioner of Official Languages does not have jurisdiction with respect to section 9 of this *Act*. A person who feels that their rights have not been respected under this *Act* can file a complaint with the New Brunswick Ombud.

Statistics 2023-2024

215
communications
in total

131 complaints
66 admissible complaints
65 inadmissible complaints

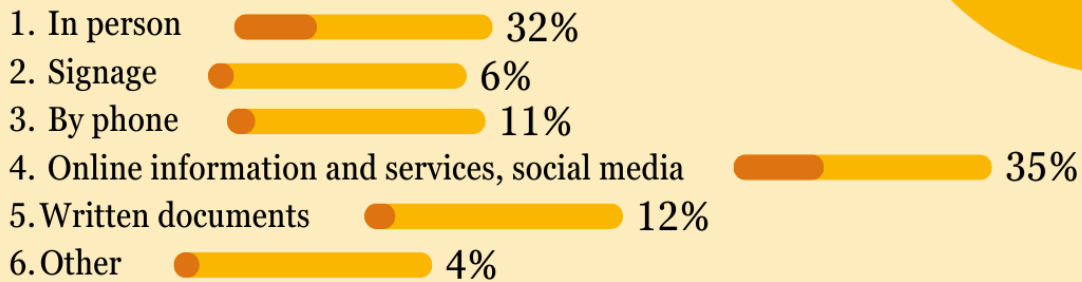
84 information
requests

66
admissible complaints

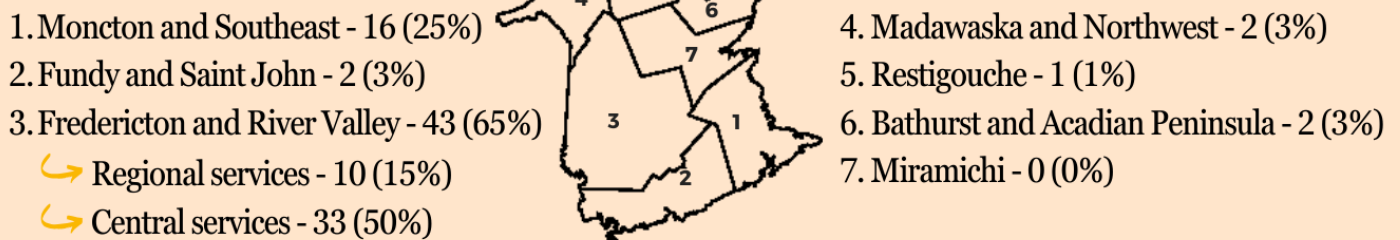
Services in English
8 admissible complaints (12%)

Services in French
58 admissible complaints
(88%)

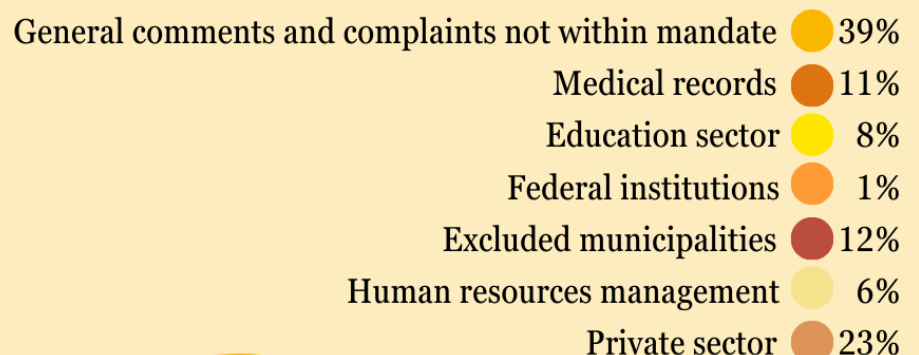
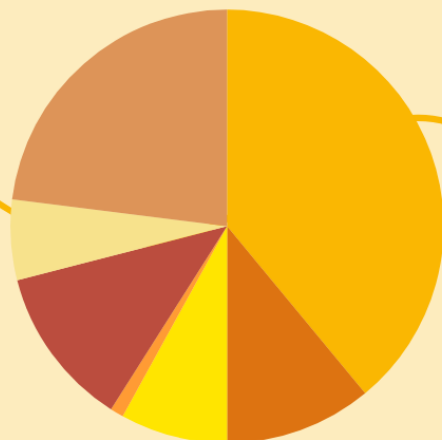
Admissible complaints by service type



Complaints by region



Inadmissible complaints by category of elements excluded from the OLA





STATUS OF ADMISSIBLE COMPLAINTS

from April 1, 2023, to March 31, 2024

Status	Service in English	Service in French	Total
Complaints under investigation, completed, or resolved informally	4	43	47
Investigations not initiated (pending additional information from the complainant or the institution)	2	15	17
Complaints withdrawn by the complainant	1	0	1
Cessation of investigation (under section 43(11) of the OLA)	1	0	1
Total	8	58	66



STATUS OF ADMISSIBLE COMPLAINTS HANDLED

from April 1, 2023, to March 31, 2024

Institution	Number of admissible complaints		Status of admissible complaints			Conclusion	
	Complaints received in 2023-2024	Complaints carried over from previous years	Investigations underway	Completed investigations	*Resolved informally	Founded complaints	Unfounded complaints
Ambulance NB	0	1	0	1	0	1	0
Association of Registered Interior Designers of NB	1	0	1	0	0	0	0
Cannabis NB	2	1	0	1	2	1	0
Education and Early Childhood Development	1	0	0	0	1	0	0
Executive Council Office**	3	2	1	0	4	0	0
Financial and Consumer Services Commission	0	1	0	0	1	0	0
Fredericton	3	1	0	0	4	0	0
Health	2	11	0	11	2	11	0
Horizon Health Network	10	11	0	5	16	5	0
Justice	1	2	0	0	3	0	0
Law Society of NB	0	1	0	1	0	0	1
Natural Resources and Energy Development	2	0	1	0	1	0	0
NB Liquor	2	2	0	1	3	0	1
NB Power	1	0	0	0	1	0	0
Nurses Association of NB	0	2	2	0	0	0	0
Opportunities NB	0	1	0	0	1	0	0
Premier's Office	3	4	2	2	3	2	0
Public Safety	3	0	1	0	2	0	0
Service NB	3	6	1	2	6	2	0
Social Development	4	0	0	0	4	0	0
Tourism, Heritage and Culture	2	0	0	0	2	0	0
Transportation and Infrastructure	2	0	0	0	2	0	0
Vitalité Health Network	2	0	0	1	1	1	0
Total	47	46	9	25	59	23	2
	93		93			25	

* When the alternative resolution process is used, the Office of the Commissioner does not seek to determine whether the complaint is founded or not but directs all its efforts towards preventing an incident similar to the one that was brought to its attention. The Commissioner will determine if a complaint is founded only if an investigation is undertaken.

** Two of these complaints were initiated by the Commissioner; one in 2023-2024 and the other carried over from previous years.



**SUMMARIES OF ACTIONS TAKEN
IN RESPONSE TO COMPLAINTS**



INVESTIGATIONS

Department of Health

Institution concerned: Department of Health

File numbers: 22-23-138, 22-23-145, 22-23-172, 22-23-174, 22-23-182, 22-23-189, 22-23-226

Brief summary of the complaints: Between October 29, 2022, and February 5, 2023, seven complaints were filed against eVisitNB Inc. alleging deficiencies in the delivery of services in French. More specifically, the complainants indicated that they had submitted requests in French for online service and that those requests were subsequently refused via an English-only message that stated, “*Unfortunately, I am not able to understand your request well enough to provide treatment.*” Furthermore, according to the complainants’ allegations, there were problems with the quality of the French on the eVisitNB website and an automatic message indicating that deselecting English may increase the wait time.

Key issue: The private company eVisitNB Inc. provides a virtual consultation platform on behalf of the Department of Health. Under section 30 of the *Official Languages Act*, the department has a duty to ensure that its third party meets its linguistic obligations. Under sections 27 to 29 of the *Official Languages Act*, the institution must ensure that all communications and services are in the official language of choice of the member of the public. In addition, the institution is required to offer service in both official languages at the first point of contact. The investigation determined, among other things, not only that there was no active offer of service but that the institution placed the onus on members of the public to select or change their language settings in order to request and receive service in French. These additional steps did not exist for users wishing to continue in English. The delays encountered by Francophone users and the solutions offered by the service provider constitute an accommodation provided to an official language group, in this case the official linguistic minority. These measures do not amount to the delivery of services of equal quality in both official languages.

Resolution method adopted in these cases: Investigation

Results: Our investigation established that the complaints were founded and that there had been serious violations of the *Official Languages Act*. We therefore made the following recommendations, among others:

- That the institution take immediate steps to ensure that the third party that offers services on its behalf, eVisitNB Inc., take steps to rectify its website and application to ensure that all users who register to obtain online services are not prejudiced in any way by their choice of language.
- That the institution take immediate steps to ensure that users of the system receive these services in the official language of their choice and that the choice of official language will not cause any delay in the provision of services by the third-party provider eVisitNB Inc.

- That the institution take immediate steps to modify its online registration procedures to ensure that its third-party provider, eVisitNB Inc., provide an active offer of services to members of the public such that all users of its website have access to the same information and have the same ability to register in and use the system in both official languages.

The complete investigation report is available on the website of the Office of the Commissioner at <https://bit.ly/3Q9DDYJ>



INVESTIGATIONS

Department of Health

Institution concerned: Department of Health
File number: 23-24-019

Brief summary of the complaint: On May 24, 2023, the Office of the Commissioner received a complaint against eVisitNB Inc. alleging deficiencies in the delivery of services in French. More specifically, the complainant alleged that a request for online service, written in French, was denied twice via an English-only message stating “cannot understand what you wrote, sorry.” The complainant also indicated having been forced to submit the request in English to finally obtain service. This complaint was filed a few months after the conclusion of the investigation into previous complaints about the eVisitNB platform, summarized on the previous page.

Key issue: Under section 28.1 of the *Official Languages Act*, it is the duty of the institution, and therefore of its third-party supplier eVisitNB, to offer service in both official languages at the first point of contact. Although the instructions for patients on the eVisitNB platform to change their language settings to obtain service in French were simplified, this does not equate to an adequate active offer of service or service of equal quality. Patients should not have to adjust their language settings to receive service in their preferred official language. Moreover, patients should not be denied service because of their chosen official language. The numerous complaints regarding issues encountered when trying to receive health care in French through the eVisitNB system are evidence of a significant lack of linguistic equality affecting the Francophone official language minority community.

Resolution method adopted in this case: Investigation

Results: Our investigation established that the complaint was founded. We therefore made the following recommendations, among others:

- That the institution ask patients expressly for their official language of choice on first contact without relying on the language settings configured on their electronic devices and that it ask its provider to modify its system so that this choice can be respected throughout all stages of patients’ use of the eVisitNB system.
- That the institution ensure that the provider puts measures in place so that health care professionals who do not understand a patient’s official language do not initiate a consultation with that patient or, if necessary, that the provider puts measures in place so that the health care professional can send the patient back to the front of the queue until another health care professional who understands the patient’s official language of choice is available.

The complete investigation report is available on the website of the Office of the Commissioner at <https://bit.ly/4cDWC6J>



INVESTIGATIONS

Department of Health

Institution concerned: Department of Health

File numbers: 21-22-139, 21-22-140, 21-22-221

Brief summary of the complaints: On October 13, 2021, the Office of the Commissioner received two complaints against the Department of Health alleging a lack of communication in French by the Minister during the COVID-19 news briefing on October 12, 2021. In January 2022, a third complaint was filed, alleging a lack of communication in French by the Minister during a news briefing on October 21, 2021, about an unknown illness.

Key issue: Under the *Official Languages Act*, members of both linguistic communities have a right to receive all communications and services from the Government of New Brunswick of equal quality in both official languages. Substantive equality requires that neither official language be treated as the primary language and that the provision of services in the minority language never be treated as an accommodation. In these cases, the government did not have a spokesperson on site with the necessary language skills to communicate messages in French, despite previous recommendations by the Office of the Commissioner in this regard. Francophone New Brunswickers had to rely on simultaneous interpretation. Although simultaneous interpretation ensures access to information in both official languages, and although the interpreters make a demonstrated, careful effort to remain faithful to the message, the standard to be met in providing simultaneous interpretation is not perfection. It is clear that having only simultaneous interpretation to communicate with one of the two linguistic communities is not a balanced use of the two official languages but rather an accommodation. The quality of the news briefings in French was therefore inferior to that of the briefings in English.

Resolution method adopted in these cases: Investigation

Results: Our investigation established that the complaints were founded. We therefore made the following recommendations:

- That the Government of New Brunswick have a Francophone or bilingual spokesperson at news conferences.
- That all practices regarding the use of the two official languages during updates or news conferences given by the Government of New Brunswick be reviewed to ensure a balanced use of the two official languages, in accordance with *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*.



INVESTIGATIONS

Horizon Health Network – Miramichi Regional Hospital

Institution concerned: Horizon Health Network – Miramichi Regional Hospital

File number: 22-23-265

Brief summary of the complaint: On March 24, 2023, the Office of the Commissioner received a complaint concerning Horizon Health Network, more specifically the Miramichi Regional Hospital, alleging deficiencies in the active offer of service and the delivery of services in French. According to the complainant, their father (the patient) was transferred to the Miramichi Regional Hospital by ambulance, where he spent two days in the Emergency Department without receiving the active offer or service in French. The patient was then moved to another floor of the hospital, where, according to the complainant, only the specialists made any effort to speak to him in French.

Key issue: Under the *Official Languages Act* of New Brunswick, members of the public have a right to communicate with any institution and to receive its services in the official language of their choice. Although New Brunswick has two health care networks, each with its own internal language of operation, as provided for in sections 33 and 34 of the *Official Languages Act*, they are nevertheless required to respect the public’s language rights and must offer service of equal quality in both official languages. In this case, the lack of service in French was more concerning to the complainant, since their father is a unilingual Francophone and often responds with “oui, oui, oui” [Translation] “yes, yes, yes” when spoken to in English, as a matter of politeness. Since the patient responded in French when spoken to in English, this should have alerted healthcare professionals to the need to provide service in French. The investigation also determined that certain components of the hospital’s contingency plan did not comply with the *Official Languages Act*, notably the use of a telephone interpretation service.

Resolution method adopted in this case: Investigation

Results: Our investigation established that the complaint was founded. We therefore made the following recommendations, among others:

- That the institution regularly conduct random audits to ensure that its staff complies with the *Official Languages Act* of New Brunswick at all times and at every point of service and that it develop and adopt a strategy for addressing this issue if the results of its audits continue to reveal a failure to extend the active offer of service.
- That the institution continue its efforts to recruit bilingual health care workers and “develop a rigorous plan for the recruitment of bilingual staff, together with a timeline, to identify new pools of health care workers, from both here and elsewhere” to immediately correct its inability to offer services of equal quality in both official languages at all times at the Miramichi Regional Hospital.

- That the institution review and modify all contingency plans for each unit and department in all health care facilities under its jurisdiction to remove any reference to the use of a “language line” or interpretation software for serving patients or the public in the official language of their choice.

The complete investigation report is available on the website of the Office of the Commissioner at <https://bit.ly/3W1a2UQ>



INVESTIGATIONS

Horizon Health Network – Miramichi Regional Hospital

Institution concerned: Horizon Health Network – Miramichi Regional Hospital

File number: 21-22-252

Brief summary of the complaint: On February 14, 2022, the Office of the Commissioner received a complaint against Horizon Health Network’s Miramichi Regional Hospital alleging deficiencies in the delivery of services in French. The complainant alleged that her mother (the patient) had been in long-term care at the Miramichi Regional Hospital for several months while waiting for placement in a nursing home and that she never received service in French during her stay.

Key issue: In its reply, the institution provided information about its bilingual staff but also indicated that it was not always able to fulfill its linguistic obligations due to a lack of staff and daily shortages. The *Official Languages Act* requires that an institution meet its linguistic obligations at all times, regardless of the circumstances. In fact, it is not necessary for all employees to be bilingual, but they must have a contingency plan in place and call on a colleague who can provide service in the patient’s preferred official language without undue delay. The institution is obligated to ensure that proper communication in the patients’ preferred official language is offered, even when it is difficult to do so due to communication barriers for either patients or staff. Health care staff must be vigilant with regard to continuity of service in patients’ preferred official language. It is essential that staff communicate with the patient in their official language of choice. It is more than simply a linguistic accommodation; it is a right.

Resolution method adopted in this case: Investigation

Results: Our investigation established that the complaint was founded. We therefore made the following recommendations, among others:

- That the institution review and redevelop its contingency plans for the Miramichi Regional Hospital’s Emergency Department and 4 East unit. Patients’ resource persons and family members must not form part of the contingency plans.
- That the institution review any language considerations contained within the Gentle Persuasive Approach to evaluate whether it would be appropriate to include them in or append them to the institution’s official language policies, particularly for the 4 East unit of the Miramichi Regional Hospital, in cases where they enhance care without contradicting the institution’s official language obligations pursuant to the OLA.

The complete investigation report is available on the website of the Office of the Commissioner at <https://bit.ly/45Hcp2o>



INVESTIGATIONS

Vitalité Health Network – Campbellton Regional Hospital

Institution concerned: Vitalité Health Network – Campbellton Regional Hospital

File number: 23-24-052

Brief summary of the complaint: On July 2, 2023, the Office of the Commissioner received a complaint concerning Vitalité Health Network’s Campbellton Regional Hospital alleging deficiencies in the active offer of service and the delivery of services in French. The complainant indicated having not received an active offer upon arrival at the Emergency Department’s triage and having to ask the nurse if she spoke French. According to the complainant, the nurse replied, “just English” and continued the conversation in English. The complainant then asked a second time to receive service in French. It was only then that the nurse went to ask for help from a colleague with the necessary skills to serve the complainant in the preferred official language.

Key issue: Under section 28.1 of the *Official Languages Act*, institutions are responsible for informing the public that their services are available in both official languages through an active offer of service; it is not up to members of the public to request service in their language. Without having received an active offer of service, the complainant had to assert their own language rights and had to request service in French twice. To comply with the *Official Languages Act*, when employees do not have the skills required to serve a member of the public in the official language of choice, they must follow the institution’s contingency plan. A contingency plan is an alternative procedure whereby unilingual employees can provide service in the other official language by requesting the help of a colleague with the required language skills.

Resolution method adopted in this case: Investigation

Results: Our investigation established that the complaint was founded. We therefore made the following recommendations:

- That the institution regularly conduct random audits to ensure that its employees comply with the *Official Languages Act* of New Brunswick at all times and at every point of service.
- That the institution draw up a contingency plan detailing the process to be followed by staff members who are unable to serve a patient or any other member of the public in the preferred official language.
- That the institution ensure that the content of its contingency plan is accessible in different formats so that its employees may easily see and consult it as needed.



INVESTIGATIONS

Ambulance New Brunswick

Institution concerned: Ambulance New Brunswick

File number: 22-23-137

Brief summary of the complaint: On October 31, 2022, the Office of the Commissioner received a complaint against Ambulance New Brunswick alleging deficiencies in the provision of services in French during an attempted transfer by ambulance from one hospital to another. Specifically, the complainant's father (the patient) was refused a transfer by ambulance because the paramedics assigned lacked the language skills needed to communicate with him in French, his preferred official language.

Key issue: The *Official Languages Act* clearly states that an institution must be able to communicate with any member of the public in their official language of choice. When the paramedics realized they did not have the necessary language skills to communicate with the patient in his preferred language, they followed the institution's guidelines on official languages, in compliance with the *Act*. In this case, the problem arose when the patient's transfer by ambulance was scheduled. The investigation revealed that the emergency medical dispatcher responsible had not followed the institution's guidelines on official languages and consequently had not assigned paramedics with the necessary language skills.

Resolution method adopted in this case: Investigation

Results: Our investigation established that the complaint was partially founded. We therefore made the following recommendations, among others:

- That the institution implement a specific mechanism to remind its employees across the organization, and in particular at its Medical Communications Management Centre, of the importance of its official languages policy.
- That the institution develop a checklist or other tool for employees to use when making an initial request to emphasize the importance of official languages in the scheduling of transfers.
- That the institution develop, if it has not already done so, a contingency plan to immediately correct any error or other situation in which a patient's official language of choice has not been taken into account, minimizing unforeseen delays.



INVESTIGATIONS

Service New Brunswick

Institution concerned: Service New Brunswick

File numbers: 22-23-156, 22-23-163

Brief summary of the complaints: The Office of the Commissioner received two complaints against Service New Brunswick alleging deficiencies in the delivery of services in French during driving tests. In the first complaint, filed on November 21, 2022, the complainant indicated not having received the active offer upon arrival or having received service in French at the Bouctouche service centre, despite speaking in French.

In the second complaint, filed on December 2, 2022, the complainant alleged having great difficulty in understanding the instructions given by the driver examiner assigned by the institution to deliver service in French. In addition, the complainant indicated that the language skills of the examiner in question were insufficient to the point of affecting the outcome of the examination.

Key issue: Under sections 27 and 28 of the *Official Languages Act*, members of the public have a right to receive all communications and services in the official language of their choice, and it is the responsibility of institutions to ensure that the public is informed. The institution is obligated to offer service of equal quality in both official languages; it is not the duty of a member of the public to make the request. In the first complaint in this case, according to the institution, the examiner assigned had the capacity to offer service in both official languages. However, since the assigned examiner did not make an active offer of service in both official languages on first contact with the complainant, the complainant was afraid to request service in French, their language of choice. The complainant therefore continued in English out of a desire to pass the driving test and avoid delays.

With regard to the second complaint, it is important to highlight that the Office of the Commissioner has no general right of oversight on matters of language quality, unless there is a genuine situation of inequality affecting comprehension, as alleged in this case. Since the complainant did not wish to disclose many details about the incident in question, including the specific service centre location, the Office of the Commissioner could not draw any definitive conclusions as to how the services provided influenced the outcome of the test. That being said, the institution must ensure that driving tests offered in French are of equal quality to those offered in English.

Resolution method adopted in these cases: Investigation

Results: Our investigation established that the complaints were founded. We therefore made the following recommendations, among others:

- That the institution remind all driver examiners and other service centre employees of the importance of confirming the official language in which a member of the public wishes to proceed.
- That the institution immediately assess the linguistic profile of its driver examiner teams to identify and correct any deficiencies, to ensure that each of its service centres has the capacity to provide services of equal quality in both official languages at all times.

The complete investigation report is available on the website of the Office of the Commissioner at <https://bit.ly/3L2A3gd>



INVESTIGATIONS

New Brunswick Liquor Corporation

Institution concerned: New Brunswick Liquor Corporation

File number: 21-22-269

Brief summary of the complaint: On March 10, 2022, the Office of the Commissioner received a complaint against the New Brunswick Liquor Corporation alleging deficiencies in the delivery of services in French. More specifically, the complainant indicated having been denied service in French when trying to make a purchase with a special occasion permit at one of the institution's stores.

Key issue: First, in its responses, the institution indicated that there were discrepancies between the complainant's allegations and its staff members' statements. According to the complainant's allegations, the unilingual Anglophone employee who greeted the complainant refused to provide service because the complainant was Francophone. However, the institution confirmed that bilingual staff members were available to serve the complainant in French. In addition, the complainant not only refused the offer of a bilingual staff member but demanded that the unilingual Anglophone employee provide service in French. Under the *Official Languages Act*, there is no obligation for any particular employee to provide service in both official languages. The employee's obligation is to indicate that the service is offered in both official languages by extending the active offer of service. Depending on the client's response, if the employee does not have the required proficiency in the chosen official language, the employee must follow a contingency plan and call on a colleague who can provide the service without undue delay.

Resolution method adopted in this case: Investigation

Results: Our investigation established that the complaint was unfounded.

The complete investigation report is available on the website of the Office of the Commissioner at <https://bit.ly/3RKE8JI>



INVESTIGATIONS

Law Society of New Brunswick

Association concerned: Law Society of New Brunswick

File number: 22-23-084

Brief summary of the complaint: On July 31, 2022, the Office of the Commissioner received a complaint against the Law Society of New Brunswick alleging deficiencies in the translation of the Legal Knowledge Examination. More specifically, the complainant alleged that the questions on the examination were poorly translated into French and reported at times having to consult the English version to better understand.

Key issue: Professional associations, such as the Law Society of New Brunswick, are required to provide their services in both official languages under section 41.1 of the *Official Languages Act*. Moreover, the *Act* states that no person shall be placed at a disadvantage for choosing one official language over the other in fulfilling the requirements of a professional association, such as taking an examination. The investigation determined that the Legal Knowledge Examination for admission to the New Brunswick Bar was developed by legal experts with the support of specialized consultants and that the questions were written in both French and English before being translated by the Université de Moncton faculty of law's Centre de traduction et de terminologie juridiques. In addition, the institution indicated that out of the 42 members who took part in preparing the questions, 22 were Francophone or bilingual.

Resolution method adopted in this case: Investigation conducted by a delegate (Ombud of New Brunswick) under section 43(8) of the OLA.

Results: The investigation established that the complaint was unfounded. A thorough review of the examination revealed that the complaint alleging that unilingual Francophone students are placed at a disadvantage and that there are translation issues on the French version of the Law Society of New Brunswick's Legal Knowledge Examination was unfounded.

The complete investigation report is available on the website of the Office of the Commissioner at <https://bit.ly/3L2z9jN>



INVESTIGATIONS

Office of the Premier

Institution concerned: Office of the Premier

File numbers: 21-22-161, 21-22-162

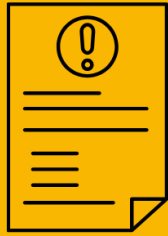
Brief summary of the complaints: On October 30, 2021, the Office of the Commissioner received two complaints against the Office of the Premier concerning deficiencies with respect to communication in French. According to the complainants' allegations, a government news briefing reserved for journalists was held in English only, and Francophone journalists had to ask their questions to the Premier in English.

Key issue: It is the government's responsibility to ensure that all communication with members of the public — in this case journalists — be carried out in the official language of their choice. According to the institution, simultaneous interpretation was available throughout the news briefing except during a brief moment due to technical difficulties. That said, the investigation determined that the journalists were not informed that this lapse was temporary or that they would subsequently be able to ask their questions in the official language of their choice. To comply with the *Official Languages Act*, the news conference should have been paused when the technical problems with simultaneous interpretation occurred, and once the problems had been resolved, the journalists should have received an active offer of service so that they could proceed in the official language of their choice.

Resolution method adopted in these cases: Investigation

Results: Our investigation established that the complaints were founded. We therefore made the following recommendation:

- That a news conference be paused as soon as a technical problem affecting simultaneous interpretation services arises and until the necessary steps have been taken to resolve it, ensuring that communication is available in both official languages at all times.



ALTERNATIVE RESOLUTION PROCESS

Department of Social Development – Villa Providence

Institution concerned: Department of Social Development – Villa Providence

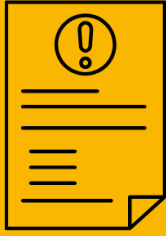
File number: 23-24-003

Brief summary of the complaint: On April 10, 2023, the Office of the Commissioner received a complaint against Villa Providence in Shediac regarding deficiencies with respect to communication in English. More specifically, the complainant alleged that the nursing home's voice mail greeting and some of the documents distributed to residents or posted in common areas were in French only.

Key issue: Villa Providence is a nursing home that provides long-term care services on behalf of the Province, namely the Department of Social Development. Under section 30 of the *Official Languages Act*, institutions must ensure that their obligations are met by any third party. As a result, all communications intended for nursing home residents or members of the public must be in both official languages.

Resolution method adopted in this case: Alternative resolution process

Results: The institution concerned in this complaint conducted a document audit to correct the problem identified in the complaint. It also undertook to emphasize at staff meetings the obligation of staff members to provide services and communications of equal quality in both official languages. It should be noted that the aspect of the complaint regarding the voice mail greeting was resolved after the complaint was filed, but before the intervention of the Office of the Commissioner.



ALTERNATIVE RESOLUTION PROCESS

Department of Social Development

Institution concerned: Department of Social Development

File number: 23-24-086

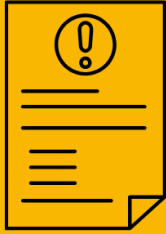
Brief summary of the complaint: On August 3, 2023, the Office of the Commissioner received a complaint against the Bathurst office of the Department of Social Development regarding deficiencies with respect to the active offer and communication in English. Specifically, the complainant alleged that they received a letter from Social Development in French only. When having the letter translated for them, the complainant learned that they had to call Social Development by a certain date, or they would lose their benefits.

Key issue: Under sections 27 to 29 of the *Official Languages Act*, the public has the right to communicate with and to receive services from a government institution in the official language of their choice. All communication with a member of the public must be in both official languages unless their language of choice was previously confirmed in response to an active offer. In this case, the complainant's language of choice was assumed due to their name and as a result, they nearly lost the social development benefits that they rely on.

Resolution method adopted in this case: Alternative resolution process

Results: The institution that is subject to this complaint put the following measures in place to ensure compliance with the *Official Languages Act* in the future:

- Ensure that all employees verify the language of choice of clients as noted in our databases to ensure that clients are receiving all documentation or communication in the language of their choice.
- Ensure that the employees verify the language of choice of clients for all communication and reinforce the obligation to provide services and communication in both official languages.



ALTERNATIVE RESOLUTION PROCESS

Cannabis NB

Institution concerned: Cannabis NB

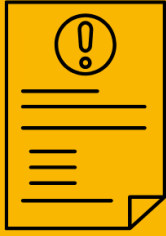
File number: 23-24-004

Brief summary of the complaint: On April 12, 2023, the Office of the Commissioner received a complaint alleging deficiencies in the delivery of services in French at a Cannabis NB store in Moncton. The complainant indicated having received an active offer of service upon arrival but then having to insist on receiving service in French, the official language of their choice.

Key issue: After receiving the active offer of service, the complainant spoke in French to indicate the chosen official language, but the employee replied in English, saying he did not speak French. The active offer of service is a key component in the delivery of services in both official languages. Once the active offer of service is accepted by the client and their language of choice is expressed, there must be continuity of service in the chosen official language. That being said, it is not necessary for all employees of an institution to be bilingual. The institution must have a contingency plan enabling unilingual employees to call on a colleague with the language skills needed to respect the client's language of choice. In this case, after the complainant insisted on receiving service in French, one of the employee's colleagues had to intervene to explain the procedure to the employee. The employee in question subsequently requested the assistance of a colleague with the required language skills. However, he reportedly spoke to the complainant again in English to indicate that his colleague could provide service in French.

Resolution method adopted in this case: Alternative resolution process

Results: The institution concerned in this complaint provided training to the employee in question on active offer requirements. The training included role-playing to ensure that he was comfortable with the concept of the active offer and able to provide the appropriate responses in the client's language of choice. In addition, all store team members were reminded of the requirement to make the active offer of service of equal quality in both official languages.



ALTERNATIVE RESOLUTION PROCESS

Cannabis NB

Institution concerned: Cannabis NB

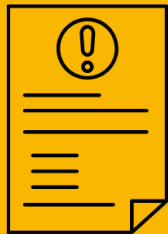
File number: 23-24-129

Brief summary of the complaint: On October 26, 2023, the Office of the Commissioner received a complaint alleging deficiencies in the delivery of services in French at a Cannabis NB store in Grand Falls. More specifically, the complainant alleged that there were no employees on site with the language skills required to serve the complainant in French. In addition, the employee at the counter allegedly gave the complainant a cell phone to obtain service in the language of their choice by speaking in French with an employee from another store.

Key issue: Under the *Official Languages Act*, an institution must offer services of equal quality in both official languages without undue delay. Substantive equality requires that neither official language be treated as the primary language and that the provision of services in the minority language never be treated as an accommodation. A member of the public who cannot obtain service in the official language of their choice is at a disadvantage when a choice must be made between obtaining service in the official language of their choice indirectly through another platform or immediately obtaining direct service in the other official language. The service the complainant received was inferior to what an Anglophone client would have received on site and in person.

Resolution method adopted in this case: Alternative resolution process

Results: The institution concerned in this complaint acknowledged that service via telephone is not equivalent to in-person service. The institution also indicated that the bilingual employee working on the day of the incident in question was on break at the time of the complainant's visit. The Commissioner recommended that the institution better plan its work schedules to avoid offering service by telephone or other technological devices.



ALTERNATIVE RESOLUTION PROCESS

Executive Council Office

Institution concerned: Executive Council Office

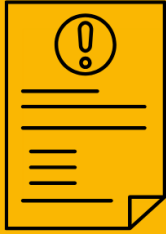
File number: 23-24-047

Brief summary of the complaint: On June 21, 2023, the Office of the Commissioner received a complaint against the Executive Council Office concerning deficiencies with respect to communication in French. More specifically, the complainant alleged that the results obtained via the Orders in Council search engine, provided by the Executive Council Office, were different and more exhaustive when the search was carried out in English.

Key issue: The online search engine for Orders in Council is a service offered to the general public on behalf of the institution. As a result, service must be of equal quality in both official languages, pursuant to the *Official Languages Act*. It is the institution's responsibility to ensure that members of the public who use the application in question to search for Orders in Council obtain the same search results regardless of the official language chosen.

Resolution method adopted in this case: Alternative resolution process

Results: The institution concerned in this complaint indicated that it had resolved the problem with the web application to ensure that all Orders in Council associated with the acts searched for appeared when a search was made in either official language. The file was therefore closed. However, subsequent audits conducted by the Office of the Commissioner revealed that the problems persisted and that there were still inequalities between the results of searches conducted in French and those conducted in English. The Commissioner therefore filed a complaint of her own initiative and opened a new file on the matter during the 2024–2025 fiscal year.



ALTERNATIVE RESOLUTION PROCESS

Executive Council Office

Institution concerned: Executive Council Office

File number: 23-24-139

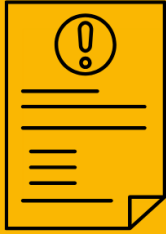
Brief summary of the complaint: On November 21, 2023, the Office of the Commissioner received a complaint against the Executive Council Office concerning deficiencies in the delivery of services in French during a virtual briefing session for members of the Legislative Assembly. More specifically, according to the complainant's allegations, the briefing session regarding the arrival of Hurricane Lee was in English only. The complainant indicated having asked whether it would be possible for the briefing to be in both official languages. However, the only solution offered was to provide the complainant with the translated information from the previous day.

Key issue: In the view of the Office of the Commissioner, members of the Legislative Assembly are representatives of the citizens in their constituencies and must share communications from government departments or ministers with those citizens. Since these members represent thousands of citizens in the Legislative Assembly, these communications should be provided in both official languages, particularly in situations involving public safety, as in this case. In addition, section 6 of the *Official Languages Act* stipulates that English and French are the official languages of the Legislature and everyone has the right to use either language in any debate and other proceeding of the Legislative Assembly or its committees. Since the briefing in question took place in the context of Legislative Assembly proceedings, the complainant was entitled to receive this information and to ask questions in French, the official language of their choice.

Resolution method adopted in this case: Alternative resolution process

Results: The institution that is the subject of this complaint committed to putting the following measures in place to ensure compliance with the *Official Languages Act* moving forward:

- Ensure that, from the outset of briefing sessions for members of the Legislative Assembly, the active offer of service is made to inform all members that they may speak in either official language at any time.
- Ensure that simultaneous interpretation is available at all times during these briefing sessions for members of the Legislative Assembly to ensure the equality and the balanced use of both official languages, in accordance with the equal status of the two official languages.
- Ensure that all documents shared during these briefing sessions are available at the same time and of equal quality in both official languages.
- Issue a reminder of the linguistic obligations to the staff responsible for ensuring that meetings with members of the Legislative Assembly run smoothly.



ALTERNATIVE RESOLUTION PROCESS

Horizon Health Network – Dr. Everett Chalmers Regional Hospital

Institution concerned: Horizon Health Network – Dr. Everett Chalmers Regional Hospital

File number: 23-24-007

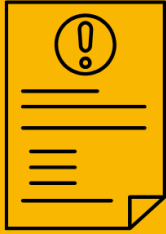
Brief summary of the complaint: On April 18, 2023, the Office of the Commissioner received a complaint concerning the delivery of services in French at the Horizon Health Network's Dr. Everett Chalmers Regional Hospital. More specifically, according to the complainant's allegations, the employees with whom the complainant interacted lacked the language skills needed to communicate entirely in French and often used English. The complainant indicated having asked the nurse questions in French to ensure that the procedure to be performed would not cause any adverse effects, but the complainant ultimately had to ask in English so that the nurse could understand the concerns.

Key issue: Under sections 33 and 34 of the *Official Languages Act*, health establishments, facilities and programs under the jurisdiction of regional health authorities under the *Regional Health Authorities Act* may determine an official language of daily operations, known as the language of work. However, these establishments are still required to offer members of the public health services of equal quality in their official language of choice at all times and without undue delay. According to the complainant, the employees in question did their best to communicate in French. However, had the complainant not been able to speak English, it would not have been possible for the complainant to express any concerns or be understood, nor would the complainant have been able to understand the employees' responses and instructions. Complaints concerning health care are safety issues, since such a situation could lead to a dangerous misunderstanding on the part of the patient or the employee.

Resolution method adopted in this case: Alternative resolution process

Results: To ensure compliance with the *Official Languages Act*, the institution concerned in this complaint has committed to continuing recruitment efforts targeting bilingual candidates. In addition, the institution presented to the Zone 3 board of directors best practices for providing service in the patient's official language of choice, and it emphasized the following points to improve compliance with the official languages policy:

- Directors need to know what is being asked of their teams and need to support the implementation of improvement plans in their respective departments.
- All departments under their responsibility must have a sufficient number of bilingual employees to ensure that service in both official languages is offered during every shift and all business hours.
- To compensate for a temporary shortage of bilingual staff on their unit, robust contingency plans must be put in place so that employees can ensure service is provided in the patient's chosen official language.



ALTERNATIVE RESOLUTION PROCESS

Service New Brunswick

Institution concerned: Service New Brunswick

File number: 23-24-012

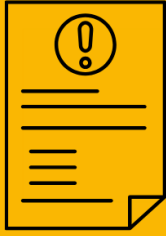
Brief summary of the complaint: On May 9, 2023, the Office of the Commissioner received a complaint concerning Service New Brunswick's delivery of services in French. The complainant indicated having called the Department of Finance and Treasury Board at 1-800-669-7070 to ask a question about an application for the Low-Income Seniors' Benefit. Unable to answer the question, the agent who answered the call asked for a phone number so that someone could call the complainant back. When the call was not returned, the complainant tried calling again a few times without success. The complainant then decided to call back and select English instead of requesting service in French and finally received answers to their questions.

Key issue: Under the *Official Languages Act*, the institution must provide all communications and services of equal quality in both official languages without undue delay. The complainant was able to obtain answers to their questions on the first attempt in English, but this was not the case when repeatedly trying to receive service in French. The information sought was therefore never given in their language of choice. The service the complainant received was not of the same quality as the service an Anglophone member of public would receive by calling the same telephone number.

The institution concerned in this complaint is Service New Brunswick since the Low-Income Seniors' Benefit program was transferred from the Department of Finance and Treasury Board at the beginning of 2023.

Resolution method adopted in this case: Alternative resolution process

Results: The institution targeted by this complaint evaluated the telephone service to implement best practices and establish different processes for the following year, improving response times and ensuring compliance with the *Official Languages Act* moving forward.



ALTERNATIVE RESOLUTION PROCESS

Office of the Premier

Institution concerned: Office of the Premier

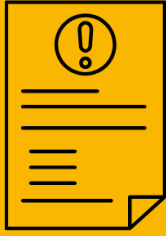
File numbers: 23-24-023, 23-24-024, 23-24-025

Brief summary of the complaints: Between May 26 and 29, 2023, the Office of the Commissioner received three complaints against the Office of the Premier alleging deficiencies with respect to communication in French. According to the complainants' allegations, an op-ed piece by the Premier on Policy 713 was published in English only. It was only after requests from the Francophone media that the op-ed piece was translated and published in French.

Key issue: The *Official Languages Act* stipulates that members of the public have the right to receive all communications and services from the institution in their official language of choice. In addition, section 2 stipulates that the Premier is responsible for the administration of the *Act*. While it is important to note that members of the Legislative Assembly have no linguistic obligations, ministers are both members of the Legislative Assembly and official representatives of the government. When ministers communicate with the public in this capacity, obligations under the *Official Languages Act* apply. The analysis of this complaint revealed that the purpose of the op-ed piece in question was to explain the government's position on Policy 713 to the general public. As a result, the op-ed piece, being a communication intended for the public and originating from an institution, needed to be available in both official languages.

Resolution method adopted in these cases: Alternative resolution process

Results: The institution that is the subject of these complaints has committed to ensuring op-ed pieces intended for the press and any other official government communications, even if aimed at a specific audience, are published simultaneously in both official languages to fully comply with the *Official Languages Act*.



ALTERNATIVE RESOLUTION PROCESS

Department of Public Safety

Institution concerned: Department of Public Safety

File number: 23-24-027

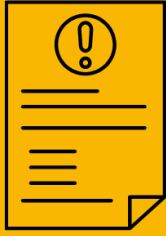
Brief summary of the complaint: On May 30, 2023, the Office of the Commissioner received a complaint against the Department of Public Safety concerning an op-ed piece by the Minister of Public Safety about a new correctional facility in New Brunswick. More specifically, the complainant indicated that the op-ed piece was published in English only on the website of an English-language newspaper and was not available in the Francophone media or on the government's website.

Key issue: Under section 29 of the *Official Languages Act*, all publications and communications intended for the general public must be in both official languages. Although members of the Legislative Assembly are not considered institutions under the *Act*, ministers are both members of the Legislative Assembly and representatives of the government, so when a minister communicates with the public in this capacity, linguistic obligations apply. Although the op-ed piece in question was intended specifically for residents of the Fredericton area, the Francophone population in this area received no communication concerning the need for a new correctional facility. Francophones in the Fredericton area were therefore placed at a disadvantage, and the equality of the two official linguistic communities was not respected.

Resolution method adopted in this case: Alternative resolution process

Results: The institution targeted by this complaint has implemented, among others, the following measures to ensure its compliance with the *Official Languages Act* moving forward:

- Ensure that any op-ed pieces or any other official government communications are available at the same time in both official languages.
- Recognize that, even when an op-ed piece or other official government communication is written for a specific audience, that official communication must be available at the same time in both official languages so that all members of the specific audience for which the communication was prepared have access to service of equal quality in both official languages, without being disadvantaged because of their official language.



ALTERNATIVE RESOLUTION PROCESS

City of Fredericton

Municipality concerned: City of Fredericton

File number: 23-24-094

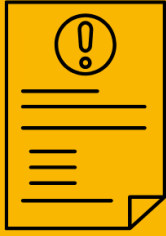
Brief summary of the complaint: On September 6, 2023, the Office of the Commissioner received a complaint against the City of Fredericton alleging deficiencies with respect to communication in French. The complainant indicated having sent an email in French to the City of Fredericton but not receiving a reply or acknowledgement of receipt. One week later, the complainant sent a follow-up email in English and received a reply the same day. In addition, the complainant indicated having replied to subsequent emails in French but that the City always replied in English only.

Key issue: As one of eight cities in New Brunswick, the City of Fredericton has linguistic obligations under the *Official Languages Act* and must ensure the services it offers are of equal quality in both official languages. When a resident writes in the official language of their choice, the municipality must respect the chosen official language by replying in the same language without undue delay.

Resolution method adopted in this case: Alternative resolution process

Results: The municipality concerned in this complaint issued a memo to its employees with the following reminders to ensure compliance with the *Official Languages Act* moving forward:

- Reminder to all employees of their linguistic obligations under the *Act* to provide service of equal quality in both official languages.
- Reminder to all employees of the importance of continuity of service in residents' official language of choice.
- Reminder that, when residents communicate in writing with its departments or employees in their preferred official language, the departments or employees must respect their preferred official language by responding in the official language of choice.



ALTERNATIVE RESOLUTION PROCESS

Department of Natural Resources and Energy Development

Institution concerned: Department of Natural Resources and Energy Development

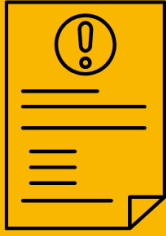
File number: 23-24-016

Brief summary of the complaint: On May 16, 2023, the Office of the Commissioner received a complaint against the Department of Natural Resources and Energy Development alleging deficiencies with respect to communication in French. More specifically, the complainant identified an erroneous French email address on the Department's webpage for the purchase of aerial photographs. The email address on the French webpage did not work, but the one on the English page did.

Key issue: The analysis of the complaint revealed that the problem was due to a typing error. However, while the incorrect address was displayed on the institution's webpage, members of the public who had chosen to view the webpage in French were not able to communicate with the institution in their official language of choice. The Francophone population was at a disadvantage for a certain period of time.

Resolution method adopted in this case: Alternative resolution process

Results: The institution targeted by the complaint acted quickly to correct the error and ensure its full compliance with the *Official Languages Act*. The Office of the Commissioner wishes to acknowledge the excellent cooperation and commitment of the Department of Natural Resources and Energy Development employees in handling this matter.



ALTERNATIVE RESOLUTION PROCESS

Department of Tourism, Heritage and Culture

Institution concerned: Department of Tourism, Heritage and Culture

File number: 23-24-050

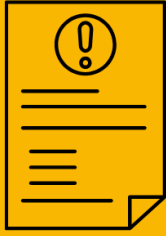
Brief summary of the complaint: On June 29, 2023, the Office of the Commissioner received a complaint against the Department of Tourism, Heritage and Culture concerning deficiencies with respect to communication in French. More specifically, the complainant indicated having noticed that the signs and advertisements around the restaurant and gift store at Parlee Beach Provincial Park were in English only.

Key issue: Provincial parks and other tourist attractions managed by the Province have linguistic obligations under the *Official Languages Act*. Under section 29 of the *Act*, institutions must ensure that all postings and other publications and documents intended for the general public are published in both official languages. Although the two areas referred to in this case are operated and managed by third-party providers, these providers must also respect the institution's linguistic obligations under section 30 of the *Act*.

Resolution method adopted in this case: Alternative resolution process

Results: The institution concerned in this complaint asked its third party to remove the unilingual signs until bilingual signs could be installed. The institution has also implemented the following measures to ensure its compliance with the *Official Languages Act* moving forward:

- Review all signs in all provincially managed and operated parks to ensure that the translations of existing and new signs are correct.
- Ensure that all new signs are reviewed by a certified language professional.



ALTERNATIVE RESOLUTION PROCESS

Department of Transportation and Infrastructure

Institution concerned: Department of Transportation and Infrastructure

File numbers: 23-24-090, 23-24-100

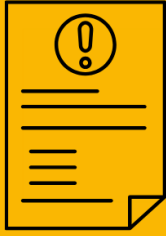
Brief summary of the complaints: The Office of the Commissioner received two complaints on August 13 and September 18, 2023, concerning the Department of Transportation and Infrastructure alleging deficiencies with respect to communication in French. More specifically, according to the complainants' allegations, the quality of the French used in posts made via the 511 New Brunswick account on X (formerly Twitter) was insufficient, in some cases rendering the posts illegible.

Key issue: The institution indicated it had been using the services of a third-party provider since 2019 to inform the public of road conditions via the 511 New Brunswick account. Under section 30 of the *Official Languages Act*, the institution has a duty to ensure that its third party complies with all of the institution's obligations. The institution confirmed that the agreement signed in 2019 stipulates that all services provided were to be in full compliance with the *Act*.

Resolution method adopted in these cases: Alternative resolution process

Results: The institution targeted by these complaints contacted its provider to remind it of its obligations and to stress their importance. The institution has also implemented the following measures to ensure its compliance with the *Official Languages Act* moving forward:

- The French terminology used in the email software's predefined dropdown menu has been revised by a translator.
- To ensure the messages published via the account are of equal quality in French and English, the institution's staff members have used the revised French terms to establish descriptions for posting to the account.



ALTERNATIVE RESOLUTION PROCESS

Department of Education and Early Childhood Development

Institution concerned: Department of Education and Early Childhood Development

File number: 23-24-017

Brief summary of the complaint: On May 18, 2023, the Office of the Commissioner received a complaint against the Department of Education and Early Childhood Development alleging deficiencies in the delivery of services in French. More specifically, when the complainant called the Department of Education and Early Childhood Development reception desk, an employee answered in English only and did not have the language skills required to communicate with the complainant in French, the official language of their choice.

Key issue: The *Official Languages Act* takes precedence over almost all other legislation in New Brunswick, with the exception of the *Education Act*, which protects the right of both official linguistic communities to have their own schools and educational institutions. While the English and French sectors of the Department, the schools and their committees and the district education councils have no obligations under the *Act*, the Department of Education and Early Childhood Development has the same obligations as any other institution under the *Act* when communicating with members of the public. In this case, since the complainant called the department, the complainant was entitled to receive service in the official language of their choice.

Resolution method adopted in this case: Alternative resolution process

Results: The institution concerned in this complaint determined that this was a human resources issue that it would address, and it committed to conducting general audits of the active offer and continuity of service in both official languages to ensure full compliance with the *Official Languages Act* moving forward.



INADMISSIBLE COMPLAINTS

File number: 23-24-189

Brief summary of the complaint: The Office of the Commissioner received a complaint on February 20, 2024, concerning the lack of simultaneous translation during a coroner's inquest the complainant attended as a member of the public.

Reason the complaint was inadmissible: According to the website of the New Brunswick Coroner Services, a coroner's inquest "is a formal court proceeding that allows for the public presentation of all evidence relating to a death." Because it is a court proceeding, witnesses and other parties in the coroner's inquest address the court and not the public. Therefore, English and French being the official languages of the court, any party who addresses the court may do so in either of the two official languages, or both. That said, the court has no obligation to provide simultaneous interpretation to members of the public attending the proceeding, as it is not a communication intended for them.

File number: 23-24-176

Brief summary of the complaint: On January 28, 2024, the Office of the Commissioner received a complaint against a hospital in the Vitalité Health Network. The complainant, whose language of choice was English, stated that the nurses and doctors spoke to them in English, but then used French when speaking amongst themselves, and that the subsequent report they were given to bring to their family doctor was in French only.

Reasons the complaint was inadmissible: The complaint falls under two issues that are not within the authority of the Commissioner, being language of work and patient health records. New Brunswick has two health networks, Horizon and Vitalité, both have the obligation to serve the public in the official language of their choice, but they each have their own internal working language. Unlike language of service, language of work is not bound by the *Official Languages Act*. The situation described in the complaint indicates that the health professionals were conferring amongst themselves in their place of work in the internal language of their institution. While the health professionals spoke French in the presence of the complainant, they then spoke to the complainant in their language of choice, English. Therefore, the complainant received their services in their preferred language. As for the medical report they were given for their family doctor, patient records do not fall under the *Official Languages Act*, but rather the *Personal Health Information Privacy and Access Act*. As such, the Commissioner had no jurisdiction over either matter included in this complaint.



INADMISSIBLE COMPLAINTS

File number: 23-24-172

Brief summary of the complaint: On January 23, 2024, the Office of the Commissioner received a complaint regarding the language of patient records. The complainant stated that their doctor was unable to understand their patient records following a surgical procedure and treatment received in a hospital of the Vitalité Health Network because they were in French only.

Reason the complaint was inadmissible: The above complaint falls under the *Personal Health Information Privacy Act* and is considered a language of work issue rather than a language of service issue. Since patient records do not fall under the *Official Languages Act*, the Commissioner had no jurisdiction over this matter.

File number: 23-24-168

Brief summary of the complaint: On January 18, 2024, the Office of the Commissioner received a complaint regarding a lack of positions for English-speaking people within a provincial government institution.

Reason the complaint was inadmissible: The situation detailed in this complaint does not pertain to a service offered to members of the public by an institution of the Legislative Assembly or the Government of New Brunswick; rather it pertains to hiring practices or other staffing issues. The complaint therefore falls under the language of work, rather than the language of service. Thus, the Commissioner had no jurisdiction over this matter.

File number: 23-24-161

Brief summary of the complaint: On January 11, 2024, the Office of the Commissioner received a complaint regarding a French-only advertisement over the speaker system of a grocery store. When the complainant spoke to the manager to inquire about the contents of the message, they were informed that the manager was not able to understand the message themselves but stated that it was also delivered in English throughout the day.

Reason the complaint was inadmissible: As the situation detailed in this complaint pertains to a service provided by a private sector company who does not offer services on behalf of the government, the store does not have any linguistic obligations pursuant to the *Official Languages Act*. Therefore, the situation does not point to a violation of the *Act*, and the Commissioner had no authority to investigate the matter.



INADMISSIBLE COMPLAINTS

File number: 23-24-149

Brief summary of the complaint: On December 5, 2023, the Office of the Commissioner received a complaint alleging that the simultaneous translation from French to English of the Legislative Assembly’s daily proceedings was inadequate. The complainant identified a particular date and time when they believed crucial information was being lost due to the quality of the simultaneous translation.

Reason the complaint was inadmissible: The Office of the Commissioner researched the situation by listening to and transcribing the interpretation of the daily proceedings of the Legislature during the date and time identified in the complaint. After comparing the transcript of the English interpretation to the original French that was spoken, it was determined that the simultaneous interpretation was of acceptable quality. Certain deficiencies in the interpretation were identified; however, the standard expected for simultaneous interpretation is not perfection as there exists a certain margin for human error. As such, simultaneous interpretation does not always offer an ideal service of equal quality in both official languages. That said, sections 6 and 7 of the *Official Languages Act* establish that English and French are the official languages of the Legislature and specify that simultaneous interpretation of the debates and other proceedings of the Legislative Assembly shall be made available by the Legislature. Pursuant to these sections, everyone has the right to use either official language in any debate and other proceedings of the Legislative Assembly or its committees, and simultaneous interpretation is used to ensure both official linguistic communities have access to the proceedings in the official language of their choice. In the situation identified in this complaint, no discrepancies in terms of meaning or content were identified and therefore it was determined that both official linguistic communities received similar content in their language of choice.

File number: 23-24-110

Brief summary of the complaint: On October 7, 2023, the Office of the Commissioner received a complaint about an English-only document produced by an Anglophone school district. More specifically, according to the complainant’s allegations, school performance assessments for this Anglophone district were not available in French.

Reason the complaint was inadmissible: The situation reported by the complainant is a service offered by a distinct educational institution under section 4 of the *Official Languages Act*. Because the district targeted by the complaint is not subject to the *Act*, the Commissioner had no authority over the matter.



INADMISSIBLE COMPLAINTS

File number: 23-24-085

Brief summary of the complaint: On August 2, 2023, the Office of the Commissioner received a complaint with respect to the complainant's pension statement, which they had received in French only.

Reason the complaint was inadmissible: As the situation reported did not pertain to a service offered to members of the public, but rather pertained to an employer-employee relationship, the complaint was related to language of work rather than language of service. An institution's internal communications are not bound by the *Official Languages Act*, and as such, the Commissioner had no jurisdiction over the matter.

File number: 23-24-071

Brief summary of the complaint: On July 18, 2023, the Office of the Commissioner received a complaint concerning emails from the wellness, health and safety group of a New Brunswick government department. The complainant alleged that the French in these emails was consistently incorrect. In addition to the mistranslations, the complainant alleged that the emails were always titled in English only.

Reason the complaint was inadmissible: The situation as reported does not involve a service offered to the public but rather a relationship between employer and employee. This complaint therefore concerns the language of work, not the language of service. Since institutions' internal communications are not subject to the *Official Languages Act*, this situation does not constitute a violation of the *Act*, and the Commissioner therefore had no jurisdiction to investigate the matter.

The background features a central orange wave shape surrounded by lighter yellow waves, creating a layered, wavy effect.

LEGAL MATTERS



LEGAL MATTERS

The following two decisions were rendered after March 31, 2024. As these are significant decisions relating to language rights for the Province, the Office of the Commissioner has decided it is timelier to include them in this annual report.

THE APPOINTMENT OF A UNILINGUAL ANGLOPHONE AS LIEUTENANT GOVERNOR OF NEW BRUNSWICK

The Right Honourable Prime Minister of Canada, Her Excellency The Right Honourable Governor General And The Governor General In Council and La Société de l'Acadie du Nouveau-Brunswick and The Attorney General for New Brunswick, 2024 NBCA 70

On September 4, 2018, the Committee of the Privy Council recommended that the Governor General issue an Order in Council appointing Brenda L. Murphy as the 32nd Lieutenant Governor of New Brunswick.

On December 3, 2019, the Société de l'Acadie du Nouveau Brunswick (SANB) filed an application with the Court of Queen's Bench challenging the appointment of Ms. Murphy on the grounds that the appointment of a unilingual individual to the position of Lieutenant Governor of New Brunswick violated the constitutional guarantees regarding official languages that apply in New Brunswick. In terms of recourse or relief sought, the SANB sought a declaration under sections 16(2), 18(2) and 20(2) of the *Canadian Charter of Rights and Freedoms* (the "Charter") quashing the Prime Minister's advice to the Governor General recommending the appointment as well as that the Order in Council appointing her was unlawful.

The matter was heard at the Court of Queen's Bench and a decision was rendered on April 14, 2022. Chief Justice DeWare allowed the SANB's application in part, finding that the Lieutenant Governor must be bilingual and capable of executing all tasks required of the Lieutenant Governor's role in both official languages. Chief Justice DeWare refused to declare the appointment of Lieutenant Governor Murphy null and void.

Canada appealed the matter to the New Brunswick Court of Appeal who rendered its decision on May 23, 2024, overturning the lower court decision.

The opening paragraphs of the New Brunswick Court of Appeal decision, succinctly set out the context of the issues involved:

“This matter highlights the tension between an ideal and an imperative. Everyone agrees that the individual who is appointed Lieutenant Governor of New Brunswick should ideally be fluent in both official languages of the province. This decision does not reject that ideal. Rather, it raises the specific question of whether the Canadian Charter of Rights and Freedoms of the Constitution Act, 1982 requires the personal bilingualism of the individual who is so appointed.

New Brunswick is the only officially bilingual province in Canada, is the setting for hard-won language rights that are entrenched in, and firmly protected by, our country’s Constitution.”

The Court of Appeal applied the standard of correctness to the appeal as it deals with a question of constitutional law and determined that the issues raised by the appeal were subject to judicial review.

The grounds of appeal raised by Canada were that the judge erred in finding the Prime Minister’s recommendation was one that is reviewable by the Court, that the judge erred in finding there is a constitutional requirement that the Lieutenant Governor be bilingual and that she erred in finding that subsections 16(2), 16.1 and 20(2) of the *Charter* require that the individual who holds the office of Lieutenant Governor of New Brunswick be bilingual.

The SANB cross-appealed citing as grounds that the judge erred in not finding the Lieutenant Governor of New Brunswick must be bilingual, in not including the entirety of subsection 16.1 of the *Charter* in its declaration that the Lieutenant Governor must be bilingual and erred in failing to declare the appointment null and void.

The Court of Appeal recognized the rules of interpretation when dealing with language rights as outlined in the Supreme Court of Canada decision in *Beaulac* which enunciated that, *“...language rights must be construed liberally and purposively, in a manner that is consistent with the preservation and development of official language communities in Canada.”*

The Court of Appeal also noted:

“In interpreting language rights conferred by the Charter, courts must also keep in mind that in adopting a generous, broad and liberal interpretation, they must not create new rights.”

The Court of Appeal found that the lower court judge concluded that *Charter* rights were violated, *“...without closely examining the exact wording of the relevant provisions and without taking that wording into account in her interpretation.”*

Subsections 16(2) and 20(2) of the *Charter* impose institutional language obligations on all institutions of the legislature and the government of New Brunswick. Section 18(2) provides that the statutes and records of the Legislative Assembly of the Province of New Brunswick be printed in both official languages. In addition, subsection 20(2) grants members of the public in New Brunswick the right to communicate with and receive services from any office of an institution of the legislature or government in English or French.

Subsection 20(2) of the *Charter*

20(2) Any member of the public in New Brunswick has the right to communicate with, and to receive services from, any office of an institution of the legislature or government of New Brunswick in English or French.

The Court of Appeal concluded that direct communication with the Lieutenant Governor does not form part of the “services provided” by the office of that institution.

Subsection 16(2) of the *Charter*

16(2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick.

The Court of Appeal stated that the drafters’ approach with respect to subsection 16(2) is that of institutional bilingualism but that this cannot be considered a strict interpretation, noting that, *“This approach does not ignore the general purposes of language rights; on the contrary, it recognizes the fundamental purpose of institutional bilingualism. This interpretation of subsection 16(2) is aimed at encouraging the development of the official linguistic communities while ensuring the implementation of the corrective action needed to rectify past injustices. It remains consistent with the fundamental purpose underlying the rights entrenched in the Constitution.”*

The Court of Appeal also stated that this approach has been consistently followed by the courts, the provinces and the federal government.

The Court concluded that the appointment of the Lieutenant Governor did not violate that provision of the *Charter* and that the failure of a Lieutenant Governor to be fluent in both English and French does not violate the equality of status and the equal rights and privileges with respect to their use within the institution, the Office of the Lieutenant Governor. The Court stated it is difficult to *“...interpret the wording of subsection 16(2) as requiring the personal bilingualism of the Lieutenant Governor.”*

Subsection 16.1(1) of the *Charter*

Subsection 16.1(1) of the *Charter* was added in 1993 and refers to the equality of status and rights for both official linguistic communities in New Brunswick, including the right to distinct educational and cultural institutions. The SANB’s position was that the Lieutenant Governor has the duty to interact with the public in both official languages and the appointment of a unilingual Anglophone in that position is contrary to the substantive equality provisions set out in subsection 16.1(1).

The Court of Appeal traced the history of subsection 16.1(1) and concluded that subsection 16.1(1) was never intended to introduce duality *“within the apparatus of government or to promote the bilingualism of identifiable individuals.”* The Court of Appeal concluded that subsection 16.1(1) does not impose the requirement of bilingualism on the Lieutenant Governor of New Brunswick.

With respect to the issues raised on Cross-appeal, the Court of Appeal did not agree that the appointment of a unilingual Lieutenant Governor violates provisions 18(2) and 16.1(2) of the *Charter*, concluding that the wording of subsection 18(2) refers to documents, not individuals who are subject to language requirements and the linguistic capabilities of the Lieutenant Governor has no impact of the realization of the purpose of subsection 18(2) since they do not limit access of either linguistic community to enactments of the Legislative Assembly.

The Court also stated, *“It seems misleading to suggest that the fact that a Lieutenant Governor cannot read or understand legislative enactments in both official languages compromises the integrity of royal assent, a power that is fully circumscribed by constitutional convention, whereas that norm does not apply to legislators.”*

In essence, the New Brunswick Court of Appeal concluded that the *Charter* does not require the personal bilingualism of the Lieutenant Governor of New Brunswick.

COURTHOUSE CLOSURE IN CARAQUET AND A SATELLITE COURT FOR TRACADIE

*Forum des maires de la Péninsule acadienne Inc. v. Minister Of Justice And Public Safety 2024
NBBR 058*

At the end of 2021, the New Brunswick government closed the provincial court facilities in Caraquet and Tracadie became a satellite court in 2022. The Provincial Court judges who had been sitting in those courts were transferred to Miramichi and Bathurst. All employees and cases were transferred to Bathurst. The reason given for the decision was that there were a declining number of cases being heard in those courthouses and it was a more efficient use of resources to centralize those court services to Bathurst.

When the decision was made respecting the Caraquet and Tracadie courthouses, there was no public consultation and the Forum des maires de la Péninsule acadienne (Forum des maires) wrote to the Minister expressing their disagreement and requested a meeting. Minister Flemming responded that the decision to close the courthouses had been made for purely economic reasons and to optimize resources.

The Forum des maires applied for judicial review of that decision, arguing that closing a courthouse in a mainly Francophone region is contrary to the rights guaranteed under the *Charter* as well as to the quasi-constitutional rights protected under the New Brunswick *Official Languages Act* (OLA) and *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*.

Justice Bourque stated that the basis of the legal challenge is whether the Minister in making his decision, did not take into account his obligation to protect and promote the Francophone minority.

In reviewing the matter, Justice Bourque determined that the appropriate standard of review was the reasonableness standard. She concluded that the Minister's decisions to close the Caraquet courthouse, to convert the Tracadie courthouse to a satellite court and to transfer the judges was unreasonable. In her analysis, Justice Bourque noted that in reviewing a discretionary decision (such as the decision of the Minister in this matter) the court must first determine if the decision involves *Charter* rights.

To do so she considered the purpose of sections 16 and 16.1 of the *Charter* as well as the OLA and *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick* and the values that underlie those rights. The Court then examined the Minister's reasoning in determining whether the decision reflects a "*proportional balancing of the Charter Rights or their underlying values.*" Justice Bourque stated that those provisions and statutes, "*...impose on government the obligation to take a favourable measure to ensure the preservation and promotion of the linguistic communities.*"

Justice Bourque found there is a “*positive connection*” between closing a courthouse and the preservation, promotion and development of a linguistic minority community. If the public is unable to access a courthouse because of geographic distance or other obstacles, the fundamental values of the judicial system are infringed. The court found that a courthouse is a symbol of justice and the rule of law in a community, they contribute to a community’s vitality as a centre for judicial proceedings, provide employment opportunities, and stimulate economic activity as well as promote trust and a sense of safety among citizens of the community it serves.

In her analysis, Justice Bourque noted that the Minister’s decision must show that he “...*judiciously took the Charter protections into account in order to measure the possible impact of his decision on the Francophone minority.*” She concluded that the decision about the courthouses may not have directly infringed language rights guaranteed by the *Charter* and other statutes but that,

“...it nonetheless had a significant impact on the preservation and the development of the minority language community. It follows that those values are always relevant when government exercises such a discretionary authority and that they must at least be taken into account at the outset. This means that the government was required to consider those values of preservation, development and promotion of the minority language community in exercising its discretion to close the courthouse.”

In her decision of March 28, 2024, Justice Bourque set aside the decision of the Minister of Justice and Public Safety to close the Caraquet courthouse, to convert the Tracadie courthouse to a satellite court and to transfer the judges who had been sitting in those locations. She referred the matter back to the Minister for reconsideration.



**PROMOTING THE
ADVANCEMENT OF BOTH
OFFICIAL LANGUAGES**



THE PROMOTION MANDATE: A key element of progress

Context

The Commissioner of Official Languages has a dual mandate: to investigate, report on, and make recommendations regarding compliance with the *Official Languages Act* and to promote the advancement of both official languages in the province.

Activities intended to promote the advancement of the two official languages in the province are vital for progressing towards real equality of the two official languages and the two official linguistic communities.

These promotional activities aim to:

- demonstrate the importance of bilingual services for the two linguistic communities;
- debunk in a more systematic way the myths surrounding official bilingualism and linguistic duality;
- highlight the social and economic benefits of the bilingual character of the province;
- promote dialogue between our two linguistic communities; and
- respond to members of the public's questions regarding duality and official bilingualism.

43(9) In accordance with the authority provided to the Commissioner under this Act, it is the role of the Commissioner to investigate, report on and make recommendations with regard to compliance with this Act and to promote the advancement of both official languages in the Province.

43(9) Conformément aux pouvoirs qui lui sont conférés en vertu de la présente loi, le rôle du commissaire est d'enquêter, présenter des rapports et de faire des recommandations visant le respect de la présente loi et de promouvoir l'avancement des deux langues officielles dans la province.



QUESTION PERIOD AT THE LEGISLATIVE ASSEMBLY

The vitality of a language is not only related to the number of its speakers. Several other factors play a role: its status (official language or not), its instruction in schools, its use in the workplace, and its presence in the media. In addition, public use of a language, particularly within important institutions, can have an influence on public perceptions with respect to its importance or place within society.

We can therefore understand that a balanced use of both official languages in the Legislative Assembly is of great importance. Question period is definitely one of the highlights of the Legislature's activities. Webcast and closely monitored by journalists, it has a direct impact on current affairs in the province. Although simultaneous interpretation is available during question period, the choice of languages used during a debate has a highly symbolic value that cannot be underestimated.

A review of the question period transcripts from May 9, 2023, to March 28, 2022 (44 daily sittings) shows that, on average, debates were carried out **in English 86% of the time** and **in French 14% of the time**.

The Commissioner recognizes and respects the right of Members of the Legislative Assembly (MLAs) to use their language of choice during debates. However, she notes the important role elected officials can play in the vitality of both official languages in the province and encourages all MLAs to strive for a more balanced use of English and French in the Legislature.

Use of English and French during question period

	2020-2021	2021-2022	2022-2023	2023-2024
<i>English</i>	84%	80%	80%	86%
<i>French</i>	16%	20%	20%	14%



PROMOTIONAL CAMPAGNE

Hello, Bonjour – Stories of Language

The language rights enshrined in the *Official Languages Act* (OLA) apply to all New Brunswickers regardless of first language or age. With this in mind, the Office of the Commissioner of Official Languages developed a promotional campaign to help students across the province learn about our two official languages and the requirements of the OLA in a fun way. Two online interactive games about the official languages were created for this purpose.

These games, one geared toward grades 4 and 5 and the other grades 6 and 7, allow students to learn more about official languages and bilingualism while also serving as an educational tool about New Brunswick: who we are, where we live and our history. Development of the games began in 2021, making the *Hello, Bonjour* campaign the outcome of three years of diligent work.

Since the OLA does not apply to the education sector, it is important to note that these games are not tools designed to teach either official language. Students play the game in the official language of their choice in order to learn more about official languages and language rights in New Brunswick.

The *Hello, Bonjour* campaign was rolled out at schools in New Brunswick in February 2024. As part of the official campaign launch, the Commissioner visited a number of schools across the province to meet with students, talk with them about their language rights under the OLA and present the *Hello, Bonjour – Stories of Language* games to them!

The two games, *New Friends* and *New Brunswick’s Influencer*, are available at the website www.HelloNB.ca. A total of four online interactive games, or two per official language, were created. The French versions of the games are found at the website www.BonjourNB.ca.

New Friends – Grades 4 and 5

New Friends is a question-and-answer game in which students travel around the province visiting points of interest while learning an interesting fact at each stop.

As the game starts, Sam, a talking squirrel who is on vacation in New Brunswick, knocks on the front door of a house. When the door opens, Sam is greeted with “Hello, Bonjour” and is then invited to enter the home. After Sam introduces himself, the student needs to type a name and choose a character. Sam asks the student why he was greeted in French and English.

The student's character explains that since there was no way to know which language Sam speaks, saying hello in both official languages allows the squirrel to answer in his official language of choice without assuming which language he prefers.

Sam realizes how little he knows about the province and asks the student to take him to new places so he can learn more about the official languages. Sam and the student leave on their bicycles, and the student has to choose a point of interest to visit. When they arrive at the chosen location, Sam and the student encounter a new person or, in some cases, another talking animal, who shares information with them and asks a multiple-choice question about official languages. When the student chooses the correct answer, a more detailed explanation is displayed. Sam and the student then say goodbye to their new friend and head off to visit the next point of interest of the student's choosing.

To complete the game, the student must visit at least three points of interest. After each stop, four new options for the next visit are displayed to offer the student greater control over the game experience. After completing the game, students are encouraged to play again to explore additional points of interest and learn even more.

Destinations visited and questions asked

Region	Point of Interest	Question Asked
Shediac	Giant Lobster	When did New Brunswick officially become bilingual?
Bay of Fundy	Hopewell Rocks	Which New Brunswick Premier was responsible for the adoption of the New Brunswick <i>Official Languages Act</i> ?
Neguac	Neguac Lighthouse	Why does each linguistic community have its own schools?
Campbellton	Big Salmon	Do private companies, such as a food truck, have to offer services in both English and French?
Nackawic	World's Largest Axe	How many municipalities in the province require that certain services be offered in both official languages?
Hartland	Longest Covered Bridge	When does an active offer of service need to be made by government institutions? What is the <i>Official Languages Act</i> for?
Moncton	Magnetic Hill	Do all government employees need to be bilingual in New Brunswick?
Bertrand	Acadian Village	What happened on July 17, 1981?
Saint John	Reversing Falls	Who is responsible for making sure the government follows the rules around bilingualism?
Edmundston	New Brunswick Botanical Garden	Does the <i>Official Languages Act</i> apply to all of New Brunswick?
Waterside	Cape Enrage	Since all police officers in New Brunswick must serve people in either French or English, can an officer call another one for assistance to provide service if they cannot communicate in one of those languages?
Saint-Quentin	Mount Carleton	What percentage of New Brunswickers have English as their first language?

New Brunswick's Influencer – Grades 6 and 7

New Brunswick's Influencer is a question-and-answer game in which students travel across Canada visiting points of interest while learning interesting facts at each stop. At the end of each visit, students summarize what they have learned in the form of a fictional social media post to share what they have learned with their followers.

The game begins with an image of a cellphone showing that a new text message has been received. This message indicates that the student has been selected to become an ambassador for New Brunswick's two official languages and will be touring the country to share their experience and tell people about what it means to live in the only province where two languages are officially recognized. The student must then confirm their participation by typing their first name and selecting a selfie representing their character. Before starting the tour, the student has to go to the New Brunswick Legislative Assembly to meet the tour organizers and answer the following three questions about official languages:

- In what year were English and French recognized by the Canadian government as the two official languages of New Brunswick under the *Canadian Charter of Rights and Freedoms*?
- When did New Brunswick officially recognize English and French as official languages?
- True or False: Having two official languages creates division between English-speaking and French-speaking communities.

After answering the questions, the student must select a city to visit and then sets off on the tour of the country. On arriving at the selected destination, the student encounters a new person who shares information and asks a multiple-choice question about official languages and language rights. When the student chooses the correct answer, a more detailed explanation is displayed. The student then writes a post for their followers and chooses the next city to visit.

To complete the game, the student must visit at least four cities. After each stop, four new options for the next visit are displayed to offer the student greater control over the game experience. After completing the game, students are encouraged to play again to explore additional cities and learn even more.

Destinations visited and questions asked

City	Point of Interest	Question Asked
Churchill, Manitoba	Prince of Wales Fort	What happened in New Brunswick on July 17, 1981?
Timmins, Ontario	Centre culturel La Ronde	Is New Brunswick the only officially bilingual province in Canada?
Vancouver, British Columbia	University of British Columbia	In 1968, Université de Moncton students helped push for bilingualism in New Brunswick by...
Legal, Alberta	French mural tour	Would a police officer in New Brunswick who isn't bilingual be allowed to call another officer if someone needs service in an official language they do not speak?

Victoria, British Columbia	City of Victoria	What percentage of New Brunswick's total population can speak both French and English today?
Ottawa, Ontario	Parliament of Canada	Which came first, the <i>Official Languages Act</i> of Canada, or the <i>Official Languages Act</i> of New Brunswick?
Montcalm, Manitoba	St. Joseph Museum	Do you know how many cities, towns or villages in New Brunswick have to offer services in both official languages?
Drumheller, Alberta	Royal Tyrrell Museum	When does an active offer of service need to be made in New Brunswick?
Toronto, Ontario	Office of the Commissioner of Official Languages for Canada	What is the purpose of the <i>Official Languages Act</i> of New Brunswick?
Saint-Boniface, Manitoba	Université de Saint-Boniface	Does the <i>Official Languages Act</i> discriminate against unilingual people when it comes to government jobs?
Maillardville, British Columbia	Mackin Park	Who investigates complaints if members of the public can't access government services in the official language of their choice in New Brunswick?
Edmonton, Alberta	La Cité Francophone	How many Francophones live in Canada?
Sudbury, Ontario	Science North	Why do you think the Anglophone and the Francophone communities each have their own schools?
Winnipeg, Manitoba	Royal Canadian Mint	In your home province of New Brunswick, do all government employees need to be bilingual?
Grande Prairie, Alberta	Grande Prairie Museum	New Brunswick is the only province in Canada that: (answer: Is specifically mentioned by name in the Canadian Charter of Rights and Freedoms)
Nanaimo, British Columbia	Nanaimo Museum	Why is it important to offer bilingual healthcare services in New Brunswick?

Launch

On February 12 to 16, 2024, as part of the official campaign launch, the Commissioner visited a number of schools across the province along with Office of the Commissioner team members and a video recording crew. This tour covered a total of seven schools, one per school district:

- Hartland Community School, Hartland;
- Élémentaire Sacré-Cœur, Grand Falls;
- École l'Envolée, Shippagan;
- Tabusintac Community School, Tabusintac;
- École Abbey-Landry, Memramcook;
- Petitcodiac Regional School, Petitcodiac; and
- Forest Hills School, Saint John.

The purpose of the tour was to meet with students, talk with them about their language rights under the *Official Languages Act* and present the games to them. Students and staff at the schools visited were also encouraged to express their opinions about the campaign on camera. To follow up, two recap videos from the tour were produced and posted on the social media accounts of the Office of the Commissioner in May 2024. Since the interviews were conducted in each person's preferred language, there are two videos, one in English and one in French, both with subtitles.

Link to the French video: <https://youtu.be/4cE2lldAUUc>

Link to the English video: <https://youtu.be/61gzENNZWdA>

Contest

To motivate students to play and learn, the Office of the Commissioner held a contest giving students the chance to win a laptop computer. To enter the contest, students had to submit a creative summary of what they had learned through the game. Students had to submit their entries at the HelloNB.ca website by the March 22, 2024, deadline, and the names of the winners were drawn randomly the following week. The entries submitted by students included presentations, essays, drawings, songs, videos and more! A total of 122 students in Grades 4 to 7 entered the contest.

Each of the 10 winners, five per age group, won a new laptop!

Classmates of the winning students also received promotional gifts. Students in Grades 4 and 5 were given a Sam the Squirrel hat, a lanyard and an “English-Français” pin. Students in Grades 6 and 7, meanwhile, received a phone holder, a lanyard and an “English-Français” pin.

Grade 4–5 winners:

- Marlie Ferguson – Magnetic Hill School;
- Marnie Lutes – Magnetic Hill School;
- Colby Askeland – Magnetic Hill School;
- Luke Bangay – Nashwaaksis Memorial School; and
- Caroline Babineau – École Claudette Bradshaw.

Grade 6–7 winners:

- Greer LeBlanc-Stephens – Quispamsis Middle School;
- Kellan Fletcher – Nelson Rural School;
- Fiammeta Franklin – Hillcrest School;
- Jeriel Keutiben – École Le Sommet; and
- Daximus Prianti – Bessborough School.

Technical issues

Unfortunately, some schools in the province experienced technical issues that prevented them from accessing the games and entering the contest. Since these issues were beyond their control and may have left some students at a disadvantage, a second random draw was held for each age group among the students of the teachers who contacted us. The classmates of these winning students also received promotional gifts.

This initiative was made possible in part through a grant received under the Canada-New Brunswick Agreement on the Provision of French-Language Services.



PROMOTIONAL CAMPAGNE

Two official languages, one heart

According to the results of the *Language and Society in New Brunswick* public opinion survey conducted by the Office of the Commissioner of Official Languages in 2021, most New Brunswickers (81%) support the concept of the *Official Languages Act*. This often silent majority is very proud to live in Canada's only officially bilingual province. The Office of the Commissioner wanted to highlight this pride by launching a campaign with a unifying theme and that promoted a sense of belonging.

In January 2024, the “*Two official languages, one heart*” promotional campaign was launched. The campaign was designed to foster a sense of belonging, bring the English and French linguistic communities together and build a more positive attitude towards the official languages.

The campaign was a great success with 11.8 million impressions, including 949,000 views of the online videos and 125,000 clicks, with an excellent overall click-through rate of 1.05%.

To reach a greater number of New Brunswickers, the campaign included online digital and video ads and television ads.

The full video ad used online and on television is 30 seconds long. While video clips showcase New Brunswick's cultural diversity and natural beauty, a narrator delivers the following message:

“You see it in caring neighbours, in the way we live, work and play together. You feel it in the ties between communities and in the rich cultural diversity that makes this Canada's only bilingual province. Here, our two official languages are the two sides of one heart. New Brunswick: two official languages, one heart.”

Two shortened versions of the video, one lasting 15 seconds and another lasting 6 seconds, were also developed and distributed online. This video can still be viewed on the Office of the Commissioner's YouTube channel.

All versions of the video were distributed online as ads on Facebook, Instagram and YouTube between January 29 and March 30, 2024.

The entire video ad was broadcast on the Radio-Canada, CHAU, CTV, Global and CBC television channels between March 4 and 24, 2024.

In addition to online and television video ads, a series of digital ads were developed and published on Facebook and Instagram and via the Google Display Network. These digital ads were in circulation between January 22 and March 30, 2024.

The following pages set out the creative concepts implemented as part of the “Two official languages, one heart” promotional campaign.

Video (30 seconds)



Digital ads





PINS AND COUNTERTOP SIGNS

Since 2004, the Office of the Commissioner of Official Languages has been distributing “Français–English” pins and countertop signs at no cost to private-sector organizations, individuals and businesses upon request. These promotional items are used to inform members of the public upon entering a place of business that service is offered in the official language of their choice.

This interest among private businesses in advertising and providing their services in both official languages is to be commended and encouraged, since they have no particular linguistic obligations under the *Official Languages Act*. By proactively offering service in both official languages, businesses can reach more customers while also helping to foster a climate of linguistic inclusion when it comes to the delivery of services.

In this respect, the private sector has positioned itself as a key actor by showing that it seeks to play an active part in ensuring that all people are treated equally regardless of which official language they use.

In June 2023, the Office of the Commissioner forwarded a letter to all chambers of commerce to remind them that these promotional items are available at no cost and to encourage them to pass this information on to their respective members. During the ensuing months, a total of 400 pins and 10 countertop signs were distributed to individuals, organizations and businesses who submitted a request.

The Office of the Commissioner congratulates all organizations that requested pins or countertop signs for their positive actions in offering and providing services in both official languages.

Special mention

In November 2023, the Office of the Commissioner received a request from Ontario for “Français–English” pins and countertop signs. While it is unusual to distribute these promotional items outside the province, the request indicated that Isabelle Gervais, the only bilingual employee at the business where she worked, wanted to communicate with pride that she was able to serve customers in French or English.

The Office of the Commissioner approved this request without hesitation and sent the promotional items without delay.

Recognizing Canada's linguistic duality and the linguistic diversity of other provinces is a matter of respect. Although New Brunswick may be our country's only officially bilingual province, some other provinces also have sizable minority Francophone populations.

In Ontario, Franco-Ontarians do not have the same rights as those set out in the New Brunswick *Official Languages Act*. Consequently, requesting and receiving service in French there can be more challenging. That said, French-speaking customers who support the business where Isabelle Gervais works now know, without having to inquire, that they can be served in their language.

Congratulations and bravo, Isabelle!





APPEARANCE BEFORE THE STANDING SENATE COMMITTEE ON OFFICIAL LANGUAGES

The Commissioner of Official Languages, Shirley MacLean, appeared before the Standing Senate Committee on Official Languages on Monday, May 1, 2023, as part of the Senate's study on minority-language health services.

Below is the speech Commissioner MacLean delivered during her appearance before the Standing Senate Committee on Official Languages.

Speech by Shirley MacLean, Commissioner of Official Languages for NB

Good morning everyone. I am pleased to have this opportunity to appear in person here today to testify in your study on minority-language health services.

As New Brunswick's Commissioner of Official Languages and as a Canadian, there is nothing more important to me than health and the delivery of healthcare services.

In fact, one of the main reasons I was interested in the position of commissioner related to issues surrounding the provision of health services to our francophone linguistic minority in New Brunswick.

As most of you already know, New Brunswick is the only officially bilingual province. New Brunswick's unique status is enshrined in the *Canadian Charter of Rights and Freedoms*. The *Charter* states that English and French are the official languages of New Brunswick, and also stipulates that the English and French linguistic communities in the province have equal status, rights and privileges.

In New Brunswick, everyone has the right to receive health care in either official language. Under the *Regional Health Authorities Act*, the province has two health networks: Vitalité and Horizon. They manage hospitals and provide various health care services.

Each network has an internal operating language, French for Vitalité and English for Horizon. However, both networks must provide services to the public in both official languages.

Issues relating to the provision of healthcare services are a question of security. When any of us are involved in the health system, we are in a position of vulnerability, as most of us are on unfamiliar territory. We do not speak the medical language.

This situation can be exacerbated for the French-speaking minority, who often face language barriers in accessing health care in their first language.

It has been demonstrated repeatedly that when it comes to health care, language is integral to the quality and safety of care. Access to health care of equal quality and in the official language of choice improves health for all.

Quality of care is also closely linked to the ability of providers to assist service users. The ability to understand and be understood is essential for an effective relationship between the health care provider and the public, and it helps to avoid dangerous situations.

Over the past six years, complaints relating to health care have comprised a significant percentage of complaints we have received, and most of these have been with respect to lack of service in French.

If I look at the overall complaints reported in my most recent annual report for 2021-22, health care is certainly the recurring theme, with almost 40% of the complaints handled relating to health care matters.

There are also new points of service to be aware of. In New Brunswick and Canada, we have seen an increased shortage of health care workers, including doctors and nurses. This shortage, as well as issues related to the pandemic, have resulted in the increased use of virtual and online health care services.

At my office, we have received complaints about these services. An online service that is accessed by persons without health care providers who require medical assistance advised francophone users that their wait times may be longer if they decided to continue in French.

In other cases, francophone users of the site who submitted a question or query received an electronic response that the service did not understand their question enough to provide them service.

This is not only a breach of the *Official Languages Act*, but it also poses a potential danger to a francophone user, and certainly is a barrier to accessing health care services that are of equal quality to those available to anglophones. This is just one glaring example. It was remedied. However, access to services of equal quality in both official languages continues to be a serious issue, even in our bilingual province where the institutions understand their linguistic obligations and make real efforts to meet them.

In addition, workforce shortages cannot be used as an excuse for not meeting language obligations. In short, in New Brunswick, all government institutions, including the two health networks, have the obligation to provide services of equal quality in both official languages. The inclusion of mandatory language clauses in federal health transfers will ensure support for official language minority communities.



PRESENTATIONS BY THE COMMISSIONER

Between April 1, 2023, and March 31, 2024

Below are the main activities in which the Commissioner was involved during the 2023-2024 fiscal year.

May 1, 2023	<p>Appearance before the Standing Senate Committee on Official Languages</p> <p>Senate’s study on minority-language health services Ottawa, Ontario</p>
June 12, 2023	<p>Admission Ceremony of the Law Society of New Brunswick</p> <p>Address on the commissioner’s mandate and the <i>Official Languages Act</i> Fredericton, NB</p>
October 14, 2023	<p>Annual Meeting of the Association francophone des municipalités du Nouveau Brunswick</p> <p>Presentation regarding the commissioner’s mandate and official languages in New Brunswick Moncton, NB</p>
October 21, 2023	<p>Association des juristes d’expression française du Nouveau-Brunswick</p> <p>Panelist on panel discussion regarding the <i>Official Languages Act</i> Moncton, NB</p>
November 9, 2023	<p>Horizon Health Network - Senior Leadership Team</p> <p>Virtual presentation regarding the commissioner’s mandate and official languages in New Brunswick</p>
January 31, 2024	<p>New Brunswick Legislative Internship Program</p> <p>Virtual presentation regarding the commissioner’s mandate and official languages in New Brunswick</p>
February 8, 2024	<p>Appearance before the Standing Committee on Procedure, Privileges and Legislative Officers of the Legislative Assembly</p> <p>Presentation of 2022-2023 Annual Report Fredericton, NB</p>
February 12-16, 2024	<p><i>Hello, Bonjour – Stories of Language</i> youth campaign</p> <p>Provincial tour of several schools in anglophone and francophone school districts Hartland, Grand Falls, Shippagan, Tabusintac, Memramcook, Petitcodiac, Saint John, NB</p>
March 18, 2024	<p>Remarks – Launch of the Village de Memramcook’s Language Policy</p> <p>Memramcook, NB</p>