

OFFICE OF THE FRENCH LANGUAGE  
SERVICES COMMISSIONER

Open for  
**SOLUTIONS**

Annual Report 2009-2010

Contact the Office of the French Language Services Commissioner:

Toll-free: 1-866-246-5262

Toronto area: 416-314-8013

TTY (teletypewriter): 416-314-0760

Fax: 416-314-8331

E-mail: [flsc-csf@ontario.ca](mailto:flsc-csf@ontario.ca)

© Queen's Printer for Ontario, 2010

ISSN 1916-9175 (Print)

ISSN 1916-9183 (Online)

June 2010

This document is also available in its original PDF format on our Website at [www.flsc.gov.on.ca](http://www.flsc.gov.on.ca) in the "Publications" section.

Printed copies are available free of charge.

Write to: Office of the French Language Services Commissioner  
700 Bay Street, Suite 2401, Toronto ON M7A 2H8

Or e-mail: [flsc-csf@ontario.ca](mailto:flsc-csf@ontario.ca)



Printed on  
50% recycled paper

# LETTER TO THE MINISTER

The Honourable Madeleine Meilleur  
Minister of Community and Social Services  
Minister Responsible for Francophone Affairs  
Hepburn Block  
6<sup>th</sup> Floor  
80 Grosvenor Street  
Toronto ON M7A1E9

Dear Minister:

Pursuant to section 12.5(1) of the *French Language Services Act*, I hereby submit to you the third annual report of the French Language Services Commissioner. This report covers the period from April 1, 2009, to March 31, 2010. Furthermore, I ask that you table this report in the Legislative Assembly, as set out in subsection 12.5(3) of the *French Language Services Act*.

Yours respectfully,

A handwritten signature in black ink, appearing to read 'François Boileau', with a long horizontal flourish extending to the right.

François Boileau  
French Language Services Commissioner of Ontario

# Table of Contents

|                                                                                                            |    |                                                                                                                |    |
|------------------------------------------------------------------------------------------------------------|----|----------------------------------------------------------------------------------------------------------------|----|
| <b>LETTER TO THE MINISTER</b> .....                                                                        | 3  | <b>CHAPTER 2 COMPLAINTS</b> .....                                                                              | 22 |
| <b>TABLE OF CONTENTS</b> .....                                                                             | 4  | 2.1 COMPLAINTS RECEIVED IN 2009-2010 .....                                                                     | 22 |
| <b>SUMMARY</b> .....                                                                                       | 6  | 2.1.1 <i>Complaints by Category</i> .....                                                                      | 22 |
| <b>RECOMMENDATIONS</b> .....                                                                               | 8  | 2.1.2 <i>Geographical Distribution of Complaints</i> .....                                                     | 24 |
| <b>FOREWORD</b> .....                                                                                      | 9  | 2.2 COMPLAINTS WITH RESPECT TO<br>COMMUNICATIONS .....                                                         | 24 |
| <b>CHAPTER 1 KEY OBSERVATIONS</b> .....                                                                    | 11 | 2.3 REQUESTS FOR INFORMATION .....                                                                             | 25 |
| 1.1 ACTIVE OFFER .....                                                                                     | 11 | 2.4 PROCESSING OF COMPLAINTS .....                                                                             | 25 |
| 1.1.1 <i>Concept of Active Offer</i> .....                                                                 | 11 | 2.4.1 <i>Causes</i> .....                                                                                      | 26 |
| 1.1.2 <i>Role of Government Institutions</i> .....                                                         | 11 | 2.4.2 <i>Systemic Investigations Conducted Jointly<br/>        or in Cooperation with Other Agencies</i> ..... | 26 |
| 1.1.3 <i>Studies</i> .....                                                                                 | 12 | 2.4.2.1 <i>Office of the Commissioner of Official<br/>                Languages of Canada</i> .....            | 26 |
| 1.1.4 <i>OPS Service Directive</i> .....                                                                   | 13 | 2.4.3 <i>Complaint Resolution in Hospitals,<br/>        Municipalities, and the Private Sector</i> .....       | 27 |
| 1.1.5 <i>Examples to Emulate</i> .....                                                                     | 13 | 2.4.4 <i>Monitoring the Delivery of French<br/>        Language Services</i> .....                             | 27 |
| 1.1.6 <i>Ongoing Promotion of<br/>                French-Language Services</i> .....                       | 14 |                                                                                                                |    |
| RECOMMENDATION 1 .....                                                                                     | 14 | <b>CHAPTER 3 INVESTIGATIONS OF ADMISSIBLE<br/>COMPLAINTS</b> .....                                             | 28 |
| 1.2 EVOLUTION OF SERVICE OFFER .....                                                                       | 14 | 3.1 COMPLAINTS THAT SHOULD HAVE BEEN<br>AVOIDED .....                                                          | 28 |
| 1.2.1 <i>Third-Party Service Offer</i> .....                                                               | 14 | 3.1.1 <i>Lack of Training</i> .....                                                                            | 28 |
| RECOMMENDATION 2 .....                                                                                     | 15 | 3.1.2 <i>Lack of Understanding of<br/>        the Principles of Consultation</i> .....                         | 28 |
| 1.2.2 <i>Avoiding the Errors of the Past</i> .....                                                         | 15 | 3.2 URGENT COMPLAINTS .....                                                                                    | 29 |
| RECOMMENDATION 3 .....                                                                                     | 16 | 3.2.1 <i>Health</i> .....                                                                                      | 29 |
| 1.3 A REVIEW OF RECOMMENDATIONS<br>FROM PREVIOUS YEARS .....                                               | 16 | 3.2.1.1 <i>Francophone Community Engagement<br/>                Regulation</i> .....                           | 30 |
| 1.3.1 <i>Translation of Regulations</i> .....                                                              | 16 | 3.2.1.2 <i>The English-Only H1N1 Brochure</i> .....                                                            | 31 |
| 1.3.1.1 <i>Follow-up to the Commissioner's<br/>                Recommendation</i> .....                    | 16 | 3.2.1.3 <i>Communication</i> .....                                                                             | 31 |
| 1.3.1.2 <i>Analysis of the Government's Response</i> ..                                                    | 16 | 3.2.1.4 <i>French-Language Services in Peel and<br/>                Halton</i> .....                           | 32 |
| 1.3.2 <i>Policy on the Designation<br/>        of Bilingual Positions</i> .....                            | 17 | 3.2.1.5 <i>Local Health Integration<br/>                Networks (LHINs)</i> .....                             | 32 |
| 1.3.2.1 <i>Follow-up to the Commissioner's<br/>                Recommendation</i> .....                    | 17 | 3.2.1.6 <i>Healthy Communities Fund</i> .....                                                                  | 33 |
| 1.3.2.2 <i>Analysis of the Government's Response</i> ..                                                    | 18 | 3.2.2 <i>Administrative Tribunals</i> .....                                                                    | 33 |
| 1.3.3 <i>An Increased Role for the Office of<br/>        Francophone Affairs</i> .....                     | 18 | 3.2.2.1 <i>Social Benefits Tribunal</i> .....                                                                  | 34 |
| 1.3.3.1 <i>Follow-up to the Commissioner's<br/>                Recommendation</i> .....                    | 18 | 3.2.3 <i>Justice</i> .....                                                                                     | 34 |
| 1.3.3.2 <i>Analysis of the Government's Response</i> ..                                                    | 19 | 3.2.3.1 <i>Ontario Provincial Police (OPP)</i> .....                                                           | 34 |
| 1.3.4 <i>The Ontario Attorney General's FLS Bench<br/>        and Bar Advisory Committee</i> .....         | 19 | 3.2.3.2 <i>Special Investigations Unit</i> .....                                                               | 35 |
| 1.3.4.1 <i>Follow-up to the Commissioner's<br/>                Recommendation</i> .....                    | 19 | 3.2.4 <i>Transportation</i> .....                                                                              | 35 |
| 1.3.4.2 <i>Analysis of the Government's Response</i> ..                                                    | 20 | 3.2.4.1 <i>Variable Message Signs</i> .....                                                                    | 35 |
| 1.3.5 <i>Special Report on French Language Health<br/>        Services Planning in Ontario, 2009</i> ..... | 20 | 3.2.5 <i>Finance</i> .....                                                                                     | 35 |
|                                                                                                            |    | 3.2.5.1 <i>Municipal Property Assessment<br/>                Corporation (MPAC)</i> .....                      | 35 |

## CHAPTER 4 INVESTIGATIONS OF INDIRECT SERVICES ..... 37

|                                                                        |    |
|------------------------------------------------------------------------|----|
| 4.1 COMPLAINTS WITH RESPECT TO SERVICES OFFERED BY THIRD PARTIES ..... | 37 |
| 4.2 PRIVATE SERVICE PROVIDERS .....                                    | 37 |
| 4.2.1 Private Driver and Vehicle Licensing Offices ..                  | 37 |
| 4.2.2 MERX .....                                                       | 38 |
| 4.2.3 Employment Ontario .....                                         | 38 |
| 4.2.4 College of Nurses of Ontario .....                               | 39 |
| 4.3 MUNICIPAL SERVICE PROVIDERS .....                                  | 39 |
| 4.3.1 Municipally Administered Courts .....                            | 39 |
| 4.3.2 Public Health Units .....                                        | 40 |
| RECOMMENDATION 4 .....                                                 | 41 |
| 4.3.3 Ontario Works .....                                              | 41 |
| 4.4 TRANSFER PAYMENT AGENCIES .....                                    | 42 |
| 4.4.1 Children's Aid Societies .....                                   | 42 |
| RECOMMENDATION 5 .....                                                 | 44 |
| 4.4.2 Autism Ontario's Realize Community Potential Program .....       | 44 |

## CHAPTER 5 SUBSIDIZATION AND DEVOLUTION ..... 46

|                                                               |    |
|---------------------------------------------------------------|----|
| 5.1 SUBSIDIES .....                                           | 46 |
| 5.1.1 Parent Information Program .....                        | 46 |
| 5.1.2 Pride Celebrations .....                                | 46 |
| 5.1.3 Regional Immigration Portal .....                       | 47 |
| 5.2 DEVOLUTION .....                                          | 47 |
| 5.2.1 MPAC-Take Two .....                                     | 47 |
| 5.2.2 Hydro One .....                                         | 48 |
| 5.2.3 Community Care Access Centres .....                     | 48 |
| RECOMMENDATION 6 .....                                        | 49 |
| 5.2.4 Development of French-Language Driver Instruction ..... | 49 |
| 5.2.5 Delivery of First Aid Courses .....                     | 49 |
| 5.2.6 Creation of New Tourism Regions .....                   | 49 |
| 5.2.7 Waste Diversion Ontario .....                           | 50 |

## CHAPTER 6 HIGHLIGHTS AND BEST PRACTICES ..... 51

|                                                                    |    |
|--------------------------------------------------------------------|----|
| 6.1 NOTEWORTHY INITIATIVES .....                                   | 51 |
| 6.1.1 Updated Community Profiles .....                             | 51 |
| 6.1.2 French Toll-Free Telephone Lines for Ontario Legal Aid ..... | 51 |

|                                                                       |    |
|-----------------------------------------------------------------------|----|
| 6.2 BEST PRACTICES .....                                              | 51 |
| 6.2.1 Service Ontario .....                                           | 51 |
| 6.2.2 Campaign to Encourage the Use of French-Language Services ..... | 51 |
| 6.2.3 Shelters for Francophone Women .....                            | 52 |
| 6.2.4 Ontario House at the 2010 Vancouver Olympic Games .....         | 52 |
| 6.2.5 Promoting Tourism and Recreation to Franco-Ontarians .....      | 52 |
| 6.2.6 French Health Services Policy .....                             | 52 |
| 6.2.7 Symposium on French Ontario and French Africa .....             | 52 |
| 6.2.8 FLS and You .....                                               | 52 |
| 6.2.9 Ministry of the Environment Video .....                         | 53 |
| 6.2.10 FrancoGO Network .....                                         | 53 |

## CHAPTER 7 ACTIVITIES OF THE OFFICE OF THE FRENCH LANGUAGE SERVICES COMMISSIONER ..... 54

|                                                                                      |    |
|--------------------------------------------------------------------------------------|----|
| 7.1 COMMUNITY MEETINGS, SPEECHES, PUBLIC EVENTS, AND THE MEDIA .....                 | 54 |
| 7.2 MEETINGS WITH SENIOR GOVERNMENT OFFICIALS .....                                  | 54 |
| 7.3 REQUESTS FOR THE COMMISSIONER'S EXPERTISE .....                                  | 54 |
| 7.4 TOURS AND VISITS TO INSTITUTIONS OF LEARNING .....                               | 54 |
| 7.5 MEETINGS WITH THE LHINS AND FOLLOW-UP TO THE COMMISSIONER'S SPECIAL REPORT ..... | 55 |
| 7.6 FIRST INVESTIGATION PUBLICLY LAUNCHED BY THE COMMISSIONER .....                  | 55 |
| 7.7 FIRST PUBLICATION OF FINDINGS OF A FORMAL INVESTIGATION .....                    | 55 |
| 7.8 RENEWAL OF THE COMMISSIONER'S MANDATE ..                                         | 55 |
| 7.9 A JOINT PRESENTATION BY CANADA'S LANGUAGE COMMISSIONERS .....                    | 56 |
| 7.10 PARTNERSHIP WITH GLENDON COLLEGE .....                                          | 56 |
| 7.11 BLOG .....                                                                      | 56 |
| CONCLUSION .....                                                                     | 57 |
| APPENDIX .....                                                                       | 58 |
| GOVERNMENT'S RESPONSES TO THE RECOMMENDATIONS OF 2008-2009 .....                     | 58 |

## Summary

This annual report, which covers the period from April 1, 2009, to March 31, 2010, is the French Language Services Commissioner of Ontario's third annual report. This year, the Commissioner provides an update on the steps that have been taken since his appointment by the government. One of his goals has been to increase the ministries' understanding of the role of complaints, that is to say, to enable the ministries to view complaints as a mechanism for controlling the quality of the services they offer to the public. Even more important, as the title of this report suggests, is the goal of finding lasting solutions to complaints. Solutions often involve active offer, a principle upon which the Commissioner has placed great emphasis again this year.

In Chapter 1, the Commissioner makes three recommendations, one of which deals exclusively with the active offer of French-language services. The Commissioner recommends that Management Board of Cabinet issue a clear directive on active offer in 2010-2011, and that an ongoing strategy to promote the offer of French-language government services be implemented. Where active offer is concerned, the Commissioner wants to see the ministries put their words into action. Government institutions play a crucial role in applying this concept; the impact of active offer on the development of communities is incalculable. The Commissioner believes that this point cannot be made strongly enough; recent studies have documented the positive impact of the active offer of French-language services on Francophone communities.

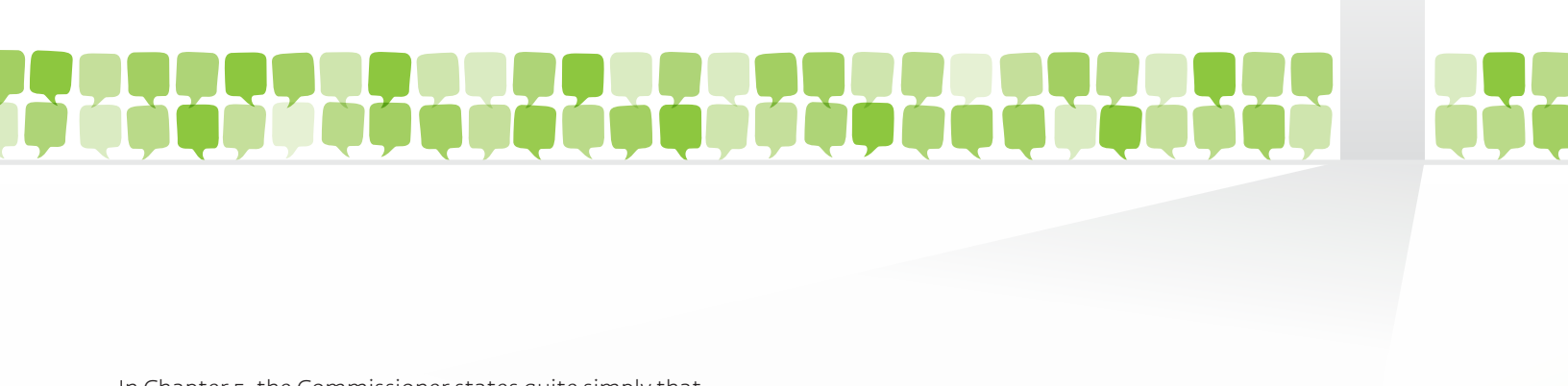
Because the way in which services are offered is constantly evolving, the Commissioner urges the government to follow up on the recommendation that he made in 2007-2008 for a regulatory framework for services offered by third parties, in order to eliminate existing loopholes. More than 20 years after the adoption of the *French Language Services Act*, third-party French-language service delivery must be regulated.

For the same reason, the Commissioner is recommending that any statute in respect of the privatization of services contain specific clauses that state clearly that the rights provided for under the *French Language Services Act* shall continue to apply. The Commissioner wants to ensure that, in the event of devolution, any obligations under the Act are unequivocally transferred to the parties concerned.

In Chapter 2, for the first time in three years, complaints are analyzed by region. Central, Eastern, and Northeastern Ontario account for the largest number of complaints received in 2009-2010. These complaints are primarily over the lack of integration of French-language services into the development of policies and programs, a lack of knowledge or a misunderstanding of the obligations created by the *French Language Services Act*, and the lack of human and financial resources to deliver these services.

Chapters 3 and 4 deal exclusively with investigations into service delivery. The health sector is, once again, under scrutiny. Of particular note are the English-only brochure on the pandemic (H1N1) influenza virus, the lack of French health services in Peel-Halton, and the Francophone Community Engagement Regulation. In Chapter 4, the Commissioner recommends that the public health units apply the *French Language Services Act* when all or most of their funding comes from the province.

In Chapter 4, the Commissioner also focuses on the transfer payment agencies, which include the Children's Aid Societies. The Commissioner recommends that the Children's Aid Societies apply the concept of actively offering French-language services throughout the province, regardless of the territory they serve. Furthermore, he recommends that a directory of French-language service providers be created for the benefit of Children's Aid Societies that are unable to offer these services themselves. Given the vulnerability of the clients they serve and the urgency of dealing with complaints over the Children's Aid Societies, Francophones must have access to French-language services in such cases.



In Chapter 5, the Commissioner states quite simply that Ontario's Francophones lost out when responsibility for the Community Care Access Centres (CCACs) was transferred in May 2009. With an announcement that went virtually unnoticed, the CCACs' status changed from that of a government agency to that of a not-for-profit corporation governed by an independent board of directors. The Commissioner is recommending the enactment of a regulation to ensure that the Community Care Access Centres comply with the obligations provided for under the *French Language Services Act*.

As he has done each year, the Commissioner applauds government agencies and ministries that have launched initiatives and practices that support the delivery of French-language services. These efforts are highlighted in Chapter 6 and include those of ServiceOntario, which provides a model of exemplary service for other government agencies and ministries to emulate.

Chapter 7 reports on the activities of the Commissioner's Office in 2009-2010. Not surprisingly, the Office made great strides and saw the efforts that it had undertaken in previous years begin to yield results. This year saw the Commissioner's term of office renewed. And there were many other firsts, including the first investigation to be undertaken on the Commissioner's initiative, the publication of the first report to contain the findings of a formal investigation by the Commissioner, the first partnership with a postsecondary institution, Glendon College, and the launch of the Commissioner's blog.

## RECOMMENDATIONS

### Recommendation 1

**The French Language Services Commissioner recommends that the Minister Responsible for Francophone Affairs ensure that:**

- A. A clear directive on the active offer of French-language services is put in place by Management Board of Cabinet, within the year 2010-2011, applicable to all ministries and government agencies.
- B. The government implements an ongoing strategy to promote the offer of government services in French to Francophones throughout Ontario.

### Recommendation 2

**The French Language Services Commissioner urges the Minister Responsible for Francophone Affairs to follow up on his recommendation and, in 2010-2011, to create a regulatory framework for services offered by third parties, in order to eliminate the existing loopholes.**

### Recommendation 3

**The French Language Services Commissioner recommends that the Minister Responsible for Francophone Affairs ensure that any statute authorizing privatization clearly contains sections specifically indicating that the rights prescribed in the *French Language Services Act* shall continue to apply.**

### Recommendation 4

In light of the role played by the province in funding the public health units and various public health initiatives, as well as in developing standards and priorities in response to the specific needs of Francophones:

**The French Language Services Commissioner recommends that, when all or part of their funding comes from the province, the Ministry of Health and Long-Term Care require public health units to implement the *French Language Services Act*.**

### Recommendation 5

Whereas Children's Aid Societies must comply with the provisions of the *French Language Services Act* and in light of the fact that their clientele are often vulnerable:

**The French Language Services Commissioner recommends that the Ministry of Children and Youth Services:**

- A. Ensure that Children's Aid Societies actively offer French-language services throughout the province.
- B. In cooperation with the Children's Aid Societies, create a network or, at the very least a directory, of French-language service providers for the benefit of those Children's Aid Societies that are currently unable to offer these services themselves.

### Recommendation 6

**The French Language Services Commissioner recommends that the Minister of Health and Long-Term Care issue a regulation to ensure that Community Care Access Centres comply with the obligations under the *French Language Services Act*.**

# Foreword

I am very proud to present my third annual report. This report reflects the hard work of an exceptional team of people to whom I owe a debt of gratitude. Thanks to this team, it has been possible to document violations of the *French Language Services Act* reported by Ontarians who are availing themselves of our services in increasing numbers. Without them, the Commissioner's Office would not have a voice.

A theme that runs through this annual report is the persistent tendency on the part of some government ministries to respond to complaints over their French-language services with excuses, instead of solutions that would close these service gaps once and for all. At the same time, however, there have been encouraging improvements in service delivery.

As in previous years, this year was a very busy one for the Commissioner's Office. It received, on average, one complaint per day. This shows that Franco-Ontarians are hoping to see tangible improvements in French-language service delivery. When they do see improvements, it increases their trust in the system. Indeed, the Commissioner's Office is now receiving complaints over sectors and programs that I did not even know existed. This is a good sign!

Even though it may not seem that way, receiving complaints day after day is very motivating. Obviously, if we were not receiving favourable responses from the government, the tenor of this annual report would be very different. Each year, I see genuine progress, on both a symbolic and a practical level. Ontario has a new inclusive definition of what it means to be a Francophone. It is now possible to order Ontario licence plates in French, with the Franco-Ontarian flag. The creation of French health planning entities that will work with the LHINs in making health-related decisions at the local level opens up many new possibilities.

Recently, the Office of the French Language Services Commissioner adopted a new vision for working proactively to ensure the integrated delivery of French-language services within the Ontario government, as a means of supporting the development of the Francophone community. With this more proactive approach, the Commissioner's Office will focus on doing what it takes to ensure that, through the services it delivers, the government supports the sustainability of the Franco-Ontarian community.

In 2010, we will celebrate 400 years of Francophone presence in Ontario. We will also be celebrating a milestone in the history of the *Assemblée de la francophonie de l'Ontario*, which has been the voice of the province's Francophones for 100 years. In addition, the government has unanimously passed a law proclaiming September 25 as Franco-Ontarian Day in the province, coinciding with Franco-Ontarian Flag Day. This law officially recognizes the contribution that the Franco-Ontarian community has made to the province.

In the past year, we said farewell to three men who had a profound impact on the Francophone community nationally and internationally.

We will miss the Honourable Jean-Robert Gauthier terribly. He dedicated his life to justice for his fellow Franco-Ontarians and French Canadians. His legacy is so vast that it is impossible to sum it up in a few words.

The passing of René Dionne, Emeritus Professor at the University of Ottawa, was also a great loss. Professor Dionne was a pioneer in research and education in the field of Franco-Ontarian literature. He received a number of honorary doctorates and his legacy to the community included some 20 works on Franco-Ontarian and Acadian literature.

Similarly, when we think of Rémy Beaugard's immense contribution, only superlatives come to mind. In addition to his remarkable involvement in the community, he was the first Director of the Office of Francophone Affairs when the *French Language Services Act* was passed. Continuing his work to promote human rights, he then became the Executive Director of the Ontario Human Rights Commission. As the President of Rights & Democracy, he fought for his convictions and protected his employees in the midst of turmoil. His untimely death has left a gaping hole in the international Francophone community.

More recently, another great defender of Francophones' rights in Huronia passed away. Raymond DesRochers was the Executive Director of the *Centre d'avancement et de leadership en développement économique communautaire de la Huronie (CALDECH)*. Determined and greatly implicated in the economic development of the Penetanguishene region, he led a brilliant legal battle before the Supreme Court against Industry Canada regarding the quality of French-language services. The Court established that federal institutions must provide services that respond to the specific needs of official language communities, instead of providing identical services to both language communities. His immense personal conviction provided Francophone communities with a better understanding of the concept of service. Quite a contribution in the history of language rights.

In the coming year, I would like to focus more closely on relations with the province's ethnic communities. In analyzing the complaints received by our Office, I have noted that very few come from these communities. Does this mean that they have no complaints? Perhaps. In recent years, the government has implemented some very promising initiatives for these communities. Having said that, in Central Ontario, ethnic communities make up slightly over 20% of the Francophone population, yet they account for only 5% to 10% of the complaints we receive.

I have always said that, during my tenure, I would look at and analyze issues as they arose. A great deal of work remains to be done with the Ontario Public Service as a whole. However, I would be remiss if I did not mention the progress that has clearly been made. I believe that our Office has had an undeniable impact on the Ontario Public Service. I sense a change for the better and a genuine willingness to take the specific needs of the Franco-Ontarian community into account. I am extremely pleased about this.

Lastly, I wish to express my gratitude to the members of my team. Each has worked tirelessly to ensure that complainants do not lose faith in the Ontario government's ability and willingness to offer high-quality French-language services. For this, I am deeply grateful.

## CHAPTER 1

# Key Observations

### 1.1 ACTIVE OFFER

*"The great majority of government officials want to offer high-quality French-language services; however, as they see it, very few people request these services. In a minority language community, the roles of supply and demand are reversed. Generally, in a majority language community, if there is a demand, it is met. In the case of French-language services, these services first have to be offered in order for the demand for them to emerge. Thus, instead of just a sign that reads "English/French", service providers need to be able to effectively offer high-quality French-language services. The person behind the counter must be able to actively offer these services." — 2007-2008 Annual Report of the Office of the French Language Services Commissioner*

Since his appointment, the Commissioner has made the concept of active offer a priority. He raises the issue of active offer in all of his meetings at every level of the Ontario Public Service. The government is largely in agreement with the principle of active offer. Some ministries and agencies have started to grasp it and are moving in the right direction. Overall, there is a need for a common understanding of the concept of active offer. In other words, the time has come to put words into action.

#### 1.1.1 Concept of Active Offer

Services are actively offered when members of the public are given a clear signal that, whether they are standing at a government service counter or speaking to a government employee over the telephone, they can receive service in French, because the agency's name and all of its posters, signage, brochures, literature, etc., are either bilingual or offered visually in English and in French. Active offer means that, from the moment they begin interacting with the public, government employees staffing a service counter or answering the telephone proactively offer service in both languages, creating an environment that is conducive to demand and that anticipates the specific needs of Francophones in their community.

It is very important to reach out to ordinary citizens who do not realize that they have the possibility of obtaining better services for themselves, and for their community, in French.

#### 1.1.2 Role of Government Institutions

The impact that provincial institutions have on the development and prosperity of a community must not be underestimated. A Francophone citizen who requests service in French and obtains it is pleased to have been served well, just like any other citizen. However, when an institution actively offers its services in French, without being asked, it means something altogether different. It means that Francophone citizens are instantly recognized as full members of a strong and respected community that is taking its rightful place in Ontario society.

The purpose of the quasi-constitutional *French Language Services Act* is to preserve the cultural heritage of Ontario's French-speaking population for future generations. Naturally, government ministries and agencies are not the only institutions with responsibility for preserving Ontario's Francophone community.

Actively offering French-language services to French-speaking members of the public sends them the message that their language is both useful and used. It sends the message that they did not spend years fighting for Francophone schools and school governance in vain—that, in addition to having French-language schools, there is a future to fight for. Institutions provide reassurance to French-speaking members of the public not only as individuals but as members of a vibrant, dynamic Francophone community that has a future. This is critically important!

Conversely, offering English-only services to French-speaking citizens living in what are already minority communities sends them the message that the daily battle to choose to live as a Francophone is no longer worth fighting. Day by day, they will stop being alarmed by the waning influence of French in public life and community

life. And then, one day, they just won't care anymore. The insidious process of assimilation will be complete and the goal pursued by the Legislative Assembly when it unanimously adopted the *French Language Services Act* in 1986 will never be reached.

Active offer makes it possible to reach those who hesitate to use French-language services in their daily lives and who are still walking the fine line between continuing to live as a Francophone and assimilation.

*"Not all Francophones can be full-time activists. Therefore, it is up to the Ontario Government to make the active offer, to reverse the situation and not make all of the demand for FLS rest on the individual behaviour of a few proud Francophones."<sup>1</sup>*

Many private companies offer service in both languages, not because they are legally required to do so, but because showing respect for their Francophone customers is good for business. Where public services are concerned, the public does not have a wide range of service delivery sites to choose from. For this reason, the role of government institutions is crucial.

### 1.1.3 Studies

In 2005, Cardinal, Lang, Plante, Sauvé, and Terrien conducted an excellent analysis of the concept of active offer<sup>2</sup> on behalf of the ministries in the justice sector. In 2010, as part of a two-volume study on the mechanisms for offering French-language services in Ontario's justice sector, Cardinal, Plante, and Sauvé discussed the notion of an **environment that encourages demand**.<sup>3</sup>

Clearly, a Francophone who enters *Centre de santé communautaire de l'Estrie*, the community health centre in Estrie, knows in advance that he will obtain service in French. He does not need to ask himself this question

before entering. This is also true for a Francophone who wants to obtain employment assistance services from *Services d'employabilité ACFOMI Employment Services* in Kingston. Institutions have a part to play in creating an environment conducive to demand. **Government ministries and agencies must create an environment that will encourage Ontario's Francophones to use services in French.**

In 2009, Kenneth Deveau, Rodrigue Landry and Réal Allard released a study, commissioned by Nova Scotia's Office of Acadian Affairs, on the factors associated with the use of government services in French by Nova Scotian Acadians and Francophones.<sup>4</sup> Not surprisingly, where services were actively offered, Francophones requested service in French. The study looked at bilingual documentation and signage and verbal encouragement. In all cases, the more proactively services were offered, the more people requested service in French. Francophones living in Nova Scotia represent approximately 4% of the province's total population.<sup>5</sup> Interestingly, when study subjects detected an English accent in a government employee, they were more likely to continue the conversation in English. When they detected an accent similar to their own, they were more likely to continue in French.

*"When entering an access centre or making a phone call, a member of the public should be greeted in French and English (e.g., with "Hello/Bonjour!"). This removes the pressure of having to request service in French. He or she can continue the conversation in French. Requesting service in French is relatively difficult for a person who has been socialized to believe that English is the main—if not the only—language to be used in public. Requesting service in French reflects the behaviour of an individual who has chosen to identify himself or herself as a Francophone—an individual who is aware of his or*

1. Linda Cardinal, Nathalie Plante and Anik Sauvé, *From Theory to Practice: Mechanisms for the Offer of French Language Services in Ontario's Justice Sector. Volume 2: Perceptions by Public Servants and Users*, Ottawa: Chaire de recherche sur la francophonie et les politiques publiques, University of Ottawa, 2010, p. 35.
2. Linda Cardinal, Stéphane Lang, Nathalie Plante, Anik Sauvé and Chantal Thérien, *Environmental Scan: French Language Services in Ontario's Justice Sector*, Ottawa, Research Chair in Canadian, Francophonie and Public Policies, University of Ottawa, 2005. Available online: [http://www.socialsciences.uottawa.ca/crfpp/pdf/environmental\\_scan\\_12-2005.pdf](http://www.socialsciences.uottawa.ca/crfpp/pdf/environmental_scan_12-2005.pdf) (page consulted in March 2010).
3. Linda Cardinal, Nathalie Plante, Anik Sauvé. *Op. cit.*, p. 35.
4. Kenneth Deveau, Rodrigue Landry and Réal Allard, *The Utilization of French-Language Government Services. A study on the factors associated with the utilization of government services in French by Nova Scotian Acadians and Francophones*. Moncton, Canadian Institute for Research on Linguistic Minorities, 2009.
5. Fédération des communautés francophones et acadiennes (FCFA) du Canada, *Francophone Community Profile of Nova Scotia*, Ottawa, 2009. Available online at: [http://www.fcfa.ca/profils/documents/nova\\_scotia.pdf](http://www.fcfa.ca/profils/documents/nova_scotia.pdf) (page consulted in March 2010).

*her right to be served in French and what demanding this right means for the community. Even when a person is very aware of the community's linguistic and cultural situation and the importance of French-language services, asking for service in French can be awkward and difficult.*

*It is important to remember that an individual in need of a government service, for example in the justice sector or the health sector, is in a very vulnerable position and may feel too intimidated to demand that his or her language rights be respected.”<sup>6</sup> [Unofficial translation.]*

Francophones simply do not expect to receive service in French as a matter of course, unless they are in a Francophone centre that administers a provincial service. In general, Franco-Ontarians are afraid to cause inconvenience, to cause the other person stress or to make trouble for something that seems relatively commonplace.

*“The users we met said they wanted to ask for FLS, but often had the feeling that they were bothering people and making trouble. This situation explains in large part why it is possible that Francophones do or do not always ask for FLS.”*

*“...I feel like I am causing stress for the other person. I am creating an inconvenience for the person who is trying to help me, and also, that if I do it I will not get the service I deserve.”*

*“...if the person speaks to me, they'll say: 'Hi!'. I don't necessarily feel comfortable speaking, continuing in French... The embarrassment, I don't know, it's my, it's what I have experienced since I was a child, it's a reality for me...”<sup>7</sup>*

When a service has the potential to have dramatic consequences, as in the case of services in the health sector or the justice sector, actively offering services in French becomes more important than ever.

#### 1.1.4 OPS Service Directive

Since January 1, 2010, Ontario government ministries must comply with a new directive from Management Board of

Cabinet with respect to the services that the Government of Ontario offers to the public. The directive clearly states that the ministries must comply with several important statutes, including the *French Language Services Act*. Program directors also have a responsibility to develop their own service standards; however, very few ministries have adopted service standards for the active offer of services in French.

Often, public servants acting in good faith will say that they would really like to offer services in French, but they do not offer any because there is no demand for them. Even though the *French Language Services Act* says nothing about the issue of demand, services must be made available. Services must be offered, so that Francophones can request them. It is often assumed that Ontario's Francophones are all bilingual. Not only is this not true, it is not relevant to the object of the *French Language Services Act*, which is the preservation of Ontario's Francophone community.

#### 1.1.5 Examples to Emulate

**ServiceOntario (as part of the Ministry of Government Services)** has active offer practices that are exemplary, even innovative. It has brought together a group of bilingual government employees who interact directly with the public in French and English and this group is discussed in Chapter 6.

ServiceOntario's approach is refreshing, given some of the practices that prevailed in the **Ministry of Government Services** until quite recently. When a member of the public called the Ministry to request service in French, he was often put on hold. Then, after a wait of a few minutes, he was asked, in English, if he wanted to continue holding. This practice arose out of a need to meet the Ontario Government's standards for service; however, it sent the wrong signal to the Ministry's Francophone clients. The Ministry has since changed its policy to allow clients to stick with their language of preference for service.

The Ontario government's **justice sector** (the Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services) has also demonstrated

6. Deveau, Landry and Allard, *Op. cit.* pp.88-89.

7. Cardinal, Plante and Sauvé, *Op. cit.*, Volume 2, p.34.

initiative. As mentioned above, it ordered a research study of the needs of the community in terms of French-language services adapted to their specific needs. In addition, this sector produced a very interesting guide to French-language services for all managerial staff in the justice sector. However, it is just a guide and its use is optional.

### 1.1.6 Ongoing Promotion of French-Language Services

The *Assemblée de la francophonie de l'Ontario* launched a campaign to promote the use of French-language services to the Francophone community, in collaboration with the Office of Francophone Affairs. This is a good start, but it's not enough.

The public needs to be encouraged to request service in French. The government has a responsibility to create environments that are conducive to such requests. The government must be proud of the services it offers in French and promote them to the Francophone community. Once again, ServiceOntario's advertising on its Website, on television, and in the print media in early 2010 deserves special mention. One Web ad announced the province's vehicle licensing services, showing a licence plate with the slogan *Tant à découvrir*. These ads were created in impeccable French and they were adapted to Ontario's Francophone communities. This is a big plus.

Beyond these examples, it is important for the government to have a directive on active offer. Obviously, this directive should provide for consultations with the Francophone community, planning from the moment that new programs and services are designed, and a results-based performance review. Such a directive should be accompanied by a strategy to promote French-language services. This strategy should be adapted and updated on a regular basis, as service offer changes and is updated.

## Recommendation 1

**The French Language Services Commissioner recommends that the Minister Responsible for Francophone Affairs ensure that:**

- A. A clear directive on the active offer of French-language services is put in place by Management Board of Cabinet, within the year 2010-2011, applicable to all ministries and government agencies.**
- B. The government implements an ongoing strategy to promote the offer of government services in French to Francophones throughout Ontario.**

## 1.2 EVOLUTION OF SERVICE OFFER

In the past 20 years, the Ontario government has increasingly devolved direct service delivery to municipalities, the private sector, and new public-private partnerships. Two years ago, the Commissioner emphasized the importance of also offering services to Ontario's Francophones and of remembering that service quality must not suffer simply because the province is no longer delivering these services itself.

Reality appears to be catching up: in the event of a new wave of privatization or devolution in the future, French-language services must be explicitly provided for.

### 1.2.1 Third-Party Service Offer

In his first annual report released in 2008, the Commissioner recommended closing the loopholes in the services offered by third parties on behalf of the government. He stated emphatically that the government needed to take action and introduce clear regulations to adequately govern the delivery of French-language services. At the present time, the government is entering into contracts with third parties and contemplating public-private partnerships for the delivery of services on behalf of government agencies and ministries. In these cases,

service providers are not always required to comply with the *French Language Services Act*. Francophone citizens are losing out, and this practice must stop.

The government acknowledged that this issue was legitimate, that it had to take action, and that there were four possible options, including invoking regulation-making powers.<sup>8</sup>

It goes without saying that implementation of this recommendation will take time, which is why the Commissioner raised this issue so early in his mandate. The government was already familiar with this issue. It involves a complex situation in which each ministry has its own culture. Over the years, this culture has been carried over into the ministries' dealings with their service providers. Consequently, these changes cannot be made overnight.

Ontario's Francophones cannot continue to live with this uncertainty, more than 20 years after the adoption of the *French Language Services Act*. The time has come for the government to get down to business and make some very important decisions in order to eliminate the loopholes in the way the ministries meet their linguistic obligations when dealing with third parties.

## Recommendation 2

**The French Language Services Commissioner urges the Minister Responsible for Francophone Affairs to follow up on his recommendation and, in 2010-2011, to create a regulatory framework for services offered by third parties, in order to eliminate the existing loopholes.**

### 1.2.2 Avoiding the Errors of the Past

Over the next few years, the government will consider the possibility of fully or partially divesting itself of government agencies such as Hydro One, the LCBO, and the Ontario Lottery and Gaming Corporation. We must ask ourselves what sort of French-language services will be offered if these agencies are privatized.

#### The Air Canada Case

*In the late 1980s, the federal government privatized Air Canada. Parliament passed the Air Canada Public Participation Act. The framer of the federal statute recognized that all Canadians had actively participated in creating this airline over the previous 50 years and that, as a result, they were entitled to receive certain services, including service in both official languages. Parliament included section 10, which pertains to Canada's official languages and imposes on Air Canada and its subsidiaries the obligations for which provision is made in the Official Languages Act, Part IV, which deals with communications and the delivery of services to the public.<sup>9</sup>*

*There can be no denying the importance of section 10. It has been invoked on numerous occasions since, including in the courts, to ensure that Air Canada meets its linguistic obligations to its passengers and other citizens.*

*Why is this protection provided? First, the company was created with the tax dollars of all Canadians, including Francophones. Air Canada was built with funds from the public purse. More importantly, if market forces were allowed to decide the issue, it is very likely that few domestic routes (and even fewer international routes) would provide service in both official languages.*

8. The Commissioner discusses the government's response in depth in his 2008-2009 Annual Report, available online at: [http://www.flsc.gov.on.ca/files/EN\\_flsc\\_annual\\_report\\_o8\\_o9.pdf](http://www.flsc.gov.on.ca/files/EN_flsc_annual_report_o8_o9.pdf) (page consulted in March 2010).

9. The issue of Air Canada and its subsidiaries and the delivery of French-language services is far from being resolved, as is evident in the 2008-2009 Annual Report of the Office of the Commissioner of Official Languages. Available online at: [http://www.ocol-clo.gc.ca/docs/e/ar\\_ra\\_e.pdf](http://www.ocol-clo.gc.ca/docs/e/ar_ra_e.pdf) (page consulted in March 2010).

In Ontario, there are many examples of provincial institutions, such as Ontario Hydro, which have been privatized without ensuring that French language services would continue to be delivered. In the case of the latter, the Commissioner's Office continues to work with the Ministry of Energy and Infrastructure to find concrete, viable solutions for the delivery of French-language services.

Nevertheless, in the event that other institutions are privatized and other public services are devolved, the Commissioner is of the opinion that the government must also devolve the obligations for which provision is made in the *French Language Services Act*. These include obligations in the area of French-language services, which must be made known to all private investors.

### Recommendation 3

**The French Language Services Commissioner recommends that the Minister Responsible for Francophone Affairs ensure that any statute authorizing privatization clearly contains sections specifically indicating that the rights prescribed in the *French Language Services Act* shall continue to apply.**

## 1.3 A REVIEW OF RECOMMENDATIONS FROM PREVIOUS YEARS

### 1.3.1 Translation of Regulations

In his 2008-2009 annual report, the Commissioner reported that many important regulations in the area of health and safety are not automatically translated when they are enacted. The Commissioner is not recommending that every regulation be enacted or translated in French. Instead, he is recommending criteria that the ministries would use to determine whether regulations should be made available in French. To start the discussion, the Commissioner created a list of criteria. It is now up to the Attorney General of Ontario to show the necessary leadership in this area.

### Recommendation 2008-2009

"The Commissioner recommends that the Attorney General of Ontario take on a leadership role ensuring that clear, simple and public criteria be adopted to assist ministries with the translation of their regulations.

That the Ministry of the Attorney General of Ontario ensure that all ministries follow these criteria and prioritize their regulations for translation, in accordance with the needs of the Francophone community.

That the Ministry of the Attorney General of Ontario report annually on the progress of this initiative in the context of the *Strategic Plan for the Development of French Language Services in Ontario's Justice Sector*."

#### 1.3.1.1 Follow-up to the Commissioner's Recommendation

The government's response:<sup>10</sup>

*The Ministry of the Attorney General recognizes the importance of translating regulations and will work with other ministries to develop a consistent approach for prioritizing the translation of regulations.*

#### Proposed Action Plan

*The Ministry has been working internally in order to propose the creation of a committee composed of various partners with the mandate to respond to the Commissioner's recommendations including:*

1. *The adoption of clear, simple criteria for the translation of regulations to be made public;*
2. *The development of a strategy to ensure that ministries follow these criteria; and*
3. *The adoption of a consistent approach in prioritizing regulations to be translated with an action plan to be approved by all partners.*

**Phase 1      Adoption of criteria and government policy**

**Phase 2      Phased-in strategy to translate existing regulations**

<sup>10</sup>. The government's response to the Commissioner's recommendation is reproduced in full in the Appendix.

### 1.3.1.2 Analysis of the Government's Response

The Ministry of the Attorney General's commitment is not in question. After all, it has already shown leadership by translating all of its draft regulations. The drafting and translation of legal texts (such as statutes and regulations) is a very complex process. It requires attention to detail, expertise, and time to ensure that the legislator's and the government's intentions are faithfully reflected.

Like their interpreter and translator colleagues, the legislative counsels have shared with the Commissioner the realities and challenges they face on a daily basis. Clearly, one of the greatest challenges is the fact that legal documents have to be produced within very tight deadlines that do not necessarily take into account the complexity of preparing them or the additional challenge of preparing them in both languages. Sometimes, a regulation is amended in English while the French version is still being written. With the advent of instantaneous communication and new technologies, things happen very quickly.

For the Commissioner, the translation of regulations points to a problem with planning within the ministries. Provision must be made for the integration of French-language services, including the ongoing involvement of specialists in the field of legislation and translation, as soon as an idea is born.

In this regard, the Commissioner's Office received a complaint concerning the **Ministry of Labour** and the lack of a French version of certain regulations under the *Occupational Health and Safety Act, 1990*. The Ministry acknowledged this failing and agreed to take steps to translate the regulations directly targeted by the complaint, as well as all regulations with respect to occupational health and safety. Since then, the Commissioner's Office has received regular updates on the progress of this translation project and congratulates the Ministry for taking this initiative.

The Commissioner's Office received a similar complaint concerning the **Ministry of Finance**, in which it was reported that regulations issued under the *Capital Investment Plan Act, 1993* were not translated. As a result of this complaint, the Ministry did remedy this situation and took the necessary measures, translating and publishing in French its regulations under CIPA in order to meet the requirements of the *French Language Services Act*.

### 1.3.2 Policy on the Designation of Bilingual Positions

The government's ability to meet the legal requirements of the *French Language Services Act* often depends on its ability to hire, train, and retain bilingual staff. This requires long-term planning to ensure that the Ontario Public Service has enough designated bilingual positions to communicate with the Francophone community and to serve it adequately, in high-quality French.

#### Recommendation 2008-2009

"The Commissioner recommends that, for 2010-2011, Cabinet Office develop a mandatory policy on human resources for French-language services, including for management-level positions. This policy must also include strategies for designation, removal of designation, recruitment, retention, and professional development."

#### 1.3.2.1 Follow-up to the Commissioner's Recommendation

The government's response:<sup>11</sup>

*The government agrees that it is important that the government has a solid government-wide policy on designated positions. In fact, the Office of Francophone Affairs has initiated a process to develop a corporate policy on designated positions. This will include a review of which, if any, senior management positions should also be designated.*

*Also, the Ministry of Government Services has developed the OPS HR Plan 2008-11. Specific issues related to Francophone recruitment, retention, and professional*

11. *Ibid.*

*development can be addressed within the context of the current OPS HR Plan priorities, according to ministry specific needs.*

*The combination of these two approaches should not only help address the Commissioner's concerns, they will also help the OPS build upon the strength of its bilingual workforce, and continue serving the needs of Francophones across the province.*

### 1.3.2.2 Analysis of the Government's Response

The government makes mention of a "solid... policy." Does this mean that it will be mandatory for all of the ministries? In his recommendation, the Commissioner specified a deadline of 2010-2011. The government's response makes no mention of a deadline. Naturally, the Commissioner will monitor the follow-up to this recommendation.

### 1.3.3 An Increased Role for the Office of Francophone Affairs

The Commissioner wants to see French-language services fully integrated within the Ontario government. Integrating and offering French-language services is not a form of special treatment; rather, it is an obligation under the *French Language Services Act*. French-language services must be depoliticized and the funding allocated to these services must be protected from political influence and budget fluctuations. French-language services must be at the core of program and service development. The government must stop seeing them as somehow separate from other services. According to the Commissioner, the minimalist approach to French-language services that has set in over the past 20 years, that is to say, since the enactment of the *Act*, must end.

The Office of Francophone Affairs and the French Language Services Coordinators can and must play a crucial role in the preparation of programs and services adapted for, and delivered to, Francophone communities across the province. They are key government resources in the identification and creation of innovative service delivery modes that will help to preserve Ontario's Francophone community and enable it to prosper.

### Recommendation 2008-2009

In light of the Office of Francophone Affairs' mission and the pivotal role of the French Language Services Coordinators within all ministries;

"The Commissioner recommends that Cabinet ensure that the Office of Francophone Affairs fully achieves its mandate within the government, including by increasing the resources currently allocated to the OFA and to the coordination of French-language services, for the fiscal year of 2010-2011 and for subsequent years."

### 1.3.3.1 Follow-up to the Commissioner's Recommendation

The government's response:<sup>12</sup>

*The government agrees that the Office of Francophone Affairs (OFA) plays an essential role in the OPS and that investments are needed in French-language services across the government.*

*This Government has, in fact, invested heavily in French-language services since its coming to power. It has:*

1. *Increased the operational budget of the OFA since 2003, including a rise of \$500,000 in 2006-2007;*
2. *Increased annual funding for French-language school boards by about \$433M;*
3. *Increased funding to French-language postsecondary education by 56% since 2003-2004; in 2008-2009, this targeted funding amounts to more than \$80.4 M;*
4. *Invested \$185 million towards the expansion of Montfort Hospital in Ottawa.*

*The government will continue to identify opportunities and needs to invest strategically in the work of the OFA and in improving French-language services as it has done since 2003.*

12. Ibid.

### 1.3.3.2 Analysis of the Government's Response

It would appear that the government has not grasped the meaning of this recommendation. The government's response is not at all satisfactory as it contains no commitment whatsoever. The Commissioner is of the opinion that, in order to see the *French Language Services Act* integrated into every government priority, both the Office of Francophone Affairs and the Coordinators and their managers must have the power to make decisions and wield influence within the provincial government.

This issue must not be reduced to dollars and cents, already exceedingly low in spite of the increases made in 2006-2007, which did not come close to the Office of Francophone Affairs' original, modest budgets of 20 years ago. Appendix 2 of the Commissioner's previous annual report amply demonstrates this point.

In 2010-2011, the Commissioner will pursue the issue of the role and place of the Office of Francophone Affairs in the Ontario Public Service. This is an important issue that must be explored in depth, so that the government fully grasps its crucial importance to integrated, effective implementation of the *French Language Services Act*.

### 1.3.4 The Ontario Attorney General's FLS Bench and Bar Advisory Committee

In 2007-2008, the Commissioner raised the problem of the lack of access to bilingual judges in Ontario, and hoped that all of the stakeholders would work together to find a solution. In 2008-2009, he made this a recommendation, emphasizing the importance of training the judiciary on language rights.

#### Recommendation 2008-2009

"The Commissioner recommends that the Attorney General of Ontario engage the judiciary and the Bar, including practitioners from the Francophone community, to establish a bench and bar committee.

The committee's mandate would be to recommend ways to actively increase the knowledge

of every federally or provincially appointed member of the judiciary in Ontario with respect to language rights.

The committee's mandate would also include proposing concrete and concerted steps to address the shortage of bilingual judges in Ontario.

The Commissioner is also recommending that this committee, to be created within six months of the tabling of this annual report, establish a one-year deadline for each mandate and that its conclusions be made public at the end of this period."

### 1.3.4.1 Follow-up to the Commissioner's Recommendation

The Ministry of the Attorney General responded:<sup>13</sup>

*The Ministry of the Attorney General is already taking steps to increase the number of bilingual judges but also accepts the Commissioner's recommendation that the appointment processes of bilingual judges by both the provincial and the federal government could be improved.*

*The Commissioner's recommendation about training on language rights will also be passed on to the judiciary who have sole authority over judicial training.*

#### Proposed Action Plan:

##### Phase 1 Creation of the Bench and Bar Committee

*Invite federal government, judiciary and all pertinent partners representation on an Ontario-led Committee. Terms of Reference and Scope of the Committee to be developed.*

##### Phase 2 Bench and Bar Committee

*Determine priorities and develop an action plan approved by all partners to address the gaps identified by the Commissioner and implement the processes/initiatives to remedy these gaps.*

#### Timeframes

*Once the Committee is established, a one-year timeline will be set up in order to respond to the Commissioner's recommendation.*

<sup>13.</sup> Ibid.

### 1.3.4.2 Analysis of the Government's Response

The Commissioner is satisfied that the **Ministry of the Attorney General** has provided a serious response. He sincerely believes that, with the involvement of the parties in question, including the federal government, the thorny issue of the bilingual capacity of the courts can be collectively addressed.

In the past year, the Commissioner has had the privilege of meeting with 30 bilingual justices of the peace. They report the difficulties encountered by members of the public in gaining real access to bilingual justices of the peace in certain areas designated under the *Courts of Justice Act*. The training of justices of the peace on language rights also appears to be deficient and should therefore be considered an area for improvement. The Commissioner would like the committee to also discuss the matter of the problems faced by the justices of the peace.

In order to fully integrate the comments of the judiciary and those of Francophone and Francophile practitioners, they had to have access to the committee's work. In order for this to happen, a member of the judiciary had to be made committee chair. The Commissioner also hoped that a French-speaking jurist would be appointed as co-chair.

The Commissioner is pleased with the judicious choices made by the Attorney General. Ontario Court of Appeal Justice Paul Rouleau and a well-known Franco-Ontarian lawyer from central Ontario, Paul LeVay, will co-chair this important committee. In terms of the composition of the rest of the committee, the Commissioner is impressed that the Superior Court of Justice, the Ontario Court, and the Judicial and Justice of the Peace Appointment Advisory Committees are represented, as is the National Judicial Institute. It remains to be seen whether the Attorney General of Canada will also have representation on the committee. This would be an excellent opportunity for the two levels of government to work toward a common

goal. It also remains to be seen whether the committee will have a free hand in allowing practical and pragmatic solutions to be put forward to address issues raised by the Commissioner.

### 1.3.5 Special Report on French Language Health Services Planning in Ontario, 2009

In the Spring 2009, the Commissioner published a *Special Report on French Language Health Services Planning in Ontario*. In it, he made eight recommendations to the government. The government has responded positively to one of these recommendations, i.e. the recommendation on the proposed Francophone Community Engagement Regulation.<sup>14</sup>

In addition to this important step, the Commissioner noted a remarkable shift in tone and attitude in the Ministry's official response to his recommendations. In fact, it has made several commitments to respond adequately to these recommendations, which the Commissioner plans to evaluate and follow up on.

Access to French-language health services is an issue of quality of service that must be of concern to every stakeholder in the health care system. Much remains to be done to improve the health and well-being of the Franco-Ontarian population and to bring its health and quality of life to a level comparable to that of the general population of Ontario. In particular, much work remains to be done to ensure that Francophones have adequate access to high-quality health services.

Access to French-language health services must not be treated as an isolated issue or as a separate function by health officials. It is a fundamental component that must be integrated into the clinical, organizational, and systemic dimensions of the organization of health services in Ontario.

14. For more information, see Chapter 2 of the *Special Report on French Language Health Services Planning in Ontario, 2009*, available online at [http://www.flsc.gov.on.ca/files/Special\\_Report.pdf](http://www.flsc.gov.on.ca/files/Special_Report.pdf) (page consulted in March 2010).



Ontario's health system is firmly based on the principles of quality of service. The Commissioner would like officials in the system to acknowledge that these principles also apply to access to services that are delivered appropriately in terms of language and culture. He recognizes that major changes are required and that these changes will be gradual.

However, he firmly believes that improving the French-language health services that are available in the system must actively involve the Francophone community. The latter must continue to contribute to the process of designing and implementing government policies in a spirit of understanding, exchange, and dialogue. It is important that the community understand the government's motivations and priorities so that it can articulate its own needs and defining characteristics. The Ministry of Health and Long-Term Care must ensure this as well.

The consequences of not taking action will be very serious for Francophones who are sick and vulnerable, if they continue to be misunderstood by health care providers or by the health care system.

## CHAPTER 2

# Complaints

### 2.1 COMPLAINTS RECEIVED IN 2009-2010

In fiscal 2009-2010, the Commissioner's Office received 351 complaints (Table 1). As noted in the first two annual reports, the number of complaints continues to rise, providing incontrovertible evidence of the public's passionate interest in high-quality French service delivery. This interest translates into an average of one complaint per day, where a Francophone citizen considers that the French-language services he or she has received fall short and that there has been a violation of the *French Language Services Act*.

#### 2.1.1 Complaints by Category

Of the 351 complaints received in fiscal 2009-2010, 294 complaints resulted in an investigation and 230 complaints were deemed admissible. This represents close to two-thirds of the total number of complaints recorded for this period. A total of 57 complaints were deemed inadmissible, a number that is fairly consistent with that of 2008-2009.

**Table 1**

| COMPLAINTS RECEIVED<br>APRIL 1, 2009 – MARCH 31, 2010 |            |
|-------------------------------------------------------|------------|
|                                                       | Number     |
| <b>Investigated</b>                                   | <b>294</b> |
| Admissible                                            | 230        |
| Other types of complaints                             | 43         |
| Low-impact                                            | 21         |
| <b>Inadmissible</b>                                   | <b>57</b>  |
| <b>Total</b>                                          | <b>351</b> |

Inadmissible complaints (Table 2) are divided into five categories: Provincial, Federal, Municipal, Private Sector, and Trivial/Frivolous/Vexatious/In Bad Faith. Inadmissible complaints in the Province category include cases dealing with non-designated areas, the consequences of a government decision or a restructuring of services.

The private sector accounts for one-third of inadmissible complaints, followed by complaints pertaining to provincial services. Cases involving municipal services account for the smallest number of inadmissible complaints.

**Table 2**

| INADMISSIBLE COMPLAINTS                  |           |
|------------------------------------------|-----------|
| Provincial                               | 16        |
| Federal                                  | 12        |
| Municipal                                | 9         |
| Private Sector                           | 19        |
| Trivial/Frivolous/Vexatious/In Bad Faith | 1         |
| <b>Total</b>                             | <b>57</b> |

This year, the Commissioner's Office received more complaints in the category Other Types<sup>15</sup> than in fiscal 2008-2009. This category (Table 3) includes cases involving either independent bodies or entities created, mandated or funded by the government.

In 2009-2010, these complaints primarily concerned hospitals and identified agencies, non-designated areas, cases of devolution, partnerships, and independent bodies that receive government funding. Although these cases were investigated, they were not added to the total number of complaints against the ministry in question.

**Table 3**

| OTHER TYPES OF COMPLAINTS |           |
|---------------------------|-----------|
| Devolution                | 14        |
| Partnership               | 1         |
| General                   | 28        |
| <b>Total</b>              | <b>43</b> |

During this fiscal year, there were 230 complaints with respect to ministries (Table 4, page 23); this number has to be added to the 22 complaints carried forward from the previous year. Of these, 143 were resolved. More than 80% (116) were deemed to be founded.

15. Other types of complaints are difficult to categorize. They primarily concern the delivery of services where a member of the public has no other option because the agency has a monopoly on the service. These complaints are within the provincial government's purview and relate to agencies created or mandated by various ministries to offer programs and services that, in cases of devolution, were previously delivered by the province.

It should also be noted that the 35 complaints remaining from the year 2007-2008 were all resolved.

**Table 4**

**TOTAL OF NUMBER OF ADMISSIBLE COMPLAINTS, BY INSTITUTION**

| Institution                                            | Complaints carried forward from fiscal 2008-2009 | Admissible complaints for fiscal 2009-2010 | Total number of complaints processed | Ongoing    | Resolved   | Founded    | Unfounded |
|--------------------------------------------------------|--------------------------------------------------|--------------------------------------------|--------------------------------------|------------|------------|------------|-----------|
| Ministry of Agriculture, Food and Rural Affairs        | 0                                                | 5                                          | 5                                    | 3          | 2          | 2          | 0         |
| Ministry of the Attorney General                       | 0                                                | 28                                         | 28                                   | 13         | 15         | 13         | 2         |
| Ministry of Children and Youth Services                | 0                                                | 8                                          | 8                                    | 3          | 5          | 3          | 2         |
| Ministry of Citizenship and Immigration                | 0                                                | 2                                          | 2                                    | 1          | 1          | 0          | 1         |
| Ministry of Community and Social Services              | 0                                                | 14                                         | 14                                   | 9          | 5          | 4          | 1         |
| Ministry of Community Safety and Correctional Services | 0                                                | 7                                          | 7                                    | 2          | 5          | 5          | 0         |
| Ministry of Education                                  | 0                                                | 5                                          | 5                                    | 2          | 3          | 2          | 1         |
| Ministry of Economic Development and Trade             | 0                                                | 1                                          | 1                                    | 0          | 1          | 1          | 0         |
| Ministry of Energy and Infrastructure                  | 1                                                | 5                                          | 6                                    | 2          | 4          | 3          | 1         |
| Ministry of Finance                                    | 9                                                | 30                                         | 39                                   | 36         | 3          | 3          | 0         |
| Ministry of Government Services                        | 1                                                | 24                                         | 25                                   | 3          | 22         | 15         | 7         |
| Ministry of Health and Long-Term Care                  | 5                                                | 54                                         | 59                                   | 20         | 39         | 38         | 1         |
| Ministry of Health Promotion                           | 0                                                | 8                                          | 8                                    | 3          | 5          | 4          | 1         |
| Ministry of Labour                                     | 0                                                | 4                                          | 4                                    | 1          | 3          | 3          | 0         |
| Ministry of Municipal Affairs and Housing              | 1                                                | 3                                          | 4                                    | 3          | 1          | 1          | 0         |
| Ministry of Natural Resources                          | 0                                                | 3                                          | 3                                    | 0          | 3          | 3          | 0         |
| Ministry of Northern Development, Mines and Forestry   | 0                                                | 3                                          | 3                                    | 2          | 1          | 0          | 1         |
| Ministry of Revenue                                    | 0                                                | 1                                          | 1                                    | 0          | 1          | 1          | 0         |
| Ministry of Tourism and Culture                        | 0                                                | 2                                          | 2                                    | 0          | 2          | 1          | 1         |
| Ministry of Training, Colleges and Universities        | 0                                                | 5                                          | 5                                    | 0          | 5          | 3          | 2         |
| Ministry of Transportation                             | 5                                                | 18                                         | 23                                   | 6          | 17         | 11         | 6         |
| <b>Total</b>                                           | <b>22</b>                                        | <b>230</b>                                 | <b>252</b>                           | <b>109</b> | <b>143</b> | <b>116</b> | <b>27</b> |

The main ministries offering services directly to the public, i.e. the Ministry of Health and Long-Term Care, the Ministry of Government Services, and the Ministry of Finance, account for one-third of complaints. Where the Ministry of Finance is concerned, 26 of the 29 complaints received by the Commissioner's Office concern the Municipal Property Assessment Corporation, an issue that will be addressed at greater length in this report in Chapters 3 and 5.

### 2.1.2 Geographical Distribution of Complaints

The profile of the Francophone community published by the Office of Francophone Affairs in December 2009<sup>16</sup> indicates that the size of the Francophone population varies from region to region. Close to two-thirds of Ontario's Francophones live in **Eastern Ontario** and **Northeastern Ontario (41.5% and 22.5% respectively)**, notably in Champlain Township. Over **28%** of Francophones live in **Central Ontario; of these, close to one-third live in Toronto**. **Southwestern Ontario** and **Northwestern Ontario** account for **6%** and **1.5%** of Francophones respectively.

The provenance of complaints received during fiscal 2009-2010 does not precisely mirror the geographic distribution of Francophones, although citizens living in Central, Eastern, and Northeastern Ontario—regions with large concentrations of Francophones—do account for most of the complaints to the Commissioner's Office, as can be seen in Table 5.

Table 5

| GEOGRAPHIC DISTRIBUTION OF COMPLAINTS IN 2009-2010 |            |
|----------------------------------------------------|------------|
| Region                                             | %          |
| Central Ontario                                    | 43         |
| Eastern Ontario                                    | 35         |
| Northeastern Ontario                               | 14.5       |
| Northwestern Ontario                               | 4          |
| Southwestern Ontario                               | 3          |
| Out-of-province                                    | 0.5        |
| <b>Total</b>                                       | <b>100</b> |

Obtaining a precise picture of the geographic provenance of complaints is a complex process. Ontario's population is mobile and, with the advent of new technologies, services are delivered in a variety of ways. For example, an individual can live in Sudbury, yet be unhappy with the quality of French services offered in the Windsor area or the quality of services offered over the phone by a government employee in Peterborough. However, the complainant's place of residence was the only criterion used to generate this table because it was important to measure just how far the Commissioner's Office has reached into the Francophone community.

This analysis reveals that Central Ontario accounts for 43% of the complaints received, followed by Eastern Ontario with close to 35%, and Northeastern Ontario with 14%. Thus, Central and Eastern Ontario account for over three-quarters of all complaints received during fiscal 2009-2010. Complainants living in Southwestern Ontario and Northwestern Ontario account for close to 3% and 4% respectively.

## 2.2 COMPLAINTS WITH RESPECT TO COMMUNICATIONS

In 2009-2010, 139 of the 294 complaints that were investigated pertained to a problem with communications; this number represents 47% of complaints (Table 6).

Communication can be a problem for a member of the public dialling a telephone number provided in a letter for obtaining more information or going to a service counter and requesting service or attempting to find information on the Web, if he or she is unable to obtain service in his or her language. Communication is deficient on a number of levels:

Table 6

| COMPLAINTS BY TYPE OF COMMUNICATION, 2009-2010 |            |
|------------------------------------------------|------------|
| Oral (in person or over the telephone)         | 63         |
| Written                                        | 35         |
| Internet and Blogs                             | 41         |
| <b>Total</b>                                   | <b>139</b> |

16. Office of Francophone Affairs. *Profile of Ontario's Francophone Community*, 2009. Available online at [http://www.ontario.ca/en/communities/francophones/profile/onto5\\_024276](http://www.ontario.ca/en/communities/francophones/profile/onto5_024276) (page consulted in March 2010).

More than 45% of cases concern oral communication; written and electronic communication account for approximately one-quarter and one-third of the 139 complaints respectively.

### 2.3 REQUESTS FOR INFORMATION

Just as the number of complaints received by the Commissioner's Office increased this year, so did the number of requests for information. The Office received 58 requests for information. Most inquiries were about French-language services and the requirements under, and interpretation of, the *French Language Services Act*. Many inquiries were for information on the Act's requirements as they related to municipal or private sector services, to determine whether there had been a violation of the Act.

Many individuals contacted the Commissioner's Office for information on public services offered by the Government of Ontario. Some were interested in obtaining information on the Francophone community and the challenges it faces, and on the new definition of Francophone that the province adopted in June 2009.

All of these requests for information were handled as promptly as possible, and referrals to the appropriate source of information were provided.

### 2.4 PROCESSING OF COMPLAINTS

Once again this year, the very limited resources available to the Commissioner's Office meant that, as the number of complaints increased, so did the delays in processing them. The Commissioner's Office devotes a great deal of time and energy to documenting complaints and meticulously recording the facts. In each case, questions of a systemic nature are put to the institution in question and solutions are proposed so that the problem can be permanently addressed. This process explains why it was not possible for the Commissioner's Office to meet its objective of handling complaints that did not require in-depth research within 30 days.

When he first took office, the Commissioner asked each Deputy Minister to identify one person who reported directly to him or her and who had decision-making powers and the authority to take whatever corrective measures were necessary. Complaints are viewed as a quality control mechanism. This approach has been very productive and has resulted in satisfaction for all of the parties involved in the process.

On a positive note, the majority of government institutions now have a better understanding of the end goal of the complaint resolution process. The development of internal protocols has resulted in a decrease in the number of ministries requesting clarification, thereby easing the administrative burden placed on the Commissioner's Office.

Unfortunately, this has not always been the case. Some ministries respond to the Office's questions with vague generalities, failing to address the causes of the problem the complainant identified or to provide actionable steps or lasting solutions. They attempt to provide a response with volumes of words rather than tangible solutions.

For this reason, the Commissioner's Office continues to emphasize the need for practical solutions that will bring about positive changes over the long term. Advocating an approach based on the principles of mediation, it looks for common ground, and asks the parties involved to propose solutions that are specific, realistic, achievable, and satisfying, and that comply with the *FLSA*—solutions accompanied by a precise timeline.

In some cases, the complainant is invited to play an active role in this process, with some very positive results. This is true of the case involving the **Social Benefits Tribunal** described in the next chapter.

The complainant remains the focus of the Office's concerns. For this reason, it is exploring opportunities for cooperating with other bodies that handle complaints from the public.

### 2.4.1 Causes

Problems brought to the Office's attention have many sources. However, in most cases, the problem is due to one of the following three reasons:

- Government institutions have not integrated French-language services into the development of their policies, programs, and services;
- Government employees misunderstand, or are not aware of, their obligations and responsibilities under the *French Language Services Act*;
- The human and financial resources allocated to the delivery of French-language services are inadequate.

This is true, in spite of the fact that, each year, all government ministries and agencies must report to Treasury Board with a strategic and operational plan that includes measurements of its performance on, and objectives for, the delivery of French-language services.

It goes without saying that targeted planning and long-lasting actions both contribute to the political, social, economic, and cultural viability and vitality of the Francophone community. And this is exactly what the preamble to the *French Language Services Act* so clearly envisions. The following chapters address at greater length the problems that give rise to complaints and describe practices and models for addressing them.

### 2.4.2 Systemic Investigations Conducted Jointly or in Cooperation with Other Agencies

The Commissioner's Office also wants to explore the possibility of conducting joint investigations with ombudsman's offices that have a similar mandate.

This would make it possible to investigate systemic problems, either in response to a complaint or on the Commissioner's initiative. Through a joint process, the Commissioner could make specific recommendations for concrete and timely solutions.

#### 2.4.2.1 Office of the Commissioner of Official Languages of Canada

Some complaints deal with the delivery of services in an area for which two levels of government share responsibility. This is the case, for example, with programs and projects governed by an agreement between the federal government and the provincial government. Violations of the *French Language Services Act* may be felt at the provincial level, yet need to be resolved at the federal level.

There are a number of options for handling these cases. Our Office may recommend that the complainant address the federal Office of the Commissioner of Official Languages (OCOL). However, with the OCOL's explicit permission and collaboration, our Office will explore the possibility of pursuing its investigation in an area of federal jurisdiction; even though the action that gave rise to the complaint took place in a federal institution, the services were delivered in an area over which the province had jurisdiction.

For now, cases that fall within the jurisdiction of the federal government are redirected to the OCOL. After obtaining the complainant's consent, our Office transfers the complaint directly to its federal counterpart, without the complainant's having to reformulate it.

Our Office is exploring all of the options for cooperating actively with its federal colleagues to serve the public more effectively. After all, this is its fundamental role and *raison d'être*.

### 2.4.3 Complaint Resolution in Hospitals, Municipalities, and the Private Sector

Before informing a complainant that his or her complaint does not fall within its jurisdiction, the Commissioner's Office contacts the institution in question for the name and contact information of an individual who can respond to the complainant's concerns. This step is integral to the Office's vision of service to the community.

Fortunately, most institutions have a mechanism for handling complaints. Although these services are not subject to the *French Language Services Act*, they demonstrate that these institutions care about meeting the needs of consumers, patients, and clients. Such services can become important stakeholders for the Commissioner's Office provided, of course, that the complainant consents to the disclosure of his or her identity.

### 2.4.4 Monitoring the Delivery of French-Language Services

The Commissioner's Office has not ruled out the possibility of cooperating with community groups to monitor and evaluate the delivery of French-language services in a given region or sector. This could take the form of a partnership or agreement with a local community group, coordinated by the Office's Research and Surveillance Analyst.

The Office's Analyst would lead consultations with stakeholders or groups that could engage in monitoring activities. His role would be to lead the development and implementation of a French-language service evaluation process, and to ensure that the main results and issues were identified and reported on.

## CHAPTER 3

## Investigations of Admissible Complaints

## 3.1 COMPLAINTS THAT SHOULD HAVE BEEN AVOIDED

Every employee in the Ontario Public Service must be familiar with the *French Language Services Act*. Familiarization with the Act is important not just for employees delivering French-language services, but for all government employees.

There must be a special focus on both newly-hired employees and employees with more seniority. Whenever a government employee is required to offer a service, provide information or participate in program development, the active offer of French-language services must be the automatic response.

The three situations described below perfectly illustrate a lack of this reflex. Each was resolved quickly when the ministry in question took immediate action; nevertheless, these situations could have been avoided and, more importantly, they should have been avoided.

## 3.1.1 Lack of Training

In one case, an employee of the **Ministry of Community Safety and Correctional Services** asked an agency in the community for an English translation of documents that it had submitted in French for a program in support of victims of violence. After investigating, the Ministry confirmed that all of its documents for the general public were available in both English and French, and that community organizations are encouraged to submit documents in the language of their choice. Clearly, the employee processing these documents was misinformed. His statement that there were no bilingual staff members available to process this application was incorrect. The Ministry apologized to the complainant for this situation and agreed to offer information sessions to all of its employees, in order to make them aware of their obligations and responsibilities under the *French Language Services Act* and ensure that this did not happen again.

In another case, a complainant contacted the Commissioner's Office to report that the **Ministry of Municipal Affairs and Housing** was offering information sessions on proposed changes to *Bill 212*<sup>17</sup> with respect to the 2010 municipal and school elections, but that it was only offering these sessions in English, in spite of the fact that Ontario has 12 French-language school boards and a sizeable number of municipalities that offer bilingual services.

After investigating, the Ministry confirmed that there was an internal communication problem. Initially, the information sessions were designed for municipal clerks to inform them of their role under the new bill and invitations were not sent to municipal administrators or school trustees. However, the Ministry had in fact intended to offer information sessions in French for school trustees and a directive had been sent out to this effect. The problem in this case was that the employee in question was unaware of the directive. If the Ministry's employees had been made aware of the principle of active offer, they would have automatically asked the individuals organizing the information sessions about sessions in French.

## 3.1.2 Lack of Understanding of the Principles of Consultation

In the process of developing policies, the **Ministry of Education** sent Francophone stakeholders English-only consultation documents. The Ministry explained this situation by saying that the documents were drafts, not final versions, that were being sent out so that two policies, *Progressive Discipline and Promoting Positive Student Behaviour*<sup>18</sup> and *Bullying Prevention and Intervention*<sup>19</sup> could be revised. The purpose of this consultation was to enable all of the stakeholders to make their views known.

The Ministry also explained the lack of French-language consultation documents by saying that it was working to a very tight deadline and that this was a consultation "by invitation only", not a public consultation.

17. An Act to amend the Education Act in respect of behaviour, discipline and safety, 2007.

In this case, the Ministry acknowledged that the Francophone community had not received equivalent services. It agreed to review its policy on consultations, so that it meets its obligations under the *French Language Services Act*.

### 3.2 URGENT COMPLAINTS

The **Children's Aid Society (CAS)** in the Barrie region sent an English-speaking social worker to investigate a case of domestic violence involving French-speaking victims. The woman and her child did not speak English fluently and were unable to explain the situation clearly or to express their emotions fully. Similar incidents involving the CAS in Trenton and St. Catharines occurred a few months later.

In each instance, the **Ministry of Children and Youth Services** intervened within 24 hours, to ensure that the agency reported to the Commissioner's Office that it had deployed resources so that these victims could obtain service in French. The Ministry's good faith and determination to protect victims, particularly minors, was never in doubt, yet it is important to remember that very few victims in a state of extreme vulnerability would have the courage to speak up and file a complaint.

There were several reports of a deplorable lack of French-language services in the delivery of the *Ontario Works* program of the **Ministry of Community and Social Services (MCSS)**. Certain municipalities administering this program on behalf of MCSS maintained that they were not subject to the *French Language Services Act* and that they could therefore refrain from offering, or even refuse to offer, service in French. Once the Ministry had been informed of this situation, it was able to quickly resolve the situation for the program beneficiaries.

This type of complaint should be given special consideration in order to avoid a situation in which the Commissioner's Office is handling one individual complaint after another. This is especially important because cases such as these are indicative of practices that affect a large percentage of the population for whom these are essential services.

These specific examples have been provided to illustrate the point that where a transfer payment recipient is delivering services under a statutory mandate, the ministries remain accountable for service accessibility and service quality. In each of these cases, the ministries stepped in to quickly address the lack of service that had been reported by Francophone service users. This issue will be addressed at greater length in Chapter 4 on third-party service delivery.

#### 3.2.1 Health

There are many complaints over violations of the *French Language Services Act* in the area of health. Given the number of transactions that take place every day in the health sector, this is completely understandable.

Until very recently, the **Ministry of Health and Long-Term Care** did not appear to understand the objectives being pursued by the Commissioner's Office. In his *Special Report on French Language Health Services Planning in Ontario, 2009*,<sup>20</sup> released in May 2009, the Commissioner addressed the complaint process, emphasizing the importance of also making use of the internal complaint process of each service provider, whether it is a designated service provider under the *Act* or an identified service provider.

The Commissioner's Office is pursuing the goal of identifying flaws in the system so that they can be permanently corrected. In order to achieve this goal, government ministries and agencies must step up their efforts to find systemic solutions that will have a positive impact on the development of Ontario's Francophone community and the delivery of French-language services.

#### A Change in Tone

In 2010, the Commissioner's Office noted a remarkable shift in the tone and attitude of the **Ministry of Health Promotion** and the **Ministry of Health and Long-Term Care**. In the case of the Ministry of Health and Long-Term Care, this shift was evident in its recent official response to the recommendations the Commissioner made in

18. For more information: <http://www.edu.gov.on.ca/extra/eng/ppm/145.html> (page consulted in March 2010).

19. For more information: <http://www.edu.gov.on.ca/extra/eng/ppm/144.html> (page consulted in March 2010).

20. Office of the French Language Services Commissioner. *Special Report on French Language Health Services Planning in Ontario, 2009*. Toronto: Queen's Printer for Ontario, 2009.

his special report. This Ministry trained its entire staff to raise their awareness and understanding of the *French Language Services Act*. Over 1,500 of its employees were trained on the importance of offering high-quality French-language services to its Francophone clients. These employees were also made aware of the importance of integrating French-language services into the strategic planning process, the concept of active offer, and the need to hold all public consultations in French and in English. From now on, this sector will seek lasting solutions.

### 3.2.1.1 Francophone Community Engagement Regulation

In December 2009, the government finally adopted Ontario Regulation 515/09, *Engagement with the Francophone Community under Section 16 of the Act*. The adoption of this regulation constitutes a positive and tangible response to one of the recommendations that the Commissioner made in his special report in May 2009, and it enabled the Commissioner's Office to resolve over 100 complaints that it had received in the Fall 2008, closing one of the most important dossiers in the history of the Office.

The Commissioner is thrilled with this development for the Francophone community, which knows better than anyone else what it needs and what its priorities are in the area of French health services. The adoption of this regulation closes a gap in French health service planning in Ontario that has existed for far too long. The planning entities will promote better access to French health services across the province. They will ensure that these services continue to improve and that they meet the specific needs of Francophones. Starting on July 1, 2010, at least five new entities will be in place across the province.

The proposed regulation on Francophone community engagement tabled in September 2008 was clearly inconsistent with the intentions of the framer of the *Local Health System Integration Act, 2006*. According to section 16 of the *Act*, these planning entities are to be given a specific role and a specific governance structure that will

enable them to fulfill their mandate. The following year, the Commissioner recommended in his Special Report<sup>21</sup> that the proposed regulation be modified to refer to the planning entities in a manner that was in keeping with the letter and the spirit of the *Local Health System Integration Act, 2006*.

The Francophone community was quick to respond to the proposed regulation, and the government asked former Francophone Affairs Minister Charles Beer to act as a facilitator for the stakeholders, i.e. the Francophone community, the Ministry of Health and Long-Term Care, and representatives of the Office of Francophone Affairs. This innovative approach proved to be the right one. The findings of the Charles Beer Report<sup>22</sup> were consistent with the Commissioner's own observations; it included specific details on the accountability that would be necessary in order to reconcile the responsibilities of the planning entities with those of the Local Health Integration Networks (LHINs).

Hopefully, the planning entities will now be given the resources they need in order to accomplish their work. The Commissioner will also be looking for the creation of a senior management-level position for a French Health Service Planner/Coordinator within each LHIN or group of LHINs.

### 3.2.1.2 The English-Only H1N1 Brochure

The most contentious issue this year was, clearly, the publication and distribution of an English-only brochure on the pandemic (H1N1) 2009 influenza virus, which led to a formal investigation by the Commissioner.

Ontario was particularly active in responding to the flu pandemic that emerged in the Summer 2009. The province used every means at its disposal to keep the public informed. This included a brochure on the dangers of the flu virus and measures that the public should take to protect itself, which was sent to every household in the province. Unfortunately, the brochure was in English only, although there was a brief mention, on the back page, that information was available in French on request. Even so, the contact information provided did not make it easy to obtain service in French.

21. Ibid.

22. Honourable Charles Beer, *Final Facilitation Report on Francophone Working Group and the Regulation under the Local Health System Integration Act, 2006* (LHSIA), Ontario Ministry of Health and Long-Term Care, 2009. Available online at: [http://www.health.gov.on.ca/transformation/lhin/beer\\_report.pdf](http://www.health.gov.on.ca/transformation/lhin/beer_report.pdf) (page consulted in March 2010).

On September 15, 2009, upon receipt of the first complaint, the Commissioner informed the **Ministry of Health and Long-Term Care** that he intended to launch a formal investigation into this direct violation of the *French Language Services Act*. The Premier responded by saying that this was an embarrassing situation for him personally and for his government and he agreed to take measures to ensure that it did not happen again.

The inquiry is not to determine whether there was a violation of the *FLSA* as it is evident that this was the case. The purpose of the inquiry is to find out what happened and what can be done to prevent a reoccurrence.

Where the Ministry is concerned, the Commissioner hopes to see a new approach. In its communications with the public, this Ministry has fallen short all too often.

### 3.2.1.3 Communication

In addition to the English-only H1N1 brochure incident, there were other complaints concerning the flu season in the Fall 2009. The examples below give an indication of the scope of the problems reported by complainants.

Finding little information in French on the **Ministry of Health and Long-Term Care's** Website and given the urgency of getting information out to its Franco-phone clients, one service provider managed to find French-language documentation on an American Website. There were also reports that the Ministry's English and French press releases did not match and reports of discrepancies in the number of victims the flu had claimed. In short, the English and French versions of the Ministry's Website did not provide the same information.

An English-only Influenza Self-Assessment Tool was posted on the Ministry's Website and was promoted widely to the public via the media and to management and staff in specific sectors such as education and health. The Ministry officials who were informed of this problem responded immediately, working very hard to rectify the situation.

Once again, this demonstrates the importance of taking French-language services into account from the moment when services, programs, and products are designed. This includes translation. Documents are drafted and undergo one thousand and one changes before being approved for distribution. Translation into French must be planned for and integrated into this entire process, rather than being added at the eleventh hour. A single paragraph can be translated and added at the last minute, but not a document that is several pages long. Another factor to take into consideration is the extra cost of ordering a rush translation. Not surprisingly, the argument is sometimes made that large sums of money have to be spent on translation; timelier planning could substantially reduce these costs.

The Ministry's response on this point suggests that it is prepared to make adjustments and prevent situations in which information is not available simultaneously in French and in English. In the Ministry's defence, it generates an extraordinary volume of communications. Compounding the problem is the fact that Ministry Website updates are not centralized, making it difficult to implement effective quality control measures.

The Ministry confirmed that, following the incident over the communication of information on the pandemic (H1N1) influenza virus, three focus groups were struck to evaluate the communication response and clearly identify areas for improvement. Drawing on the recommendations made by these focus groups, the Ministry's Communications and Information Branch created a working group to implement the solutions that are recommended including informing divisional staff about translation processes and the new posting policy.

Furthermore, the Ministry unit responsible for its Websites has agreed to post information on line in French and in English simultaneously and to make this directive known to all Ministry staff responsible for electronic communications. Together with French Language Health Services, communications officials will work with their respective divisions to ensure that costs and timelines for translation are included in work plans.

### 3.2.1.4 French-language Services in Peel and Halton

In Fall 2007, the Commissioner's Office received an especially well-written complaint from the *Centre de services de santé - Peel et Halton Inc.* that contained a petition with 217 signatures. This complaint documented the lack of integrated French health services in a region that had over 32,000 Francophones in 2006.<sup>23</sup> In it, the Francophone community in Peel and Halton expressed a clear desire to have French-language services that met their needs. Talks with the **Ministry of Health and Long-Term Care** then languished for two years. It was only when the preliminary report of the investigation was presented in January 2010 that the Ministry made a commitment to take substantive measures.

The Commissioner's Office is of the opinion that the Ministry has not demonstrated that integrated French-language health services exist in Peel Region and Halton Region.<sup>24</sup> It is also of the opinion that, since 1989, the Ministry has not taken steps to ensure that Francophones living in the region have access to equivalent French health services. Thus far, no health service providers have been designated under the *French Language Services Act* and only a handful have been identified as able to provide French health services.

The Commissioner recommended that the Ministry acknowledge unequivocally that, ultimately, it is responsible for finding solutions to the lack of French-language service offer and that this is not solely the community's responsibility. The Commissioner also recommended that the Ministry propose practical, concrete French health service delivery models to the Francophone community in Peel and Halton, and that these models be implemented by the end of 2010.

In its response, the Ministry acknowledged that there were gaps in French-language health service delivery in Peel and Halton and made a formal commitment to address these gaps with substantive measures. For example, the Ministry will review its family health team selection criteria in order to remove any systemic barrier to the needs of

Francophone communities. The Ministry also allocated significant amounts of funding to the *Centre de services de santé - Peel et Halton Inc.*, which provides French-language primary health care services, so that, together with the two LHINs in the region, it could cooperate with the Ministry in finding lasting solutions to the lack of integrated French health services in the region.

The Commissioner is confident that, with this new attitude and approach, major progress will be made on an integrated French-language health service delivery model over the next year, especially since the French-language health service planning entity will be following these developments very closely.

### 3.2.1.5 Local Health Integration Networks (LHINs)

Complaints were filed by Francophone health service providers over the French-language services being offered by certain LHINs. They reported that they were presented with the new directives on budgets and training sessions in English only.

Several of these French-language health service providers have unilingual-French boards of directors and French-only service plans. In light of this, it is incomprehensible that they would be asked to sign contracts with their funding agencies, i.e. the LHINs, without an understanding of the legal ramifications and scope of these contracts.

The North East LHIN had the information documents translated and the Ministry provided it with a partial translation of the agreements; however, there was no accommodation in the deadline for submitting the duly completed contracts. Other French-language health service providers around the province decided to use these documents, which the North East LHIN had posted on its Website. Since then, the North East LHIN has prepared an excellent policy on French-language health services, described in greater detail in Chapter 6 on best practices. The Commissioner's Office firmly believes that the other LHINs would do well to incorporate the North East LHIN's approach into their own.

23. This figure will need to be revised upward in light of the new inclusive definition of Francophone that was recently adopted by the Ontario government.

24. Two Local Health Integration Networks share the Region of Peel and the Region of Halton, i.e. the Mississauga-Halton LHIN and the Central West LHIN.

In another case, a LHIN in the Toronto area sent Francophone health service providers an English-language survey and summary of its Francophone community engagement exercise in the context of its *Integrated Health Service Plan*. The LHIN also asked them to circulate the survey and summary in their networks. Clearly, the LHIN thought that it was appropriate to consult Toronto's Francophones in English.

As part of this same planning exercise, another LHIN saw fit to lump French-language health services together with the priorities to be identified by the community, such as reductions in emergency room wait times and hip replacements. One cannot ask the majority to decide whether or not French Language services should be available or not.

### 3.2.1.6 Healthy Communities Fund

On its Website, the **Ministry of Health Promotion** states that its vision is "to enable Ontarians to lead healthy, active lives and make the province a healthy, prosperous place to live, work, play, learn and visit."<sup>25</sup> As part of this vision, it launched the Healthy Communities Fund in 2009.

In spite of this, the Commissioner's Office received a complaint from a member of the public deploring the fact that Francophone communities were still not among the groups targeted by the Ministry.

According to the Healthy Communities Fund page on the Ministry's Website, the Fund is a "one-window approach to funding local organizations for the delivery of health promotion initiatives related to physical activity, sport and recreation, healthy eating, tobacco use and exposure, injury prevention, substance and alcohol misuse, and mental health".<sup>26</sup>

Many leading Francophone researchers have concluded that Ontario's Francophone community has specific needs that are unique. In his Special Report released in 2009,<sup>27</sup> the Commissioner reiterated the findings of studies on the health of Ontario's Francophones. It is high time that these needs were clearly understood and taken into account whenever a new strategic program and service implementation plan is developed.

On behalf of the Ministry, the Committee on French-language Health Promotion organized a series of regional forums with Francophone stakeholders in the Fall 2009. The goal was to identify opportunities for engaging the Francophone community and ensure that it benefited from the Healthy Communities Fund program. In response to the committee's recommendations, the Ministry took corrective measures and included Francophones in its target groups.

### 3.2.2 Administrative Tribunals

Ontario has over 200 administrative tribunals. These entities operate independently of the government and have the authority to rule on legal rights and obligations. They are a part of Ontario's legal system and, by virtue of being government agencies, are subject to the *French Language Services Act*.

In the resolution of complaints concerning these tribunals, their status has never been called into question. The ministries' obligation to deliver French-language services, as stipulated in the *FLSA*<sup>28</sup> applies to any tribunal<sup>29</sup> located in a designated area and to any tribunal whose territory includes all or part of a designated area.

25. For more information: <http://www.mhp.gov.on.ca/english/about/default.asp> (page consulted in March 2010).

26. For more information: [http://www.mhp.gov.on.ca/english/healthy\\_communities/default.asp](http://www.mhp.gov.on.ca/english/healthy_communities/default.asp)

27. Office of the French Language Services Commissioner, *Op. cit.*

28. For more information, see section 5(1) of the *French Language Services Act* available online at: [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_gof32\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_gof32_e.htm) (page consulted in March 2010).

29. The *French Language Services Act* applies to the entire range of services offered by these tribunals.

### 3.2.2.1 Social Benefits Tribunal

The Commissioner's Office received a complaint from a group of individuals concerning the **Social Benefits Tribunal**. Although the complainants stated that they were satisfied with the measures that were taken to improve both the operation of the Tribunal's secretariat and its arbitration process, there were so many challenges that this process was anything but straightforward. The Tribunal had serious difficulty recruiting qualified bilingual employees; it did not have the financial resources it needed to implement the corrective measures.

The complainants faced many obstacles. On a number of occasions, they received notices to appear for a hearing in French, but the hearing dates in the French and English versions of the notice were not the same. Even when their cases were heard in French, the Tribunal wrote its decisions in English. These decisions were then sent directly to the appellants, who had to wait for weeks before receiving a translation. In many instances, Francophone complainants turned to a legal clinic for help in making sense of these legal documents. Clearly, there were deficiencies both in terms of the Tribunal's bilingual staffing and in terms of its process.

With the support of the Ministry, the Tribunal took a full inventory of its resources and developed a strategic plan to address the problems that had been identified. This plan, which was negotiated by the complainants and the Tribunal, included a specific schedule, performance measures, and clear objectives. The Tribunal also agreed to report not only to the Ministry, but to the complainants.

The Commissioner's Office wishes to highlight the positive outcome of this investigation, which lasted over a year. It was possible because all of the parties concerned made a commitment to work to find solutions and ensure that changes were actually made. The Commissioner's Office thanks them for their efforts, and it would encourage other ministries and tribunals to follow suit. As a number of these tribunals contemplate administrative mergers, this would be an appropriate time to take the example set by the Social Benefits Tribunal into account.

### 3.2.3 Justice

#### 3.2.3.1 Ontario Provincial Police (OPP)

In an effort to improve the quality of its French-language services, the **Ontario Provincial Police (OPP)** has developed a strategy for the delivery of the FLS. However, despite the efforts undertaken and the leadership's willingness, violations of the *FLSA* do occur from time to time.

In one instance, a member of the public contacted the Commissioner's Office when an officer at the QuinteWest OPP Detachment refused to take a deposition in French for a criminal proceeding.

QuinteWest is not a designated area under the *French Language Services Act*. Nevertheless, many Francophones live in the area, notably because of the Canadian Forces Base in Trenton. When contacted by the Commissioner's Office, the OPP Eastern Region Commander quickly confirmed that the regional detachment did, in fact, have bilingual staff who could offer services in French and even provided the name of an individual who could handle the complaint. He indicated that similar requests had been received in the past and the bilingual officers had stepped in to provide French services. The QuinteWest Detachment Commander acknowledged that, although this was an isolated incident, it should not have happened.

In order to prevent this situation from happening again, all of the officers in the detachment, including the officer involved in this case, were made aware of the importance and their obligation to respect the communities served by the detachment, including the Francophone community. This incident provided an opportunity to remind the OPP of its obligations with respect to the *Strategy for the Delivery of FLS* and to reiterate the importance of the *FLSA*. The Commissioner's Office now hopes that this exercise will be carried out by every OPP detachment in the province to ensure that all OPP officers are aware of their obligations to provide services in French. This would make it possible to avoid a case-by-case approach in the future.

### 3.2.3.2 Special Investigations Unit

The Special Investigations Unit (SIU) investigates circumstances involving police officers, which have resulted in serious injury, including sexual assault or death. Even though it is a civilian law enforcement agency and its decisions are independent of the government, it reports to the **Ministry of the Attorney General**.

The justice sector has developed a strategic plan for the delivery of French-language services that has served as a model for many other ministries. In spite of this, the Commissioner's Office received a complaint that this agency had failed to provide French telephone and Internet services.

During its investigation, the Commissioner's Office discovered that the SIU had one employee assigned to customer service in French. This situation could hardly ensure the ongoing delivery of French-language services. The Commissioner's Office received a commitment from the Ministry that a human resources plan for French-language services would be developed in the near future and that its Website would be translated. Over nine months after this complaint was filed, and as this report goes to press, the SIU Website is still not available in French.

### 3.2.4 Transportation

The Commissioner's Office wishes to thank the Ministry of Transportation for its cooperation and to congratulate it on its efforts to enhance French service access and delivery. These efforts have been successful and they have resulted in considerable progress in a number of cases, examples of which are provided below.

#### 3.2.4.1 Variable Message Signs

The **Ministry of Transportation** has provided the Commissioner's Office with the measures it plans to implement in the very near future to address complaints over electronic signage in the designated areas. During the investigation, the Ministry indicated that it was developing a series of bilingual messages that would be

posted on two separate types of variable message signs: conventional variable message signs and high-definition variable message signs.

A few initial bilingual messages have been introduced on several signs in Northeastern Ontario and more messages and signs will be added throughout the Spring/Summer 2010. This is a first step in a vast, long-term strategy for the Ministry to incorporate bilingual messages on road signs in designated areas. Gradually, over the next 10 years, the Ministry will replace conventional electronic message signs with high-definition message signs. The high-definition signs will enable the Ministry to use symbols and icons to get around the space constraints of messages that require more space.

In both French and English, messages with icons are easier for motorists to understand, making all the difference between effective signage and signage that is visually distracting.

### 3.2.5 Finance

#### 3.2.5.1 Municipal Property Assessment Corporation (MPAC)

As this annual report was being written, the Commissioner's Office had already received 32 complaints concerning the **Municipal Property Assessment Corporation (MPAC)**, and the process by which ratepayers are able to indicate their support for a school board. These complainants maintain that this process "defaults to" the English-language public education system, to the detriment of the other three systems, i.e. the English-language separate school boards, the French-language separate school boards, and the French-language public school boards.

They claim that the *Assessment Act*<sup>30</sup> favours the English-language public education system by making this system the default system when a ratepayer fails to indicate another preference. They further claim that because ratepayers' choices are often misreported, MPAC is collecting data that is imprecise and even inaccurate. This is clearly to the detriment of the three other education systems.

30. For more information, see paragraph 16 (4) of the *Assessment Act* available online at: [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90a31\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90a31_e.htm) (page consulted in March 2010).

They reported that irregularities in the collection of demographic data are having a direct impact on the delivery of several government services and administrative procedures. These include the calculation of the number of positions on a school board, the analysis of demographic trends for planning purposes, and the updating of preliminary voters' lists.

These data are also used for jury selection.<sup>31</sup> Under the *Juries Act*, jury selection must be based on certain information, including a person's ability to understand English, French or both English and French. Given the fundamental role of property assessment in the collection of these data, the complainants assert that the methods currently being used by MPAC are having a direct impact on the composition of juries and that this could have an impact on access to justice in French.

MPAC has acknowledged that, in many cases, ratepayers are unaware that they have to re-select their school board support when they move and that this support can only apply to one school board in the municipality in which the ratepayer or tenant resides, since support within a single dwelling cannot be shared by several school boards. Moreover, it is up to the landlord to decide which school

board will receive support on behalf of all of the tenants. The complainants allege that this lack of understanding of the legal provisions and this failure to adequately inform the public only compound the imprecise nature of the role of the voters' list.

In both cases, complainants assert that the procedure being used by MPAC denies an Anglophone spouse's right to support one of the French-language school boards. In their estimation, this provision causes even greater prejudice to exogamous couples without children because not only do Francophones have free choice in the matter, but MPAC assumes that unless they make their preferences clearly known, they are supporting the English-language public school board in their community.

These complaints point to many challenges. In order to resolve them, many players will have to work together to find permanent solutions. These players include the Ministry of Finance, the Ministry of Education, the Ministry of the Attorney General, MPAC, and the school boards. The Commissioner's Office will continue to monitor this issue closely.

31. For more information, see section 6 of the *Juries Act* available online at: [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90j03\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90j03_e.htm) (page consulted in March 2010).

## CHAPTER 4

# Investigations of Indirect Services

Governments have gradually stepped back from delivering services directly to the public by transferring responsibility for service delivery to a lower level of government or to the private sector. In keeping with its mandate, the Commissioner's Office would remind the ministries of the importance of strict compliance with the rules for awarding contracts.

In its investigations, the Commissioner's Office has focused on the nature, quality, and accessibility of government services. A ministry's decision to download services to a private service provider or a lower level of government must not be seen as a way for it to circumvent its duties and responsibilities. Following the principle of economies of scale, the Ontario government appears to be favouring single-supplier service delivery. More often than not, however, in its haste to re-organize its finances, it forgets to ensure that French-language service delivery will be maintained.

While this observation may seem fairly obvious, it is based on complaints received by the Commissioner's Office over the erosion of French-language services that has occurred with devolution.

### 4.1 COMPLAINTS WITH RESPECT TO SERVICES OFFERED BY THIRD PARTIES

In the course of resolving certain complaints, the Commissioner's Office has accepted that a bilingual service provider may offer equivalent services, but only after recommending that a clause be added to its service agreements to stipulate that the offer of equivalent services in French is mandatory and only after the ministry in question agrees to enforce these clauses.

Should the Commissioner's Office determine that equivalent services are not being offered consistently, in spite of an agency's having been given a reasonable period of time in which to introduce them, the Office will not hesitate to recommend that another supplier be identified to offer services in French.

### 4.2 PRIVATE SERVICE PROVIDERS

#### 4.2.1 Private Driver and Vehicle Licensing Offices

Once again this year, the Commissioner's Office received a considerable number of complaints concerning the province's private Driver and Vehicle Licensing Offices. These complaints are partially responsible for a renewed commitment on the part of ServiceOntario, a leader in the area of customer service, to make major changes to its service delivery models. Most of the changes are necessary because of the restructuring and transition that ServiceOntario is undergoing at the initiative of the **Ministry of Government Services**. As a result of this restructuring, it is anticipated that driver and vehicle licensing services will be available at ServiceOntario sites in 225 communities across the province. All of the complaints dealing with one-time problems were resolved quickly and to the Office's satisfaction. However, in spite of the fact that the Ministry was cooperative, the Commissioner's Office wished that more attention had been paid to the impact of closing issuing offices in small Francophone communities.

The issuing office in Penetanguishene is a case in point. The Ministry did not renew the service contract for the issuing office in this town, which is designated. Instead, it transferred this service to Midland, which is not designated. Even though the Midland issuing office is now required to offer services in French, it is deplorable that a service centre in a designated area is being eliminated and replaced with a service centre in a non-designated area, on the basis that the new centre is more accessible for the majority of customers.

During this restructuring and transfer of services, issuing offices that offered French-language services have been encouraged to continue doing so and they must comply with the Ministry's bilingual signage and service standards. Those that do not offer French-language services must now clearly indicate in their signage where these services

can be obtained. In designated areas where ServiceOntario does not have sites, issuing offices now have a contractual obligation to offer French-language services, under penalty of having their contract cancelled.

Throughout this process, ServiceOntario demonstrated its commitment to actively offer high-quality French-language services that meet the needs of the Francophone community; however, only time will tell whether service availability and quality have been adversely affected. For a small Francophone community that is trying to provide its residents with as many services as possible, the loss of an issuing office creates a void that is difficult to fill. The Commissioner hopes that, in the future, the decisions that shape these changes in the service delivery models will take into account the ability to offer French-language services and the impact on the Francophone community.

#### 4.2.2 MERX

Ontario government ministries use the MERX Website to post invitations to tender for the acquisition of goods and services. With a few rare exceptions, tender documents are available only in English, even though the MERX Website is bilingual. This has an obvious impact on the ability of Francophone businesses to enter, and reap the benefits of, this lucrative market.

When a ministry generates tender documents in English only, it runs the risk of failing to meet the needs of its Francophone clientele. This was the case for the creation of a list of consultants who could meet the needs of Ontario's school boards, which include 12 French-language school boards.

The ministries have a responsibility together with the **Ministry of Government Services**, Supply Chain Management Division, to issue directives on the content and quality of the tender documents they post on the MERX Website.

Over and above the legal considerations, the ministry in question has acknowledged that depriving Francophone businesses and clients of opportunities to participate in this market may go against the letter and the spirit of the *French Language Services Act*. For this reason, it has been receptive to working with the Commissioner's Office to find a pragmatic solution.

The Commissioner hopes that all opportunity abstracts posted on MERX by the ministries themselves or by the Ministry of Government Services will be bilingual, so that Francophone businesses are aware that these opportunities exist.

#### 4.2.3 Employment Ontario

Close to four years ago, the **Ministry of Training, Colleges and Universities** restructured the *Employment Ontario* program. The purpose of the restructuring was to provide seamless service for customers, remove barriers to training and strengthen links to employment. As announced in January 2010, all Employment Ontario offices will offer a one-stop approach to training and employment services by August 2010, eliminating the need for service beneficiaries to visit separate locations.

However, in the process of centralizing services, the Ministry is only allowing established service providers to continue offering the program. In some cases, they are being allowed to upgrade the program with other components, including the delivery of French-language services by so-called bilingual service providers. The Commissioner is concerned that services will not be adapted to the specific needs of Francophones. There is reason to believe that substantive equality in service delivery will not be achieved.

The Commissioner shared his concerns with the Ministry in order to prevent violations of the *French Language Services Act*. He sought to ensure that the directives and criteria issued by the Ministry took the integration of French-language services for the Francophone community into account. He also asked the Ministry whether the criteria used to select Employment Ontario service providers included the availability and accessibility of French-language services and the impact on the Francophone community. The Commissioner reminded the Ministry that service providers designated under the *French Language Services Act* have enhanced legal protection, and that it should take this into account when selecting one-stop service providers for the *Employment Ontario* program.

The Commissioner's concerns have not yet been addressed. Consequently, the Commissioner's Office plans to monitor developments in this issue of great importance to Francophones.

#### 4.2.4 College of Nurses of Ontario

Last year, the **Ministry of Health and Long-Term Care** created a database of paramedical resources in the province. This required the participation and cooperation of colleges and associations in the health care sector. The Commissioner's Office received a complaint that, unlike the province's other professional colleges and associations, the College of Nurses of Ontario (CNO) had not followed through on this initiative.

The complainant reported that the CNO had not changed its annual membership form to include a question about language skills. Data on language skills are all the more important because they have an impact on human resource management and the delivery of French-language services.

The CNO did post a note on its Website informing its Francophone members that they could obtain a hard-copy version of the French membership form. The Commissioner's Office deplores the fact that the CNO remains so inflexible on its obligation to provide equivalent services to its Francophone members. Given the importance of these data to the planning and delivery of French-language health services, it is unfortunate that, unlike the province's 19 other professional colleges and associations, the CNO has not completed the first phase of this exercise.

### 4.3 MUNICIPAL SERVICE PROVIDERS

When the Government of Ontario downloads service delivery to the municipalities, it is certainly not to circumvent its obligation to offer French-language services. It is because the government believes that municipalities are in a better position to adequately deliver programs.

And yet, in spite of the fact that provision is made for the delivery of French-language services in the *Provincial Offences Act*, the Ontario Public Health Standards, and the *Ontario Works* program, and in spite of the fact that the ministries in question have adopted clear regulations and directives, members of the public still encounter problems when they request service in their language.

#### 4.3.1 Municipally Administered Courts

Between 1998 and 2002, responsibility for provincial offences devolved to the municipalities. This was accompanied by a Memorandum of Understanding that stipulated that the municipalities had to offer the same level of service in French that the province had offered prior to devolution. Now, close to 10 years after devolution and in spite of this Memorandum of Understanding, violations of the *Courts of Justice Act*<sup>32</sup> still occur frequently. Some municipalities still have not fully integrated their obligations and responsibilities under the *Courts of Justice Act* and the *French Language Services Act* in designated areas into their delivery of services to the Francophone community.

If a French-speaking citizen who has committed a provincial offence requests a bilingual hearing, the court in his municipality has an obligation pursuant to section 125 to provide him with service in French, just as it must uphold his rights under the *Courts of Justice Act*. In addition, section 126 of this act states that, "[when] an appeal is taken in a proceeding that is being conducted as a bilingual proceeding, a party who speaks French has the right to require that the appeal be heard by a judge or judges who speak English and French."<sup>33</sup>

However, the following case, which is a typical one, demonstrates that French-language services are not always readily available in some municipally-administered courts. A complainant attended a courthouse near her place of residence to deal with a speeding ticket. Having requested a bilingual proceeding, she realized that no French-language services were available on the day on which she was scheduled to appear. To comply with her request for French services, her case was transferred to another court. Because of the very short deadline she was given for proceeding, she decided to go through with an English-language proceeding and waive her right to a bilingual proceeding.

While this case points to the shortage of bilingual justices of the peace in Ontario, it also illustrates the tremendous amount of work that remains to be done to make some municipalities aware of the importance of actively offering

32. Available online at: [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_goc43\\_e.htm#BK167](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_goc43_e.htm#BK167) (page consulted in March 2010).

33. Justices are appointed by the provincial government and assigned by the Ontario Court of Justice.

French-language services in order to respect the choices of their French-speaking citizens and meet their obligations under their Memorandum of Understanding with the **Ministry of the Attorney General**.

This Memorandum of Understanding contains clauses requiring the municipalities to develop an annual performance report that they must submit to the Ministry, which includes the status of French-language services they deliver.

Two years ago, the Ministry struck a committee of municipal partners, Ministry representatives, and community stakeholders (AJEF and AFMO) to identify gaps and difficulties, and attempt to address them. This committee is charged with developing a survey on the quality of French-language services.

The Ministry has also provided its municipal partners with practical tools to help them to meet their obligations more effectively. Every year, the Ministry audits a number of courts in order to evaluate the delivery of French-language services at the local level.

In spite of these measures, and in spite of the existence of standards and a committee, the provincial standards with respect to the Memorandum of Understanding that have been established by the Ministry of the Attorney General are far from adequate. The Ministry must take steps to ensure that the municipalities actually comply with the terms of the contract they have signed.

#### 4.3.2 Public Health Units

Ontario's 36 public health units (boards of health) are an integral part of the province's health care delivery system. They include a mixture of governance models: 22 autonomous, 2 autonomous/integrated, 7 regional, 3 single-tier and 1 semi-autonomous.

The majority of the public health units do not deliver equivalent services in French, in spite of the fact that many programs are of vital importance to the Francophone community. These include programs for health promotion, the prevention of infectious diseases, vaccination, and immunization.

The Commissioner's Office received many complaints over service delivery gaps, in particular the pandemic (H1N1) 2009 influenza virus. In some instances, Francophones reported that they have never had access to information on these health services and that they have never received materials as part of a public awareness campaign on this subject. French-language health service providers and French-language school boards have also reported receiving English-only materials and have also been told that materials would not be translated.

When this case was being processed, the **Ministry of Health and Long-Term Care** indicated that the delivery of services by the public health units was not within its competence; its role was limited to evaluating the services that the public health units offered in light of the provisions of the *Health Protection and Promotion Act*<sup>34</sup> and the Ontario Public Health Standards and Protocols; the public health units are not government agencies within the meaning of the *French Language Services Act*; rather, they are local boards within the meaning of the *Municipal Affairs Act*,<sup>35</sup> and, because of the legal exemption, the obligation that devolves to a government agency cannot be applied to the public health units.

The funding of the public health units has undergone many changes since they were first created. Traditionally the funding for mandatory programs (the Ontario Public Health Standards) has been cost-shared between the province and municipalities. In 1998, they were funded entirely by the municipalities (100%). Since 2004, the government has increased the provincial share of the mandatory program costs from 50% in 2004 to 75% in 2007. The current cost-sharing arrangement has remained at 75% and is shared between the Ministry of Health and Long-Term Care and the Ministry of Health Promotion. The province provides additional funding at 100% for additional specific programs.<sup>36</sup> Each level's share varies from unit to unit. In some regions—such as in Ottawa—the province covers 75% of the cost and the municipality covers 25% of the cost.

34. For more information: [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_goho7\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_goho7_e.htm) (page consulted in March 2010).

35. For more information: [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_gom46\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_gom46_e.htm) (page consulted in March 2010).

36. For more information, consult *Ottawa Public Health 2007 Annual Report*, available online at: [http://www.ottawa.ca/residents/health/publications/annual\\_report/ar\\_2007\\_en.html](http://www.ottawa.ca/residents/health/publications/annual_report/ar_2007_en.html) (page consulted in March 2010).

The Ministry of Municipal Affairs and Housing states in its *Report of the Provincial-Municipal Fiscal and Service Delivery Review* that “the Province sets standards and overall direction for universal social programs and provides a significant share of funding for many programs and services.”<sup>37</sup>

With this in mind, a ministry must be capable of explaining how it is able to sidestep its obligations in the area of accountability and standardized language competency when it grants contracts for the delivery of services. Denying that the public health units have the status of government agencies does not change the fact that they are accountable for properly managing the funding they receive from the province, nor does it exonerate them from their obligation to justify their use of these funds. It is up to the province to set standards and obligations for the delivery of French-language services and to standardize practices for all of these service providers.

Section 4 of the *Health Protection and Promotion Act* describes the duties of the boards of health, which include the public health units, and states that these agencies “shall perform such other functions as are required by or under this or any other Act.” This act also states that the Lieutenant-Governor in Council may prescribe standards and requirements for health programs and services and require the boards of health to comply with them. In light of this, the Ministry of Health and Long-Term Care does indeed have the power to regulate the delivery of French-language health services by the public health units in order to make them comply with the objective of offering the public equivalent health services in French, as provided for in the *French Language Services Act*. Measures can be taken to harmonize these two statutes.

The Commissioner’s Office wishes to note that the Ministry recognizes the need to encourage the public health units to offer French-language services. In its *Guide to Providing French Language Public Health Programs and Services to French-Speaking Ontarians*, the Ministry states that “the nature of certain public health programs

increases the need to ensure that services are available in French. Such is the case for services targeting an audience that would include unilingual Francophone participants, such as programs targeting schools and day care centres.”<sup>38</sup> This is a step in the right direction; however, it is simply not enough.

#### Recommendation 4

In light of the role played by the province in funding the public health units and various public health initiatives, as well as in developing standards and priorities in response to the specific needs of Francophones:

**The French Language Services Commissioner recommends that, when all or part of their funding comes from the province, the Ministry of Health and Long-Term Care require public health units to implement the *French Language Services Act*.**

#### 4.3.3 Ontario Works

The *Ontario Works* program provides individuals in temporary financial need with financial assistance and helps them to find employment.

The Commissioner’s Office has received complaints about the availability and quality of the French-language services offered by the *Ontario Works* program. Although Ontario Works is administered by municipalities or District Social Services Administration Boards, it is a provincial program of the **Ministry of Community and Social Services** and, as such, its services must be delivered in French. Complainants reported that they were unable to obtain service in French from the Social Assistance Offices in Welland and Toronto.

One complainant was told by a social assistance official in Toronto that the city was not subject to the *French Language Services Act*. This is not even remotely close to the principle of active offer.

37. Ministry of Municipal Affairs and Housing. *Report of the Provincial-Municipal Fiscal and Service Delivery Review*. Toronto: Queen’s Printer for Ontario, 2008. Available online at: <http://www.mah.gov.on.ca/AssetFactory.aspx?did=6050> (page consulted in March 2010).

38. The *Guide* is available online at: [http://www.health.gov.on.ca/english/providers/program/pubhealth/oph\\_standards/ophs/progstds/pdfs/french\\_language\\_services.pdf](http://www.health.gov.on.ca/english/providers/program/pubhealth/oph_standards/ophs/progstds/pdfs/french_language_services.pdf) (page consulted in March 2010).

The Commissioner's Office received assurances from the Ministry that, as a result of these complaints, more thorough planning and coordination between the Ministry and local social service providers would be introduced. This will also provide the Ministry with an opportunity to take the systemic problems raised by these complaints into account, to reinforce an active offer-based approach, and continue to include the clause on French-language services in its contracts.

The Commissioner's Office asked the Ministry to provide an update on the planning and implementation of the measures announced in response to the systemic problems with French-language service delivery in these regions. The Office raised the issue of introducing evaluation tools and mechanisms for monitoring quality that will make it possible to ensure that the guidelines on French-language services are incorporated into the Ministry's standards. The Office also insisted on the need to apply these new measures across the province.

Lastly, the Commissioner's Office received an assurance that all service providers would receive training to make them aware of their obligations under the *French Language Services Act*.

The Commissioner's Office notes that the *Ontario Works Act, 1997*<sup>39</sup> contains provisions that can be invoked to ensure compliance with the spirit of the *French Language Services Act*. Under this *Act*, the minister responsible for the program has the power to designate geographic areas and he or she may also attach terms and conditions to a designation,<sup>40</sup> if he or she deems this to be appropriate. In light of this, the Ministry has a responsibility to ensure coherence between the configuration of designated areas under the *Ontario Works Act, 1997* and under the *French Language Services Act*.

## 4.4 TRANSFER PAYMENT AGENCIES

### 4.4.1 Children's Aid Societies

Over the years, a number of statutes with respect to child welfare have been enacted, including the *Child and Family Services Act* in 1984. Child protection services are in a state of constant evolution. Historically, these services were delivered by volunteers but, for many years, they have been delivered by professionals working in community-based agencies.<sup>41</sup> Once the direct responsibility of the provincial government, these services are now delivered by 53 Children's Aid Societies (CAS), funded by the **Ministry of Children and Youth Services**.

Over the past year, the Commissioner's Office has received numerous complaints about the CAS. For now, these complaints are being investigated extremely quickly, with the Office contacting senior officials in the Ministry directly to find solutions to problems over access to French-language services.

Thus far, the Ministry's cooperation has been impeccable. However, these cases always involve an emergency and the Office has had to address them as they arise. Obviously, over the long term, this is not a viable way to ensure that Francophone children in vulnerable circumstances are guaranteed French-language services.

More often than not, complainants contact the Commissioner's Office only after being made aware of its existence by a community agency. This uncovers the alarming truth that members of the public are not always aware that French-language services can be made available or that they can complain when their rights are not upheld.

And yet the legal provisions are clear. Section 1 e) of the *French Language Services Act* states that the *Act* applies to service providers as defined in the *Child and Family Services Act*. This *Act* states that service providers include all of the *Children's Aid Societies*. Section 2 (1) of the *Child and Family Services Act* reads: "Service providers shall, where appropriate, make services to children and their families available in the French language." What does

39. For more information: [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_97025a\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_97025a_e.htm) (page consulted in March 2010).

40. For more information, see sections 37 and 38 of the *Ontario Works Act, 1997*.

41. For more information: <http://www.oacas.org/childwelfare/history.htm> (page consulted in March 2010).

"where appropriate" mean in this context? The Commissioner believes that, according to the well-established principles of jurisprudence in the area of language rights, it means that if an individual asks for service in French, it is appropriate to offer service in French. This is separate from the issue of the designated areas under the *French Language Services Act*. Moreover, as section 1(1) of the *Child and Family Services Act* states, promotion of the best interests, protection and well-being of children is of paramount importance.

Although an analysis of the situation in the field has not been conducted in every community, it can safely be said that an individual requesting service in French from a CAS must have both patience and determination. With a few rare exceptions, such as the Services to Children and Adults of Prescott-Russell, it is not easy to obtain French-language services, even with the help of the Ministry. Again, this is not even remotely close to the principle of active offer.

Professionals who are able to offer service in French should be grouped together, even if only virtually, instead of being scattered around the province. The Ministry should create a forum to enable these professionals to connect and share information; this would facilitate professional development in French as well. Thus, when a CAS worker in Toronto is unable to offer a client a specialized service in French, such as the services of a child psychologist, this case worker would know that this service is available from a specialist at another CAS, for example, the CAS in Sudbury. A database of resources would be invaluable for the active offer of French-language services, especially for clients who are particularly vulnerable. It would also be invaluable for professionals as well as for the Ministry.

The provision of French-language services does not necessarily require a radical alteration of the existing structure, in terms of staff, or a significant increase in the financial resources of the Children's Aid Societies. Rather, it requires a more coordinated and efficient deployment of existing resources. Over time, it may become apparent that the resources that are available are insufficient; for now, it is important to know what is available to the Francophone community.

A lack of French-language services can have serious consequences. This is reflected in the recommendations made in 2009 by the Honourable G. Normand Glaude, Commissioner of the Cornwall Public Inquiry:

*"At the time, C-17 was seventeen years old. He alleged that Mr. Leduc had abused him. Throughout the interview, C-17 had difficulty describing the abuse, in part because of language issues. It is unfortunate that this interview was not conducted in French. As I have discussed, disclosing incidents of sexual abuse can be extremely stressful for victims, and efforts should be made to ensure that they are comfortable. In my view, this should include, at a minimum, conducting the interview in the language in which the complainant is most at ease."*<sup>42</sup>

The Ministry created a working group consisting of Ministry staff who work on the delivery of French-language services and child protection. This working group will:

- identify barriers to the equivalent delivery of French-language services;
- identify strategies for building the capacity to provide French-language services in the designated areas; and
- develop a strategic plan with an outline for improving French-language service delivery in the area of child protection.

Although this is a promising start, the Ministry's approach appears to favour the 22 CASs that are located in areas designated under the *French Language Services Act*. In the Commissioner's estimation, this minimalist approach is contrary to the existing legislation.

Regardless of the service delivery model selected, the application of the concept of active offer should translate into tangible measures that are articulated in writing early in the process—as early as the drafting of the agreement between the ministry and the CASs. This text must make explicit reference to the requirement of meeting the needs of the Francophone community, which is so often vulnerable and marginalized.

42. Honourable G. Normand, Glaude, Commissioner, *Report of the Cornwall Inquiry*, Phases 1 and 2, Executive Summary, Volume 4. Ontario Ministry of the Attorney General, 2009, p.187. Available online at: <http://www.attorneygeneral.jus.gov.on.ca/inquiries/cornwall/en/report/index.html> (page consulted in March 2010).

### Recommendation 5

Whereas Children's Aid Societies must comply with the provisions of the *French Language Services Act* and in light of the fact that their clienteles are often vulnerable:

**The French Language Services Commissioner recommends that the Ministry of Children and Youth Services:**

- A. Ensure that Children's Aid Societies actively offer French-language services throughout the province.**
- B. In cooperation with the Children's Aid Societies, create a network or, at the very least a directory, of French-language service providers for the benefit of those Children's Aid Societies that are currently unable to offer these services themselves.**

#### 4.4.2 Autism Ontario's *Realize Community Potential Program*

In September 2008, the Commissioner's Office received a complaint alleging that the **Ministry of Children and Youth Services** had not met its obligations under the *French Language Services Act* to provide French-language services to individuals with autism spectrum disorder.

The Commissioner's Office acknowledges that the issue of French-language services in the area of autism is complex and difficult to address. The Office's investigation considered only the *Realize Community Potential Program* for which Autism Ontario has received annual funding in the amount of one million dollars from the government since 2006. In its investigation, the Office heard from the Ministry, Autism Ontario, the complainants, and the parents of children with autism spectrum disorder, in order to better understand the challenges they face.

The Ministry acknowledged that this program had been developed without consulting Francophone communities and, as a result, the needs of these communities had not been taken into account. It pointed out this was an initiative from an agency that had submitted an application for funding to the Ministry for a pilot project.

The Ministry's decision was based on rigorous standards that all agencies that want to become transfer payment agencies must meet. These include the number of years the agency has been in existence, as well as its financial situation, mission, vision, objectives, and governance structure, and mechanisms for accountability.

The Ministry took measures to ensure that services would be offered in French. In 2007, it announced that additional funding would be made available to develop the French component of the program, in order to offer equivalent support and services to Francophones in the Ottawa region, regardless of whether they were members of Autism Ontario. Since then, additional resources have been provided and services have been introduced in seven other regions.

Autism Ontario plans to include French-language services in its 2010 strategic plan. In order to meet the Ministry's service contract requirements, Autism Ontario will submit a detailed French-language service plan that includes permanency and quality, adequacy of access, and representation and accountability as key priority areas. Autism Ontario has created a Francophone advisory committee on French-language services, which will provide advice and recommendations on the active offer of French-language services.

Although the quality of the French-language services is not always equivalent, and taking into account Autism Ontario's provincial mandate, the Commissioner's Office is suggesting several solutions to the Ministry and it is making recommendations for resolving this situation in a timely fashion. One of the Office's recommendations is that Autism Ontario seek partial designation under the *French Language Services Act*. This would give Francophone communities in designated areas access to the program. In addition to making Autism Ontario accountable to the Ministry for the quality of the French-language services it offers through this program, partial designation would require Autism Ontario's Board of Directors to include Francophone representation to meet the Ministry requirements. Autism Ontario has begun this process and hopes to obtain partial designation within two years. In the coming months, the Commissioner's Office plans to monitor this case, to ensure that the Ministry applies its recommendations and that Autism Ontario stands by its commitment. The Commissioner's Office would encourage beneficiaries of these services to be vigilant and to report any service gap with respect to the *French Language Services Act*.

## CHAPTER 5

## Subsidization and Devolution

The cases presented in this chapter illustrate situations where, in an attempt to ease their ministry's burden, well-intentioned government employees have failed to weigh the consequences of their actions on their ministry's legal obligations including, all too often, its legal obligations under the *French Language Services Act*. When this occurs, the Commissioner's Office receives complaints from citizens who believe that the government's never-ending efforts to streamline its services are being carried out at their expense.

In handling these complaints, the Commissioner is more determined than ever to play an active role by engaging in a constructive dialogue with the parties concerned. He is pleased to report that, in most cases, the parties become aware of the allegations, analyze them, and attempt to find solutions that are concrete, satisfactory, and in the best interests of all concerned.

## 5.1 SUBSIDIES

The ministries subsidize programs and services that are offered by agencies that clearly meet the needs of Ontarians. However, there is a deplorable lack of sensitivity—and awareness—of the delivery of equivalent services to Ontarians who speak French. If an English-language program or service is offered to meet a need, there is every reason to believe that an equivalent—or similar—need exists within the Francophone population. All too often, when public funding is provided to a service provider, the contract does not include a clause with respect to the obligations and responsibilities under the *French Language Services Act*.

5.1.1 *Parent Information Program*

The Commissioner's Office received a complaint with respect to the *Parent Information Program*, which is delivered through the Family Law Information Centres in Toronto.<sup>43</sup> This program has been partially funded by the **Ministry of the Attorney General** since the late 1990s. Offered by York University's Faculty of Law, until recently, this program was only available in English.

According to the Commissioner's Office, the Ministry could have taken steps to ensure that the *Parent Information Program* was offered in French from the very beginning. In its negotiations with the entity, the Ministry should have determined whether the entity had the material, technical, and human resources required to offer services in French. It could also have identified another entity to offer the French-language component of the program.

5.1.2 *Pride Celebrations*

Since 2004, the **Ministry of Tourism and Culture** has acknowledged the importance of the Pride celebrations and community by providing the event organizer, Pride Toronto, with a subsidy. The Commissioner's Office received a complaint that French-language services for PrideWeek events are non-existent.

In light of this complaint, the financial support from the province, the vast media coverage and promotional efforts for this event, and the number of Francophones from Toronto and elsewhere who take part, the Commissioner's Office studied this issue and asked the Ministry for information on contract clauses for the delivery of French-language services. The Ministry responded that it had never made the delivery of French-language services a condition of its funding of Pride Toronto.

Pride Toronto acknowledged that equivalent French-language services were not offered during PrideWeek 2009. It said that it was prepared to demonstrate goodwill by attempting to make changes to future events. The Commissioner's Office will monitor this situation and work to help the parties achieve a rapprochement.

In addressing this issue, the Ministry acknowledged the importance of an active offer. It made a commitment that, when an event warranted French-language services, it would include a contractual clause to this effect. The Commissioner's Office commends the Ministry for its outstanding cooperation in the search for solutions. This is an excellent example of a case where the processing of a complaint achieved its primary objective, i.e. a tangible

43. There are three Family Law Information Centres in Toronto.

improvement in the quality and accessibility of French-language services for the Francophone community.

### 5.1.3 Regional Immigration Portal

The Commissioner's Office received a complaint concerning Niagara's Immigration Portal at [www.niagaraimmigration.ca](http://www.niagaraimmigration.ca). In spite of the fact that this portal is subsidized by the **Ministry of Citizenship and Immigration** through the *Municipal Immigration Information Online Program*, it is available only in English. The Ministry subsidizes other regional portals, for example those in Timmins, Kingston, and Ottawa, which have a French-language component. On the French-language version of its own Website, the Ministry tells visitors that links to regional sites will be posted as their French-language versions become available.

Regardless of the source of the funding, it must take into account the Ministry's responsibilities under the *French Language Services Act*. As the funding agency, the Ministry has the power to ensure that the Act is applied. In this case, this portal is serving a Francophone clientele with a special need for information on its rights and on settlement.

The Commissioner's Office plans to follow up with the Ministry in order to determine what conditions have been set for funding under the program. In light of the information it obtains, the Commissioner's Office and the Ministry will agree on the provisions that could be made so that, going forward, all forms of funding include a clause with respect to the delivery of French-language services.

## 5.2 DEVOLUTION

Over the past decade, the government's role has constantly evolved. Where it once served the public directly, it now oversees and protects the public interest. The role change often takes the form of devolution, in which agencies lose their status and become private or autonomous entities with responsibility for the delivery of services.

These changes do not always take the Francophone community into account and this has serious consequences. For this reason, the Francophone community

must remain vigilant, in order to ensure that the quality of French-language services is not compromised. This section describes cases where devolution did not guarantee the right to receive services in French.

### 5.2.1 MPAC-Take Two

The Commissioner's Office has received numerous complaints over the quality of French-language services provided by the Municipal Property Assessment Corporation (MPAC).<sup>44</sup> From the beginning, government and non-government property assessment agencies tacitly agreed to offer service in French. This tacit policy, followed by provincial and municipal employees from the 1960s to the 1980s, became law with the adoption of the *French Language Services Act*. It included, but was not limited to, the designation of bilingual positions within these agencies.

Throughout its history, the implicit commitment on the part of MPAC employees to offer French-language services has had lacklustre results. In fact, French-language service delivery has largely been a function of whether an employee was willing and able to deliver these services.

The first devolution took place in the late 1990s with the Ontario Property Assessment Corporation, which predated the Municipal Property Assessment Corporation. At the time, devolution included a clause requiring the new entity to maintain property assessment services in French of at least equal quality to those offered previously. The existence of this clause has been confirmed and the Commissioner's Office has been provided with a copy.

The Ministry has recently confirmed that it was committed to maintaining an established level of service following the devolution from the **Ministry of Finance**, as stated in the Memorandum of Agreement executed in 1998 between the Ministry of Finance and the Ontario Property Assessment Corporation (now the MPAC).

The ministry has a duty to ensure that the French-language services offered after devolution remain the same. The Commissioner's Office will continue to investigate this file over the next year.

44. The Property Assessment Division of the Ministry of Finance became the Ontario Property Assessment Corporation (OPAC), which was then given its current name, the Municipal Property Assessment Corporation (MPAC).

### 5.2.2 Hydro One

When Ontario Hydro<sup>45</sup> was established as a corporation under the *Ontario Business Corporation Act*, the agreement that created the new entity Hydro One—of which the Ontario government is the major shareholder—should have required it to offer services in French.

Having said that, the Commissioner's Office recognizes that Hydro One is making efforts to meet the needs of its Francophone clientele. All new subscribers receive a bilingual welcome package and have an opportunity to state a language preference for communicating with the company. Billing statements and pamphlets are sent to clients in the language of their choice.

The service agreement between Hydro One and the call centre states that during business hours, the service provider must have at least one designated bilingual agent on duty at all times. All phone messages are available in English and in French. However, representatives of Hydro One have informed the Commissioner's office that its requests for proposals, public notices in respect of environmental studies, and Website are still not available in French. Where its Website is concerned, Hydro One plans to correct this situation in the short term.

Most of the complaints received with respect to Hydro One concern (i) recorded announcements of service interruptions to enable Hydro One to service its network, (ii) long wait times to obtain service in French, and (iii) the dispatching of unilingual English crews to perform tree pruning in areas designated as bilingual under the *French Language Services Act*.

Hydro One has made a note of these complaints and has made a commitment to work with its staff and service providers to address them.

### 5.2.3 Community Care Access Centres

On April 1, 2009, Ontario's Francophones lost out when major changes were made to the status of the community care access centres (CCACs) as a result of changes to the *Community Care Access Corporations Act*, 2001. With

these changes, the CCACs' status changed from that of a government agency to that of a not-for-profit corporation governed by an independent board of directors. The CCACs provide liaison with long-term care facilities, home care services, and a variety of other public services.

With the changes to the *Community Care Access Corporations Act*, 2001, a CCAC's board of directors and executive director are no longer appointed by the Lieutenant-Governor in Council. This has had a direct impact on the CCACs' obligation to offer services in French. The lines of accountability linking the CCACs, the LHINs, and the Ministry have become frayed. Because it was left up to each CCAC to announce these changes, they went virtually unnoticed.

The Commissioner's Office received complaints from citizens who were justifiably worried that these changes would affect the delivery of French-language services by the CCACs, which were no longer subject to the *French Language Services Act*. The Commissioner's Office then contacted the **Ministry of Health and Long-Term Care** to make it aware of these complaints and to determine what measures the Ministry planned to take to guarantee that French-language services would continue to be offered in CCACs located in, or serving, designated areas. The Office wanted to know whether the Ministry planned to adopt a regulation requiring the CCACs to continue to offer equivalent services in French.

The government proceeded to transfer responsibility for service without ensuring that the CCACs would continue to offer services in French. It is not too late to remedy this situation. Under the *Community Care Access Corporations Act*, 2001, the Ministry continues to have influence over the CCACs,<sup>46</sup> and the Commissioner recommends that the Ministry use its influence to correct this error.

<sup>45</sup>. This privatization led to the creation of Hydro One.

<sup>46</sup>. For more information, see section 22 (1) of the *Community Care Access Corporations Act*, 2001.

## Recommendation 6

**The French Language Services Commissioner recommends that the Minister of Health and Long-Term Care issue a regulation to ensure that Community Care Access Centres comply with the obligations under the *French Language Services Act*.**

### 5.2.4 Development of French-Language Driver Instruction

The Commissioner's Office has received complaints over a recent decision by the **Ministry of Transportation** to devolve the development of driver instruction programs to the province's driving schools. The complainants believe that devolution is responsible for the disappearance of French-language services and that the Ministry has reneged on its obligations under the *French Language Services Act*.

The Ministry's decision appears to have been made prematurely, without proper consideration of its own standards for French-language service delivery. It responded positively to these complaints by calling a meeting with the driving schools and course designers to identify common practices in the industry. Following this meeting, the Ministry committed to exploring ways in which it could facilitate the availability of a curriculum in French.

The Ministry also indicated that it planned to maintain a dialogue with key industry stakeholders by planning other meetings with them on this subject and setting a deadline. The Ministry has shown leadership and a desire to identify solutions that address the points that have been raised, in the best interests of all of the parties.

### 5.2.5 Delivery of First Aid Courses

Regulation 1101 in application of the *Workplace Safety and Insurance Act, 1997* requires every employer to ensure that first aid boxes and first aid stations are in the charge of a worker who is a holder of a valid first aid certificate issued by a training organization recognized by the Workplace Safety and Insurance Board (WSIB).<sup>47</sup> Employers have a

responsibility to ensure that their employees take first aid training from a recognized training organization of their choosing. However, the Commissioner's Office received a complaint to the effect that equivalent French-language training programs were not being made available to employers and training organizations. As a result, Franco-phone workers and their employers could not comply with the Regulation.<sup>48</sup>

The **Ministry of Labour** informed the Commissioner's Office that the WSIB does not provide direct or indirect services. Its role is limited to ensuring that the *Workplace Safety and Insurance Act, 1997*, and Regulations, in particular Regulation 1101, are applied. The WSIB maintains that it does not play any role in either the frequency with which first aid courses are delivered or the choice of venue in which they are offered, and that the decision over the language in which first aid courses are delivered is made by the first aid training organizations, which are independent organizations.

In January 2010, the Ontario government appointed an expert Advisory Panel to conduct a comprehensive review of the province's health and safety prevention and enforcement system. Until the results of the review are known, WSIB has agreed to encourage these organizations to provide training in French, to monitor the situation and to keep the Commissioner informed of progress on the issue.

### 5.2.6 Creation of New Tourism Regions

In December 2009, the **Ministry of Tourism and Culture** announced the creation of 13 new tourism regions and regional tourism organizations. The Commissioner is proposing a number of options for consideration in light of this announcement, in order to avoid a situation in which opportunities to plan services for Francophones are overlooked. These 13 regional tourism organizations must be able to offer French-language services and incorporate services that are strategically adapted to appeal to French-speaking tourists, including tourists from Ontario.

47. Available online at: [http://www.wsib.on.ca/wsib/wsbsite.nsf/LookupFiles/DownloadableFileRegulation1101/\\$File/FAEng.pdf](http://www.wsib.on.ca/wsib/wsbsite.nsf/LookupFiles/DownloadableFileRegulation1101/$File/FAEng.pdf) (page consulted in March 2010).

48. For more information, cf. Regulation 1101 First Aid Requirements in application of the *Workplace Safety and Insurance Act, 1997*. Regulation 1101 is available at: [http://www.e-laws.gov.on.ca/html/regs/english/elaws\\_regs\\_901101\\_e.htm](http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_901101_e.htm) (page consulted in March 2010).

These regional tourism organizations came out of recommendations made in a report on the competitiveness of Ontario's tourism industry entitled *Discovering Ontario. A Report on the Future of Tourism*, commonly referred to as the Sorbara Report.<sup>49</sup> One of the Sorbara Report's recommendations clearly states the importance of strengthening the province's appeal to French-speaking markets, in particular, Quebec.<sup>50</sup>

The Sorbara Report also states that "Quebec, according to Study research, holds the largest untapped pool of potential Canadian visitors to Ontario" and that "Ontario's domestic market continues to be the anchor for the province's tourism industry."<sup>51</sup>

In light of this announcement, the Commissioner hopes that the Ministry will consult Francophone stakeholders in the tourism sector over the development of marketing strategies that will appeal to Francophone tourists and over the inclusion of active offer and delivery of French-language services in Ontario's tourism regions.

### 5.2.7 Waste Diversion Ontario

*An Act to promote the reduction, reuse and recycling of waste, 2002*<sup>52</sup> (Ontario's *Waste Diversion Act*) established a corporation without share value, with the French name *Réacheminement des déchets Ontario*. However, no one is familiar with the corporation's French name because it operates exclusively under its English name, Waste Diversion Ontario. The corporation's Website contains no French, in spite of the fact that its French name is clearly mentioned in the enabling legislation.

The *Act* gives the corporation a mandate to "to promote the reduction, reuse and recycling of waste and to provide for the development, implementation and operation of waste diversion programs."<sup>53</sup> All of Ontario's waste diversion programs originate here, including the very unilingual *Ontario Tire Stewardship* program, an Industry Funding Organization that was also incorporated under Ontario's *Waste Diversion Act*.

Once again, under the *Waste Diversion Act*, the **Ministry of the Environment** has the legal tools to enable Waste Diversion Ontario to harmonize its programs in order to make them accessible to the province's Francophone communities and it has the legal tools to remind the corporation of its responsibilities, including that of seeking to make the public more aware of, and involved in, waste diversion programs. The Ministry could, therefore, intervene directly with the corporation, forcing it to assume its responsibilities in French as well as in English.

49. Honourable Greg Sorbara. *Discovering Ontario. A Report on the Future of Tourism*, 2009. Available online at: [http://www.tourism.gov.on.ca/english/competitiveness/report\\_en.pdf](http://www.tourism.gov.on.ca/english/competitiveness/report_en.pdf) (page consulted in March 2010).

50. *Ibid.*, p. 62.

51. *Ibid.*

52. For more information: [http://www.e-laws.gov.on.ca/html/source/statutes/english/2002/elaws\\_src\\_s02006\\_e.htm](http://www.e-laws.gov.on.ca/html/source/statutes/english/2002/elaws_src_s02006_e.htm) (page consulted in March 2010).

53. *Ibid.*, section. 1.

## CHAPTER 6

# Highlights and Best Practices

In his annual report each year, the Commissioner presents highlights of achievements by government ministries and agencies in the area of French-language services. This year, these highlights describe initiatives that the government has successfully implemented in response to complaints from the public or recommendations by the Commissioner and best practices that can serve as inspiration for other best practices in the future.

### 6.1 NOTEWORTHY INITIATIVES

#### 6.1.1 Updated Community Profiles

In partnership with the **Ontario Trillium Foundation**, the **Office of Francophone Affairs** published a new *Profile of Ontario's Francophone Community* in December 2009. This report provides an overview of the community, profiling a variety of economic, social, and demographic aspects. It is the first report to include statistics that take the new more inclusive definition of Francophone into account. This definition was adopted in June 2009 in response to a recommendation by the Commissioner in 2008. More detailed profiles on youth, women, seniors, and visible minorities in the Francophone community will be produced at a later date.

#### 6.1.2 French Toll-free Telephone Lines for Ontario Legal Aid

In 2009, the government announced that it was going ahead with the transformation of the legal aid system. Over the past year, **Legal Aid Ontario** has funded projects to enhance French-language service delivery through its legal aid clinics. To this end, community legal aid clinics in Vanier, Toronto, and Sudbury have introduced French toll-free legal aid telephone lines. These clinics play a key role in the administration of justice in Ontario. In light of this, Legal Aid Ontario has been listening to the members of advisory committees, three of which deal with French-language services, and to stakeholders in the context of the Strategic Plan undertaken by the Ministry of the Attorney General.

### 6.2 BEST PRACTICES

#### 6.2.1 ServiceOntario

In December 2009, **ServiceOntario** brought together a group of bilingual government employees who interact directly with the public in French and English. The purpose of the consultations with this group was to improve the quality of French-language service delivery at ServiceOntario sites around the province. ServiceOntario also scheduled training on active French-language service offer for all front-line employees, in order to make them fully aware of their responsibilities under the *French Language Services Act*. In addition to providing its bilingual employees with a button that says, *Bonjour, je parle français* [Hello, I speak French], ServiceOntario is pursuing its efforts to provide signage in both French and English at all of its sites.

#### 6.2.2 Campaign to Encourage the Use of French-Language Services

On May 12, 2009, the *Assemblée de la francophonie de l'Ontario* launched *Dis : services en français* [Service in French, Please!], the first-ever province-wide campaign to promote the use of French-language services. With financial support from the **Office of Francophone Affairs**, this campaign encouraged Francophones to exercise their rights and request service in French. Media partners, including TFO, *Mouvement des Intervenants en Communication Radio de l'Ontario* (MICRO), and 12 French-language weekly newspapers carried messages and advertisements for over a month. This campaign was the first of its kind since the *French Language Services Act* was enacted in 1989.

### 6.2.3 Shelters for Francophone Women

At the beginning of the year, the **Ministry of Community and Social Services** announced that two new shelters for Francophone women would be created. One of these shelters, *Maison d'hébergement pour femmes francophones de Toronto*, will be the first of its kind in Toronto. It will accommodate 20 women and their children fleeing domestic violence and help them to rebuild their lives. In 2008-2009, shelters across the province helped 13,000 women and 9,000 children.

### 6.2.4 Ontario House at the 2010 Vancouver Olympic Games

With Ontario House, the **Ontario 2010 Olympics Secretariat** ensured that Ontario was well-represented at the 2010 Vancouver Olympics. The Secretariat paid special attention to compliance with the *French Language Services Act*, ensuring that, in addition to signage and touch screen menus in French, employees who spoke French were identified by a pin that said *Bonjour!* Events at Ontario House included performances by Franco-Ontarian singer-songwriter Damien Robitaille and Swing.

### 6.2.5 Promoting Tourism and Recreation to Franco-Ontarians

The **Ministry of Tourism and Culture** conducted market research to determine which recreational activities appeal to Franco-Ontarians. This research was then used to develop a strategy to promote recreational activities to Ontario's Francophones. Since January 2010, the Ministry has coordinated the distribution of brochures and pamphlets in French on a variety of seasonal activities that reflect the interests of this target market.

### 6.2.6 French Health Services Policy

In 2009, the **North East Local Health Integration Network** became the first LHIN to adopt a French-language health services policy. Endorsed by the LHIN's Board of Directors, this policy will help to ensure that French service offer is more fully taken into account throughout the territory served by the LHIN. It will help the LHIN to meet its legal obligations under the *French Language Services Act*. The adoption of this policy is all the more noteworthy because it preceded the adoption of Ontario Regulation 515/09, *Engagement with the Francophone Community under Section 16 of the Act*, which came into force in January 2010.

### 6.2.7 Symposium on French Ontario and French Africa

In October 2009, the **Office of Francophone Affairs** organized a symposium in Ottawa entitled *L'Ontario et l'Afrique francophones : des alliances à explorer* [French Ontario and French Africa: Exploring Possibilities for Alliances]. The event attracted business leaders and politicians from Ontario and a number of African countries. It provided a venue for sharing information on business practices and the development of business ties between Francophone countries in Africa and Francophone stakeholders here in Ontario.

### 6.2.8 FLS and You

The **Ministry of Finance** initially funded and developed the *FLS and You* video, which attracted the interest of other ministries. The **Network of French Language Services Coordinators** worked with the Ministry to broaden the visual examples to apply to the OPS as a whole. This project coincided with the designation of Kingston in May 2009. This video provides an overview of Ontario's Francophone community, past and present, and is designed to raise awareness of the French-language service obligation for the OPS staff.

### 6.2.9 Ministry of the Environment Video

The **Ministry of the Environment's** Drinking Water Programs Branch has created a wide range of learning materials for elementary-school-age children. Among these is a video in French on the filtration of drinking water, created for students in Grades 2 to 5. This educational tool is available on the Ministry's Website and has been actively offered to every French-language school board in the province.

### 6.2.10 FrancoGO Network

On October 20, 2009, the FrancoGO network was created within the Ontario Public Service. FrancoGO stands for **Francophones** in the **Government of Ontario**. With over 1,000 members to date, the network will work to foster the cultural, personal, and professional development of Francophones and Francophiles within the Ontario Public Service, helping them to break the isolation they sometimes feel, connect with other Francophones and Francophiles, and appreciate the rich contribution and potential of government employees who speak French within the government, whether or not they hold a designated position.

## CHAPTER 7

# Activities of the Office of the French Language Services Commissioner

The Office of the French Language Services Commissioner gained momentum in 2009-2010, as initiatives that the Office had taken since its inception in 2007 began to yield results. The Commissioner's mandate was renewed. The Office demonstrated its credibility. And the first major results of its investigations are becoming known. In the past year, there have been many tangible achievements, including the publication of two major reports within six months of each other and the first public findings of a formal investigation, with recommendations.

### 7.1 COMMUNITY MEETINGS, SPEECHES, PUBLIC EVENTS, AND THE MEDIA

Over the past 12 months, the Commissioner continued to meet with Francophones across the province, holding 130 meetings with community members, organizations, and umbrella groups. The Commissioner received twice as many invitations to appear at events as the previous year. The Office was able to accept 84 of the 163 invitations it received this year to take part in public activities and events in the Francophone community around the province—twice the number of events as in 2008-2009. The Commissioner also delivered 29 speeches and gave close to 80 interviews.

### 7.2 MEETINGS WITH SENIOR GOVERNMENT OFFICIALS

There was a significant increase in the number of meetings with senior members of the Ontario Public Service, compared to last year. The Commissioner held close to 70 meetings at various levels within the government, including the Office of Francophone Affairs. Pursuing his objective of consolidating his mandate, the Commissioner followed up with the deputy ministers with whom he had met in 2007-2008 and made contact with those who were

newly appointed. One such person is the new Deputy Minister of Francophone Affairs, with whom the Commissioner met on a number of occasions. The Commissioner also met with the chief administrative officers, the directors of communications, all of the legislative counsels, and the Ontario Public Service Language Specialists Network.

### 7.3 REQUESTS FOR THE COMMISSIONER'S EXPERTISE

In 2009-2010, the Commissioner was approached on a number of occasions for his expertise in the area of language rights. These requests came from provincial institutions and groups in the Francophone community, asking the Commissioner to take part in consultations or to sit on advisory committees or champions committees. Given the nature of the Commissioner's mandate and role, these requests had to be turned down in order to maintain his arm's-length relationship to the government and his ability to critically evaluate the measures it adopts in the area of French-language services.

### 7.4 TOURS AND VISITS TO INSTITUTIONS OF LEARNING

The Office arranges the Commissioner's travel schedule and meetings based on the requests it receives from various regions. In response to the first round of invitations, the Commissioner undertook a total of 13 tightly-scheduled tours of the province. Whenever he can, the Commissioner meets with secondary students and college and university students. These tours provide him with an opportunity to meet and talk with local organizations about issues affecting the community and to identify the real needs of these communities, where French-language services were concerned. They also provide opportunities for the Commissioner to listen attentively as Ontarians voice their needs.

## 7.5 MEETINGS WITH THE LHINS AND FOLLOW-UP TO THE COMMISSIONER'S SPECIAL REPORT

Following the tabling of his *Special Report on French Language Health Services Planning in Ontario* in May 2009, the Commissioner made arrangements to meet with the boards of directors of each of Ontario's 14 Local Health Integration Networks, in order to talk about the principles and responsibilities arising from the *French Language Services Act* and the *Local Health System Integration Act, 2006*. One of his goals for these meetings was to ensure that the LHINs fully understood the scope of their responsibilities toward their Francophone clients and the importance of getting them involved so as to be able to better serve them.

These consultations also provided an opportunity to address the draft regulation tabled in the Fall 2008 regarding the engagement of the Francophone community. Changes to the regulation following these consultations led to its adoption in December 2009 and its coming into force in January 2010. As a result of complaints from members of the public and the Commissioner's intervention on this issue, this important step led to the resolution of over 100 complaints early in 2010, concluding one of the most important dossiers to be handled to date by the Office of the French Language Services Commissioner.

## 7.6 FIRST INVESTIGATION PUBLICLY LAUNCHED BY THE COMMISSIONER

On September 17, 2009, the Commissioner took the initiative of launching a formal investigation into the publication of an English-only brochure on the flu season. Judging this to be a direct violation of the *French Language Services Act*, the Commissioner criticized the government for not sending a bilingual brochure to every household in Ontario. As a result of these actions, Premier Dalton McGuinty acknowledged that the English-only brochure was an embarrassment, and made a commitment to correct the situation and ensure that it did not happen again.

## 7.7 FIRST PUBLICATION OF FINDINGS OF A FORMAL INVESTIGATION

After being in existence for two and a half years, and after receiving well over 600 complaints, the Office of the French Language Services Commissioner published for the first time the findings of a formal investigation conducted in response to a complaint. On March 30, 2010, the Commissioner concluded that French-language health services were lacking in the Region of Peel and the Region of Halton. He recommended that the **Ministry of Health and Long-Term Care** acknowledge that these services did not exist and that finding a solution was not solely the responsibility of the community. He also recommended that practical, specific models of French-language service delivery be developed and presented to the community, for implementation by the end of 2010. As with each dossier he has handled, the Commissioner plans to follow up with the community to determine what measures have been presented by the Ministry, in cooperation with the LHINs in question.

## 7.8 RENEWAL OF THE COMMISSIONER'S MANDATE

On May 5, 2009, the Government of Ontario renewed the mandate of the French Language Services Commissioner for a three-year period. His second term of office will end in September 2012. Since his appointment by an order-in-council in August 2007, the Commissioner has published four reports, including this annual report, and has stepped up his efforts to create an open and productive dialogue with the government.

In early 2010, the Office of the French Language Services Commissioner adopted a new vision for the Commissioner's second term of office. This new vision is based on a proactive approach to the integrated delivery of French-language services within the government, as a means of supporting the development of the Francophone community.

### 7.9 A JOINT PRESENTATION BY CANADA'S LANGUAGE COMMISSIONERS

For the first time in Ontario, Canada's Commissioner of Official Languages, Nunavut's Languages Commissioner, New Brunswick's Commissioner of Official Languages, Northwest Territories' Languages Commissioner, and Ontario's French Language Services Commissioner will deliver a joint speech at an international symposium on language and territory, to take place in the Fall 2010 at Laurentian University. On the initiative of the French Language Services Commissioner, they have agreed to take part in a presentation in which each Commissioner will talk about his or her respective linguistic space.

### 7.10 PARTNERSHIP WITH GLENDON COLLEGE

On May, 11, 2009, the Office of the French Language Services Commissioner signed its first-ever partnership agreement with Glendon College in Toronto. Under this agreement, Bethan Dinning, a student in Glendon College's bilingual Master's Program in Public and International Affairs, will perform a four-month internship with the Office. This will provide her with an opportunity to apply her knowledge and experience in a government agency working primarily in French.

### 7.11 BLOG

Over the past year, the Commissioner has been actively blogging. With the Francophone community as his main audience, he has posted close to 140 messages. In these, he has shared his views on a variety of topics relating to French-language services and news of important developments, and he has reported on his own activities in the community and on his interactions with various government bodies. For many people, the Commissioner's blog has become a regular source of information about the Franco-Ontarian community.

# Conclusion

In his third annual report, the Commissioner wanted to provide an update on a situation that is frequently encountered in the process of handling complaints with the ministries. Many ministries simply answer the Office's questions and do not propose solutions to the problems raised in the complaints. The Commissioner's investigation into the lack of integrated French-language health services in the region of Peel-Halton is an example. For the Commissioner, the ministries can, and must, come up with solutions that will resolve these problems on a system-wide basis, in a way that benefits the province's Francophone population as a whole. The ministries must see complaints as a quality control mechanism and approach them as opportunities to improve their French-language service delivery. In short, the Commissioner wants the ministries to stop wasting precious time justifying failures to comply with the *French Language Services Act* and to start presenting genuine, permanent solutions to these violations.

One of the best ways to prevent violations of the *French Language Services Act* is to actively offer government services in French. ServiceOntario's active offer and visibility on the Web is an excellent example of how this can be achieved. This is why the Commissioner has recommended the creation of a clear directive on active offer, supported by a strategy to promote French-language government services on a permanent basis.

Devolution and full or partial government subsidies were a major focus for the Commissioner this year. Many of the complaints concern the health sector in the health sector and the Commissioner has issued two new recommendations in this regard. The public health units and the Community Care Access Centres must comply with the *French Language Services Act*.

Over the course of the coming year, the Commissioner will once again review the role and position of the Office of Francophone Affairs within the government. He believes that the government has failed to fully grasp the recommendation he issued last year. Because this matter is crucial to effective implementation of the *French Language Services Act*, he will be examining it in greater depth.

The health sector has been a primary focus of the Office since its inception, and yet the education sector is equally vast. This sector includes education from early childhood to postsecondary education, as well as training programs. There is no shortage of challenges, all equally pressing. In the coming year, the Commissioner plans to devote more time to the education sector, which is of vital importance to the development of Ontario's Francophone communities.

## APPENDIX

# Government's Responses to the Recommendations of 2008-2009

### Recommendation 1

That the Ministry of the Attorney General of Ontario take on a leadership role ensuring that clear, simple, and public criteria be adopted to assist ministries with the translation of their regulations.

That the Ministry of the Attorney General of Ontario ensure that all ministries follow these criteria and prioritize their regulations for translation, in accordance with the needs of the Francophone community.

That the Ministry of the Attorney General of Ontario report annually on progress on the *Strategic Plan for the Development of French Language Services in Ontario's Justice Sector*.

### RESPONSE:

The Ministry of the Attorney General recognizes the importance of translating regulations, which is why we currently translate all regulations within MAG. The Ministry will work with other ministries to develop a consistent approach for prioritizing the translation of regulations.

The Ministry has been working internally in order to propose the creation of a committee composed of various partners with the mandate to respond to the FLS Commissioner's recommendations including:

1. The adoption of clear, simple criteria for the translation of regulations to be made public;
2. The development of a strategy to ensure that ministries follow these criteria; and,
3. The adoption of a consistent approach in prioritizing regulations to be translated with an action plan to be approved by all partners.

### Phase 1 Adoption of criteria and government policy

- Analysis and adoption of criteria submitted by the FLS Commissioner
- Development of a clear government policy on bilingual regulations which should state that all ministries' regulations falling under the approved criteria are to be drafted in a bilingual form or translated.

### Phase 2 Phased-in strategy to translate existing regulations

In the context of the *Open for Business* strategy, all ministries have a current inventory of pertinent regulations, which will be the starting point in the analysis framework. A phase-in translation strategy needs to be developed with ministries to:

- Determine which regulations are priorities based on approved criteria;
- Develop an action plan to be approved by all partners; and
- Proceed with the translation of these priorities (English-only regulations) as well as the revision of existing bilingual regulations ready to be adopted.

### Timeframes

The Ministry integrated the FLS Commissioner's recommendation in the *Strategic Plan for the Development of French Language Services* in the Ontario's Justice Sector during the Strategic Plan Advisory Committee Meeting on November 5, 2009.

The Ministry will present an update on this initiative at the next Francophone Stakeholders Meeting (March 2010) in response to the FLS Commissioner's recommendation that MAG consult its network of stakeholders.

## Recommendation 2

That, for 2010-2011, Cabinet Office develop a mandatory policy on human resources for French-language services, including for management-level positions. This policy must also include strategies for designation, removal of designation, recruitment, retention, and professional development.

### RESPONSE:

The government agrees that it is important that the government has a solid, government-wide policy on designated positions. In fact, the Office of Francophone Affairs has initiated a process to develop a corporate policy on designated positions. This policy would provide guidance to ministries on which position should be designated and include a process to de-designate position. This will include a review of which, if any, senior management positions should also be designated.

Also, the Ministry of Government Services has developed the OPS HR Plan 2008-11, which establishes the workforce strategy for the Ontario Public Service, and focuses on three priorities:

1. Attracting and retaining diverse talent.
2. Building capacity (including learning, growth and career development).
3. Engaging employees.

The HR Plan reinforces principles of diversity to help build a more inclusive organization that reflects Ontario's diverse population, including the Francophone community.

Specific issues related to Francophone recruitment, retention and professional development can be addressed within the context of the current OPS HR Plan priorities, according to ministry specific needs.

The combination of these two approaches, which were already underway at the time of the report, should not only help address the Commissioner's concerns, they will also help the OPS build upon the strength of its bilingual workforce, and continue serving the needs of Francophones across the province.

## Recommendation 3

That Cabinet ensure that the Office of Francophone Affairs fully achieves its mandate within the government, including by increasing the resources currently allocated to the OFA and to the coordination of French-language services, for the fiscal year of 2010-2011 and for subsequent years.

### RESPONSE:

The government agrees that the Office of Francophone Affairs (OFA) plays an essential role in the OPS and that investments are needed in French-language services (FLS) across government.

This Government has, in fact, invested heavily in FLS since its coming to power. In addition to increasing the resources of the OFA and establishing the Office of the French Language Services Commissioner, it has:

- Increased the operational budget of the Office of Francophone Affairs since 2003, including a rise of 500,000 dollars in 2006-2007, which represented a 13 % increase compared to the previous budget.
- Increased annual funding for French-language school boards by about \$433M; or \$5,129 more per student, an increase of over 55%.
- Increased funding to French-language postsecondary education by 56 % since 2003-04; in 2008-09, this targeted funding amounts to more than \$80.4 M.
- Invested \$185 million towards the expansion of Montfort Hospital in Ottawa.

The government will continue to identify opportunities and needs to invest strategically in the work of the OFA and in improving FLS as it has done since 2003.

#### Recommendation 4

That the Attorney General of Ontario engage the judiciary and the Bar, including practitioners from the Francophone community, to establish a bench and bar committee.

The committee's mandate would be to recommend ways to actively increase the knowledge of every federally or provincially appointed member of the judiciary in Ontario with respect to language rights.

The committee's mandate would also include proposing concrete and concerted steps to address the shortage of bilingual judges in Ontario.

The Commissioner is also recommending that this committee be created within six months of the tabling of this annual report, that a one-year deadline be established for each mandate and that its conclusions be made public at the end of this period.

#### RESPONSE:

The Ministry of the Attorney General is already taking steps to increase the number of bilingual judges but also accepts the Commissioner's recommendation that the appointment processes of bilingual judges by both the provincial and the federal government could be improved.

The Commissioner's recommendation about training on language rights will also be passed on to the judiciary who have sole authority over judicial training.

#### Proposed Action Plan:

##### **Phase 1 Creation of the Bench and Bar Committee**

Invite federal government, judiciary and all pertinent partners representation on an Ontario-led Committee. Terms of Reference and Scope of the Committee to be developed.

##### **Phase 2 Bench and Bar Committee**

The initial role of the Bench and Bar Committee would be to determine priorities and develop an action plan approved by all partners to address the gaps identified by the FLS Commissioner and implement the processes/ initiatives to remedy these gaps such as:

1. Recommending ways to actively increase the knowledge of every federally- or provincially-appointed member of the judiciary in Ontario with respect to language rights and referring those recommendations to the judiciary who have responsibility for judicial education and training; and
2. Proposing concrete and concerted steps to address the shortage of bilingual judges required in Ontario.

#### Timeframes

The Ministry integrated the FLS Commissioner's recommendation in the Strategic Plan for the Development of French Language Services in the Ontario's Justice Sector during the Strategic Plan Advisory Committee Meeting on November 5, 2009. The Ministry will present an update on this recommendation at the next Annual Francophone Stakeholders Meeting (March 2010). An initial meeting of the Bench and Bar committee will be scheduled for December 2009 or January 2010. This timeframe aligns with the FLS Commissioner's recommendation that this committee be created within 6 months of the tabling of the annual report (April 2010). Once the Committee is established, a one-year timeline will be set up in order to respond to the FLS Commissioner's recommendation.