

**Office of the French Language Services Commissioner
of Ontario**

Annual Report 2007- 2008

Paving the Way.



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Letter to Minister

The Honourable Madeleine Meilleur
Minister of Community and Social Services
Minister Responsible for Francophone Affairs

Hepburn Block
6th Floor
80 Grosvenor Street
Toronto ON M7A 1E9

Dear Minister,

Pursuant to section 12.5(1) of the *French Language Services Act*, I hereby submit to you the first annual report of the French Language Services Commissioner. This report covers the period from September 4, 2007, to March 31, 2008.

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

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Summary

The 2007-2008 Annual Report covers the period from September 4, 2007, to March 31, 2008, that is to say, the first six months of office of Ontario's new French Language Services Commissioner, François Boileau. As its title indicates, this report *paves the way* for French-language services in Ontario. No such report has ever been written. After only a few months in office, the Commissioner has made three recommendations.

In his Foreword, the Commissioner shares his vision of his mandate and role, and of the mandate and role of the newly created Office of the French Language Services Commissioner. He hopes that his words will reach Ontario's Francophone population, decision-makers and civil servants, and the general public. He speaks of the meaning of the *French Language Services Act* and the scope of French-language services in Ontario.

In Chapter 1 of his report, the Commissioner talks about an *Act* that has continued to evolve. He explains the *Act* in greater detail. He talks about the past, about the most recent changes to the *Act*, and about the purpose of the *Act* as a means of preserving the province's Francophone community for future generations.

Because this is the first annual report in the history of the Office of the French Language Services Commissioner, it was important to present to the public its mandate, its mission, and its role. In Chapter 2, the Commissioner shares his detailed vision for services in French for the Government of Ontario's Francophone clientele.

The Commissioner's first recommendation can be found in Chapter 3, which concerns the vitality of Ontario's Francophone community. In light of the new definition of an official language minority proposed by Statistics Canada in its post-censal survey of December 2007, the Commissioner recommends to the Minister that the definition of the province's Francophone population be revisited, in order to ensure that it adequately reflects the new face of this population.

In Chapter 4, the Commissioner shares his key observations with respect to French-language services. The starting point, for the Commissioner, is the introduction of policies and practices specific to each government agency for actively offering French-language services to the community. In this chapter, the Commissioner reports on the progress that has been made to date in institutional accountability, but he notes that much work remains to be done in this regard.

Chapter 4 also contains the Commissioner's second recommendation, which pertains to the French Language Services Coordinators within the Government of Ontario. He recommends to the Minister that their role be changed to ensure that, right from the strategic planning stage, they are able to directly influence the directions and design of the policies, programs, services, and products of every government agency contemplated in the *Act*.

The Commissioner's final key observation in Chapter 4 concerns the new regulatory powers. He recommends the enactment of a clear regulation governing the delivery of French-language services that would apply to contracts with third parties for the delivery of services on behalf of a government agency and to public-private partnerships.

In Chapter 5, the Commissioner explains the role and handling of complaints by the Office of the Commissioner. Statistics on the complaints received by the Office of the Commissioner between November 1, 2007, and March 31, 2008, are provided.

In Chapter 6, the Commissioner reports on the Office's key activities since its inception. After his first seven months in office, the Commissioner reports on the steps that were taken to set up the new Office.

In the seventh and final chapter, the Commissioner reports on successful initiatives taken by the government and its institutions to promote the development of Ontario's Francophone community.

Recommendations

Recommendation 1: The Commissioner recommends to the Minister that she review the definition of the Francophone population of Ontario in order to ensure that it adequately reflects the new reality of this population.

Recommendation 2: The Commissioner recommends that the Minister revise the role of the French Language Services Coordinators to ensure that, right from the strategic planning stage, they are able to directly influence the directions and design of the policies, programs, services, and products of each government agency contemplated in the *French Language Services Act*.

Recommendation 3: The Commissioner recommends that the Minister propose a clear regulation to govern the delivery of French-language services under a contract with a third party who has agreed to provide services on behalf of a government agency or under a new public-private partnership.

Foreword

I spoke of common sense, imagination, and generosity—a triad which I later told our staff should be the operating slogan for our whole office. I spoke of hope, not fear; of fair play; of a better chance for our children; of trying to understand frustrations on all sides; of exploiting Canada’s promise to the world of a tolerant society based on two globe-spanning languages. I spoke of our two national languages, then and always, not as a problem but as an opportunity. It helped that I actually believed all this.

— K. Spicer¹

When I was appointed as Ontario’s first French Language Services Commissioner, I immediately thought of Bernard Grandmaître, who has been called the “Father of the *French Language Services Act*”. I remembered seeing him on *TFO*, when the program *Panorama* did a segment on the 20th anniversary of the *Act*. Mr. Grandmaître recalled that, as he drafted the legislation, he had toyed with the idea of including a position for an ombudsman or commissioner. For what were obvious political reasons at the time, he did not go ahead with this idea. He must be proud to see that the government has amended his legislation to include an Office of the French Language Services Commissioner. Were it not for Mr. Grandmaître, and for many others who shared his vision and determination, you would not be reading these lines, written by Ontario’s first French Language Services Commissioner.

I then thought of other people newly appointed to similar positions. I thought of my counterpart in New Brunswick, Michel Carrier, who created that province’s Office of the Commissioner of Official Languages five years ago. I thought also of Graham Fraser, my former boss, who also took a new mandate. Both offered me their unflagging support.

I also thought a great deal about Keith Spicer, who became not only Canada’s but the world’s first Commissioner of Official Languages under very different circumstances. There was a lot of groundbreaking to be done, in an atmosphere that was not conducive to linguistic duality. The early seventies were marked by fear with slogans such as “I don’t want French on my Corn Flakes box”, by the rise of Quebec nationalism and by economic upheaval as Canada experienced its first oil crisis.

The circumstances under which changes were made to the *French Language Services Act* in May 2007 were very different. As Graham Fraser² said recently, in reference to these changes, the Government of Ontario demonstrated vision in a situation that was not a crisis. And he was right. In this report, I will emphasize this political leadership very strongly. I want to congratulate the Government of Ontario, in particular the leadership shown by Premier Dalton McGuinty and by the Honourable Madeleine Meilleur.

¹ K. Spicer, *Life Sentences: Memoirs of an Incurable Canadian*, Toronto, McLelland and Stewart, 2004, p. 98–99.

² A speech delivered by Graham Fraser, Commissioner of Official Languages of Canada, on March 7, 2008, at the Michel Bastarache Breakfast at the *Rideau Club*, during the celebrations for the 30th anniversary of the French Common Law program at the University of Ottawa.

As a lawyer, I am very aware of the value of precedents. I felt that starting off on the right foot was very important whether in my relations with the public service or with the community or in my handling of complaints. I was eager to get to work and to begin examining these complaints. The new Office of the French Language Services Commissioner offers a unique opportunity to think and act differently. It is my hope that it will become synonymous with effective collaboration.

For obvious reasons, little is known about the newly-created Office of the French Language Services Commissioner within the provincial public service. What will the new Commissioner's style be? What scope will his recommendations have? One of the questions that the residents of Ontario's Francophone community are rightly asking is: what will actually change at the grassroots level?

Consequently, I will spare no effort to ensure that the Office of the Commissioner is as visible as possible, in order to increase awareness of the *French Language Services Act* which is still not clearly understood. Ultimately, I believe that, with these sweeping changes, the government wanted to breathe new life into the *Act* after more than 20 years of existence.

In order for this to happen, the government must offer something in exchange: it must offer high-quality French-language services that are adapted to the development needs of communities. Every government institution, agency or board identifies its target clientele. This target clientele needs to be identified when programs and policies are developed or when government services and products are introduced. Identifying the target clientele means being aware of its needs. When this happens, government services will not only be delivered in response to this clientele, they will also be designed around their needs in the first place. And in order to know what these needs are, each government institution or agency must take whatever steps are appropriate with regards to community consultation.

While this may seem straightforward, few institutions have chosen this course of action. Stepping off the beaten path is not always easy, especially within the workings of government. This is precisely where I believe that the Office of the Commissioner can be of use. In my opinion, one of the best ways will be to build on achievements to date. I have always believed that success attracts success. One spectacularly successful example is *TFO!* Ontario's French-language public television network is adapted to the specific needs of the Francophone population; it broadcasts in an environment that places full value on the French language and it is offered within an institution that has achieved a national reputation for inspiring leadership.

Enacted just 20 years ago, the *French Language Services Act* is still very young. There is a direct correlation between the delivery of high-quality French-language services and a thriving Franco-Ontarian community. The preamble to the *Act* states this very clearly: the framer of the legislation wanted to preserve the cultural heritage of Ontario's French-speaking population for future generations.

According to the data contained in the Statistics Canada Survey on the Vitality of Official-Language Minorities, Francophones remain resolutely optimistic. Why is this so? Probably because school governance, a right acquired relatively recently, is beginning to yield results. This is evident in the numbers indicating that the trend toward assimilation, once believed to be inevitable, is showing clear signs of slowing down. It is also probably

true because, before the *Montfort* case, it was virtually taken for granted—at least by public decision-makers—that French played an incidental, not an institutional, role in the field of health. The Government of Ontario recently created the French Language Health Services Advisory Council. Clearly, the calibre of the members of the Advisory Council is cause for celebration. Francophones are also optimistic because, a mere decade ago, there was little interest in newcomers or in the ability of Francophone communities to welcome them, whether they came from Quebec, another province or another part of the world.

As the French Language Services Commissioner, I cannot look at life through rose-tinted glasses and pretend that all is well. That is not the point of my work and I would quickly lose my credibility. Nor is it my job simply to point out what is not working; I must also report on the great achievements. And there are more of them than we realize. It is both pleasing and motivating to see the willingness of people in government who are working very hard to promote the delivery of high-quality French-language services.

Clearly, however, this cannot be a one-way effort. Francophones must also make an effort to request services in French. All too often—and understandably—Francophones choose to speak English. Here is an excerpt from an affidavit by the late Roger Bernard, a Franco-Ontarian sociologist:

*“He [a Franco-Ontarian] will feel that it is normal and natural to speak English if the circumstances of the exchange require it. In certain specific situations, he may ask for French but, generally, he will feel some urgency or pressure to speak English. Practice and habit have taught him that, in speaking English, he is not making a mistake. Everyone understands...”*³ [Unofficial translation.]

In other words, when you want a service, when you’re in a hurry, when it’s complicated, and if you are bilingual, you speak in English. For example, you might want to get a new driver’s licence as quickly as possible and be on time for your next appointment, without having to debate the whys and wherefores of the *French Language Services Act* with the clerk at the counter.

Here, I am talking about a fundamental difference, that is to say, the difference between actively offering services and an attitude that says, “We will translate if necessary”. An active offer of services from agencies and organizations that have a mandate to provide services in French would result in a paradigm shift. My hope is that Franco-Ontarians will stop saying to themselves, “Today, I have the time, so I will ask for this information in French.” I hope that they will stop thinking that they are taking action *for the cause*, whenever they dare to request service in French. Hopefully, individually and as a community, Francophones will stop experiencing stress over something to which they are entitled—something that is their due by the simple fact that they are also tax-paying citizens.

Some people have legitimately asked themselves why French-language services are so important. After all, aren’t most of Ontario’s Francophones bilingual? We will have an opportunity to explore this question in this report. What I can say right away is that we cannot fight assimilation simply by buying a postage stamp in French (a federal service)

³ Affidavit by Roger Bernard in *Lalonde v. Ontario (Commission de restructuration des services de santé)* (2001), 56 O.R. (3d) 577.

or by obtaining a health card in French (a provincial service). A number of studies on the vitality of official language communities⁴ have shown that value is placed on a language when it is officially recognized by the state. French certainly has very special status in Ontario. Our laws are enacted in English and in French; our members of parliament may speak in either languages in the Legislature; Ontarians may bring actions, suits, and other legal proceedings in French; and they may receive communications and services from the federal and provincial governments in French.

Naturally, this recognition of the status of French in Ontario is extremely useful. First, on a symbolic level, communities feel valued by this formal recognition of their language. Second, we need to use the French language in our dealings with government as members of the public, not only for ourselves, but for our children and our community.

As I write these words, I cannot help but be proud of my province, Ontario, and of its leadership across the country. Formal acceptance of the French language by the Government of Ontario must be made known and recognized, understood and also used and useful. It must serve.

We must ensure that our institutions are able to welcome new Franco-Ontarians, whether they come from Quebec or Acadia or one of the four corners of the globe, bringing with them inestimable richness and difference. We should not downplay our origins or lump ourselves together. Instead, we should accept one another and adapt to one another. Collectively, we must provide newcomers with good reasons to freely join the institutions that the Franco-Ontarian community has created for itself and continues to create for itself. After all, as I have heard many, many times, “the more facets a diamond has, the more brilliantly it sparkles.”

At the annual general meeting of the *Union des cultivateurs franco-ontariens* in Casselman⁵, I was asked what I thought the community would look like in 50 years’ time, if it still exists. This is an excellent question and honestly I do not know the answer. What I said was that 50 years ago, other people had asked themselves the same question. And even though they did not know the answer, like so many people before them, they took up the challenge of creating institutions for the development of their community in the area of education, health, the economy, and culture, with the result that the Francophone community may be smaller than Ontario as a whole, which is constantly growing, but it is vibrant and dynamic.

After working in Canada’s Francophone community for close to 20 years, primarily in Ottawa but also in the Yukon and in Manitoba, I have discovered that behind all of the statistics, some of which are disconcerting, there are countless individuals who are *paving the way*—working tirelessly to create better opportunities for them, their children and their community. I am extremely grateful for the privilege of being able to help create

⁴ Many symposia and studies have examined this issue. Two examples are the post-censal study conducted by Jean-Pierre Corbeil, Claude Grenier, and Sylvie Lafrenière, entitled *Minorities Speak Up: Results of the Survey on the Vitality of Official-Language Minorities* published by Statistics Canada in December 2007 and the study by Marc Johnson and Paule Doucet entitled *A Sharper View: Evaluating the Vitality of Official Language Minority Communities* published by the Office of the Commissioner of Official Languages, Ottawa, 2006.

⁵ A speech delivered by the French Language Services Commissioner on March 6, 2008, at the banquet of the *Union des cultivateurs franco-ontariens* in Casselman.

a solid foundation that will enable our government institutions to be effective in the development of Ontario's Francophone community.

I can tell you that there are times when I feel the weight of past generations. It is quite a responsibility to be given a role to play in ensuring that the rights of a community that has accomplished so much—often with so little and under such difficult circumstances—are respected. And this is how it should be. I accept this role with a profound sense of respect. Anyone who accepts this role must be prepared to be judged by the highest standards of excellence. Ontario's Francophone community and Ontarians as a whole deserve no less.

I will be handling complaints from the public, but I will also be taking initiative and seeking solutions. Ontario's Francophones and Francophiles are part of the solution, not the problem. I plan to work with the public service firmly and pragmatically. I plan to open a dialogue and maintain it. Because Franco-Ontarians are not only Francophones, they are also Ontarians. And, generally speaking, Ontarians like to think of themselves as pragmatic, not dogmatic.

I also plan to be the French Language Services Commissioner for all of Ontario, not just the 25 designated regions. After all, Francophones who live outside these regions are also entitled to service in French from the central government. I want the Office of the Commissioner to be as visible as possible in the regions. I plan to meet as many people as possible during my term and, if possible, I plan to go back and see them again. Often, people in rural areas get the "big visit" once, usually when someone enters office. But that is all they get. And yet these people, who work with such courage and determination to maintain French in their community, are the reason why there is an Office of the French Language Services Commissioner in Toronto. We must never lose sight of the fact that they are the reason why we are here.

Ideally, I want to motivate people. I want to encourage Francophones to request services in French. I want to encourage service providers to actively offer these services.

I am well aware that this is not a given. Cultural change is radical change. However, no one knows better than Ontario's Francophones that the longest journey begins with a single step.

This is why I love direct communication with communities across the province. My first official meeting was in Timmins⁶ where I received a very warm welcome. I want to get to know communities where people live very different lives from people in large urban centres. The creation of the Office of the French Language Services Commissioner will not solve every problem. I would like to make the Office a useful—even indispensable—tool in the preservation of Franco-Ontarian communities. These communities must continue to work hard. Most importantly, they must keep aiming high. By sharing their hopes and dreams, which were sometimes grandiose, they have created French-language schools and health centres, such as the one in New Liskeard, and French-language day care centres, such as the one in Thunder Bay.

⁶ At the second Francophone Symposium on health which took place on September 21-22, 2007, in Timmins.

There has never been a more opportune time than now. The political will to accomplish great things in the area of French-language services is there. Since becoming French Language Services Commissioner, I have sensed that senior government officials are genuinely interested in cooperating and that they are willing and able to listen. One of the greatest challenges will be to see how this willingness translates on the ground—in cities and in rural areas. All of these dedicated civil servants, with whom I continue to meet weekly and who often speak impeccable French, fill me with hope. I can count on the fingers of one hand the number of meetings that have been difficult thus far. There will be others, no doubt, and that is the beauty of a democracy in which people are allowed to think differently. I am hopeful that with patience, and by increasing accountability for French language services, we will continue to move in the right direction, but at a faster pace.

Readers will not find grades for achievement or report cards for government institutions either in this report or in any other report issued during my term in office. First, it is important to remember that this report, for the year 2007-2008, is an annual report in name only, since my mandate began on September 4, 2007. Second, I do not believe that assigning marks would be useful. Conditions differ from ministry to ministry and from one government agency to the next. It is important to avoid randomness and subjectivity. I will focus on specific issues for an in-depth analysis, making recommendations as necessary. I will expect a response from the government and I will then follow up as appropriate. In the following years, I plan to place a great deal of emphasis on resolving complaints and on the annual reports that document these complaints. I hope that complaints received from the citizens of Ontario can be used to evaluate the status of the French language within the Government of Ontario and its institutions in a measurable way.

Wherever I go, people confuse the Office of the Commissioner of Official Languages with the Office of the French Language Services Commissioner. This is perfectly natural. We cannot expect everyone to be an expert in constitutional law or shared jurisdiction. If in doubt, I encourage people to contact our Office. We will be pleased to re-direct them.

I will spare you the administrative challenges that accompanied the creation of the new Office of the French Language Services Commissioner, operating independently of the Office of Francophone Affairs. Cooperation from the Office team was, in a word, admirable. I would like to take this opportunity to thank Deputy Minister Lucille Roch, Assistant Deputy Ministers Marie-Lison Fougère and Anne Premi (Acting), and more recently, Assistant Deputy Minister Daniel Cayen, as well as the entire staff.

Lastly, I wish to acknowledge the invaluable support that I have received from members of the Franco-Ontarian community from the moment I was appointed. I understand that, for the most part, these kind comments were made in support of the new Commissioner, whoever that person might be. Having said that, through these comments, I have received a great deal of encouragement to work even harder. I sincerely thank all of these people who were kind and patient enough to offer me this sage advice. I would be remiss if I did not also thank Ms. Rolande Faucher. Were it not for her, the unlikely idea of applying for this position would never have crossed my mind.

Chapter 1 *French Language Services Act* continues to evolve

It is important to understand that Bill 8 was neither the culmination nor the end of our struggle—far from it. [...] Bill 8 was merely another important step in our long, relentless journey toward equality. [Unofficial translation]

— B. Grandmaître⁷

1.1 A brief look back

To truly understand the impact of the changes to the *French Language Services Act*, we must first take a brief look back.

The enactment of the *French Language Services Act* in 1986 was the culmination of a long struggle by Ontario's French-language community to have its rights officially recognized.

During the 20th century, the issue of French schools largely dominated the political scene in French Ontario, particularly during the first three decades. Regulation 17, which was adopted on June 25, 1912, prohibited the use of French in schools. Paradoxically, it acted as a powerful catalyst around which Franco-Ontarians rallied. At that time, the protest focused on school rights.

In the 1960s and 70s, the possibility of offering services in French to the Franco-Ontarian community began to emerge in the political discourse. The phrase “where numbers warrant” was also heard for the first time. While it would still be some time before the legal environment changed radically, some progress was made. Gradual reforms were made under the Robarts and Davis governments following a step-by-step approach.

In 1972, the government adopted a policy with respect to the delivery of French-language services. In addition to creating the first designated regions,⁸ the Government of Ontario was henceforth required to translate all documents intended for public distribution and to respond in French to requests for information written in French. Seven years after this policy came into force, the Public Service Commission adopted a policy with respect to hiring bilingual staff.

While this policy undeniably represented progress, the delivery of French-language services continued to be subject to the good will of the party in power and lacked the force of a statute enacted by Parliament.

⁷ Extract of Bernard Grandmaître's speech at the symposium of the Franco-Ontarian Institute on the Bill 8 (the *French Language Services Act*) which took place on September 30, 2005, in Sudbury.

⁸Office of Francophone Affairs. Available online: www.ofa.gov.on.ca/english/FLSA-historical.html (website consulted April 2008).

In 1985, the Council for Franco-Ontarian Affairs was chaired by Gisèle Lalonde. This permanent council had no direct links to provincial institutions as it was comprised of members of the community. It met with Premier Davis only three times in three years.

In the provincial election of May 1985, Ontario elected a bilingual premier, David Peterson, for the first time.⁹ Bernard Grandmaître, who took over from Albert Roy¹⁰ in the riding of Ottawa East, was appointed to the newly created position of Minister Responsible for Francophone Affairs.

The Honourable Bernard Grandmaître would have preferred that *French Language Services Act* provide for the creation of an ombudsman or a commissioner position, but after discussions with other decision-makers including people in his own party, he abandoned the idea, knowing that the time was not yet right. The bill provided for the creation of an Office of Francophone Affairs under a Minister Responsible for Francophone Affairs.

After close to one year of work behind the scenes, protracted negotiations with all parties in the Legislative Assembly, and a tumultuous debate, the *French Language Services Act* was finally adopted unanimously on November 18, 1986. The *Canadian Charter of Rights and Freedoms* had been adopted four years earlier.

The *French Language Services Act* did not come into force until 1989. The three-year delay gave the provincial public service time to prepare to offer its services in French in the designated regions.

The *Act* also enabled the Minister Responsible for Francophone Affairs to centralize all complaints from the public, which had previously been the responsibility of each individual ministry. Until 2007, the Office of Francophone Affairs received and handled complaints related to the delivery of French-language services by the Government of Ontario in the 25 designated regions, with the exception of municipalities, which are not subject to the *Act*. This role is now assumed by the French Language Services Commissioner, the second provincial commissioner after New Brunswick's Commissioner of Official Languages.

1.2 Legislative changes to the Act in May 2007

When the Legislative Assembly amended the *French Language Services Act* in May 2007, it was not as a result of a crisis in the Franco-Ontarian community. Historically, gains by the community have often been the result of battles. This was the case with *Regulation 17*. This was also the situation with the school crises in Sturgeon Falls in 1971 and in Penetanguishene in 1976. More recently, the landmark *Montfort Hospital*

⁹ Dennie, Donald, *La politique ontarienne et les Franco-Ontariens (1900-1995)*. in: Joseph Yvon Thériault, Ed. *Francophonies minoritaires au Canada — L'état des lieux*. Moncton, Éditions d'Acadie, 1999, p. 363.

¹⁰ In 1978, MPP Albert Roy tabled a private member's bill for the delivery of French-language services. This bill was voted down at its third reading in the Legislative Assembly. Typical of the time, Premier Bill Davis explained his decision by stating that the interests of Franco-Ontarians would be better served by a policy of gradual service expansion, rather than a symbolic declaration of bilingualism, which would only result in bitterness. Available online: www.aix1.uottawa.ca/~fgingras/polcan/ontario-francos.html (website consulted April 2008).

saga demonstrated that a Franco-Ontarian community that is strong and that stands up for its rights can overcome seemingly insurmountable obstacles.

The leadership of the McGuinty government in this area must be acknowledged. In accordance with the government's 2003 election promise, it amended the *French Language Services Act* to include the creation of a position for a French Language Services Commissioner. It also foresaw a new regulatory power, under the initiative of Minister Meilleur.

1.3 Goal of the French Language Services Act

*If most Francophones are bilingual, what is the point of having a French Language Services Act? We often hear this question raised. Why is it still relevant in an increasingly multicultural context?*¹¹

The answer to this question lies in the Preamble to the *French Language Services Act*.¹² The *Act* is designed to preserve the contribution of the cultural heritage of Ontario's French-speaking population. It is designed to honour the past and protect hard-won gains. But, it means even more. The Legislative Assembly gambled on the future, deciding that efforts to preserve the Francophonie had to continue, even though Canada as a whole was changing. The delivery of French-language services must never be challenged on the basis that different language communities are increasing at the expense of Francophone communities. In fact, nothing in the *French Language Services Act* prevents government institutions from being proactive in meeting the needs of other language communities. It is shown that the level of bilingualism is higher in the multicultural communities than in the population who uses English as their first language.¹³

Services in French are generally offered over the Internet and documents are available in both languages. Isn't this enough?

In Section 5 of the *Act*, a distinction was made between communication and service. For the Commissioner, service in French is the bare minimum. For example, an environmental policy that affects all residents of Ontario must appear in both languages on the Ministry of the Environment's website. Francophones whose families have been in Ontario for generations, newcomers, and Francophiles must be able to use French when communicating with the government and its institutions. However, in order for this service to be truly effective, it must be of good quality.

¹¹ On April 2, 2008, Statistics Canada published detailed analyses of data from the 2006 Census on ethnic origin and visible minorities. According to these data, the number of immigrants who belong to visible minorities increased from 72.9% in 2001 to 75% in 2006, surpassing the 5 million mark. According to Statistics Canada demographic projections, members of visible minorities will represent nearly one-fifth of the total population in 2017.

¹² You will find in Appendix B the *French Language Services Act*, R.S.O. 1990, Chapter F.32.

¹³ Office of the Commissioner of Official Languages, *Linguistic Profile of the Bilingual Visible Minority Population in Canada, 2007*, Ottawa.

1.3.1 Substantive equality

In the *Beaulac* decision,¹⁴ the Supreme Court of Canada reiterated the true purpose of language rights, namely the search for substantive equality. In recalling this purpose, Honourable Justice Michel Bastarache, writing on behalf of the Court, confirmed the collective nature of language rights¹⁵ in this case. The same is true of the language rights recognized in the *French Language Services Act*. Despite the fact that it is based on the individual and the recognition of individual rights, its Preamble implies that there is a need to recognize the rights of the community that speaks this language and the government's obligations with respect to this community. In other words, without a community and without society, a language no longer fulfills its primary function, which is to transmit and act as a vehicle for that community's culture. The Supreme Court of Canada acknowledged this in 1985:

"The importance of language rights is grounded in the essential role that language plays in human existence, development and dignity. It is through language that we are able to form concepts; to structure and order the world around us. Language bridges the gap between isolation and community, allowing humans to delineate the rights and duties they hold in respect of one another, and thus to live in society."¹⁶

The highest court in the land defined the concept of substantive equality in the following manner:

"This principle of substantive equality has meaning. It provides in particular that language rights that are institutionally based require government action for their implementation and therefore create obligations for the State [...] It also means that the exercise of language rights must not be considered exceptional, or as something in the nature of a request for an accommodation." (par. 24)¹⁷

In other words, the Francophone community of Ontario must be treated in a manner that is equivalent to the rest of the population. Sometimes, simply translating a policy is sufficient. Often, however, to achieve substantive equality and to be useful and effective, policies and programs will need to be adapted to the special needs of this community.

1.3.2 Public recognition of the French language

In addition to the recognition of its language rights, Ontario's Francophone community needs institutions in order to develop and thrive. Most authors writing on the subject of the vitality of official language minority communities agree that a number of factors are critical in order for a community to be vital: number of Francophones and the language spoken in the home, in school, during leisure activities and at work. The experts identify

¹⁴ *R. v. Beaulac*, [1999] 1 S.C.R. 768.

¹⁵ *Beaulac*, *ibid*, par. 25.

¹⁶ *Re Manitoba Language Rights*, [1985] 1 S.C.R. 721.

¹⁷ *Beaulac*, *supra* note 14, in par. 22 and 24.

two other critical factors: public recognition of the language, i.e., status, and the institutional support given to the community.¹⁸ Authors Serge Rousselle and Rodrigue Landry write that “*on ne naît pas francophone, on le devient*” [We are not born Francophone, we become Francophone – Unofficial translation].¹⁹ They put forward a number of reasons why a young child either accepts or rejects his or her language.

“We can postulate that bonds with family and relatives (the familial environment) and bonds of friendships at school and in the community fall into social areas of ‘solidarity’. The more often these contacts take place in French, the stronger the Francophone identity will tend to be. Other social areas of language experience can be referred to as places of ‘status’ (e.g., places of business, public services, places of education, the media). These places reflect the social factors that are associated with economic success, prestige, and social mobility. Studies have shown that the ‘language landscape’ described by public and private advertising is strongly associated with language status and that the type of language landscape experienced by young people is strongly associated with the vitality that they attribute to the French language in their community.”²⁰[Translation]

Thus, the principle of substantive equality has value when it is accompanied by recognition of the right of the Francophone community to participate in and manage the institutions that are essential to its development. The battle to keep *Montfort Hospital* open²¹ is a reminder of the importance of the connection between a community’s institutions, public recognition of the community by the government, and the preservation of Ontario’s Francophone heritage for future generations, as indicated in the Preamble to the *Act*.

1.3.3 Importance of pragmatism

At each of his meetings with senior civil servants, the Commissioner has been pragmatic about the delivery of French-language services. The wording of Section 7 of the *French Language Services Act* also invites government institutions to work in this manner, demonstrating that French-language services must be delivered with strategy and innovation.

The government and its institutions must take every reasonable and necessary measure to ensure that services are designed in a way that is adapted to the needs of Ontario’s Francophone community and delivered in a way that is both useful and effective.

¹⁸ Johnson, Marc L., and Paule Doucet, *A Sharper View: Evaluating the Vitality of Official Language Minority Communities*, Ottawa, Office of the Commissioner of Official Languages, 2006.

¹⁹ Landry, Rodrigue and Serge Rousselle, *Éducation et droits collectifs, Au-delà de l’article 23 de la Charte* Moncton, *Les Éditions de la francophonie*, 2003, p. 93.

²⁰ Landry and Rousselle, *ibid.*, p.93.

²¹ *Lalonde v. Ontario*, *supra* note 3. The Ontario Court of Appeal has also recognized the quasi-constitutionality of the *French Language Services Act*. Furthermore, the evidence in this case played a crucial role in demonstrating the vital importance of this particular institution to the development and enhancement of the Franco-Ontarian community.

1.3.4 Recognition of the needs of the Francophone community

The Commissioner often reminds administrators of government agencies of the importance of truly understanding the needs of their target Francophone clientele by following the example of other government institutions, agencies and boards that have understood the precise needs of their target clientele. With results-based management and the need for the government to demonstrate transparency, the citizens of this province can count on an exemplary public service, that has a rich history and that is fully dedicated to the public interest.

Fortunately, several government initiatives confirm that these precedents are already in place. One section of this report will specifically highlight the government's achievements in recent years.

For the purposes of this chapter, it is important to provide specific examples of best practices that are already in use by at least one ministry and one government agency. The following two examples are not exhaustive; however, they very clearly demonstrate the Commissioner's message.

1.3.4.1 Attorney General of Ontario / Community Safety and Correctional Services

Although things are not perfect and improvements need to be made where access to justice is concerned²², for several years, the Justice Sector Ministries have made commendable efforts to arrive at a better understanding of the needs of the community in the area of justice. What began as an annual Francophone Stakeholders' meeting organized by the French Language Services Coordinator between the Ministry of the Attorney General and representatives of the Association of French Speaking Jurists of Ontario gradually expanded to include representatives from the Ministry of Community Safety and Correctional Services as well as other stakeholders' organizations working in the justice system. The objective of these meetings was to allow Francophone stakeholders and Senior Management to meet, build relationships and identify together French Language services related issues in order to develop solutions and partnerships to correct these gaps.

Community participants suggested that a study be conducted as a starting point for a strategic plan to improve French-language services. A steering committee was struck to support the work of the research team. The study was conducted in 2005; it includes an Environmental scan, a status report, a statistical profile, and a directory of services.²³

²² See more on this in Chapter 5.

²³ Cardinal, Linda, 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: www.sciencesociale.uottawa.ca/crfpp/pdf/environmental_scan_12-2005.pdf

The 2006 Francophone Stakeholders' Meeting served to launch and validate the study, with the goal of developing a strategic plan for the future. Groups were able to engage in a direct and candid dialogue with Senior Management in the field of justice. These gatherings allowed for frank discussions, which were very productive, resulting in the development of a Strategic Plan approved by both Deputy Ministers of the Justice Sector in the fall of 2006. With this plan, each division was able to develop an operational plan and performance measures through the consultation process, by which the affected partners could measure performance and progress. The February 2008 meeting enabled the divisions to present their progress and activity reports and the stakeholders to share their comments and suggestions on the various strategies and actions being taken to improve the quality of French-language services.

This is an interesting model for participation not only in conducting evaluations, but also in planning and developing the programs and services offered by the two ministries involved. Government institutions could learn from this principle of interaction and partnership in developing programs based on their own internal and external dynamics even if this required significant investments in human and financial resources. At this moment, some ministries may not be in a position to do this. More than budget constraints, it is a question of approach, structure and of willingness to appreciate and understand each Ministry's own Francophone clientele needs.

1.3.4.2 Franco-Ontarian Arts Office of the Ontario Arts Council

The Franco-Ontarian Arts Office, which was founded in 1970, offers programs that support the Francophone arts community of Ontario.

These programs promote the development of the arts and support emerging Franco-Ontarian artists and art organizations. They are developed exclusively in French and increase the community's access to the arts in Ontario.

The staff of the Franco-Ontarian Arts Office regularly travels across the province to meet clients on-site, attend important arts events, and, most importantly, facilitate sessions where information on the needs of clients who are interested in culture can be exchanged.

1.4 Commissioner's scope of intervention

The *French Language Services Act* does not allow for seeking legal remedies before the Courts, unlike the *Official Languages Act* of Canada. That said, Ontario's complaints process is less formal and the French Language Services Commissioner has more leeway in this regard than his federal counterpart.

The Commissioner may investigate any issue that falls within the scope of the *Act*. Consequently, any action taken by any institution, agency or organization of the provincial government may be the subject of an investigation by the Commissioner, either on his own initiative or in response to a complaint from a member of the public. The Commissioner may not investigate actions in the private sector, such as a concern

arising between members of the public or between a private company and a member of the public.

1.4.1 Municipalities

The definition of a “government agency” set out in the *French Language Services Act* does not include municipalities. In each of his meetings, the Commissioner is asked about the role of the municipalities. There is a distinction to be made between a municipality acting on its own behalf, exercising its own powers, and a municipality acting on behalf of the Government of Ontario through a transfer of responsibility.

When a municipality adopts a by-law for the delivery of French-language services and communication, it is bound by the terms and conditions of Subsection 14(2) of the *Act*, which are essentially the same as the terms and conditions binding any head or central office of the government under Section 5 of the *Act*.

The Commissioner is acutely aware that it is difficult for the public to know whether a municipality is acting on its own behalf, on behalf of the provincial government or whether it is implementing a government measure of some kind. For this reason, the Commissioner invites members of the public to contact the Office of the Commissioner directly. It will assess these nuances and, if the complaint falls outside of its jurisdiction, it will refer the complainant to the appropriate authority.

Chapter 2 Role, mandate, and vision

2.1 Mandate

The Commissioner reports directly to the Minister Responsible for Francophone Affairs. His duties are set out in the *French Language Services Act* and they, in turn, define the Office's mandate:²⁴

“Reporting to the Minister, the French Language Services Commissioner is responsible for investigating whether the Act is being complied with, at his or her own initiative or in response to complaints; reporting on the results of investigations; and monitoring the progress of government agencies in providing French-language services.”

The initial term of the Commissioner's mandate is two years. Thereafter, mandates may be renewed for successive periods of three years and five years. Thus, Commissioner François Boileau's initial mandate will end on September 3, 2009, two years after his appointment.

One of the Commissioner's duties is to present an annual report to the Minister. The Commissioner may also decide, at his discretion, to present a special report if he deems it to be necessary. Special reports must be submitted to the Minister Responsible for Francophone Affairs and take into account any issue relating to the *French Language Services Act*. With the support of the Office of Francophone Affairs, the Minister is responsible for the application of the *Act*. Thus, even though the Commissioner reports to the Minister, the Office of the French Language Services Commissioner has the status of an independent government agency.

The same is true for the Office of the Commissioner's relations with the government. Thanks to its status as an agency, the Office of the Commissioner may develop contacts and hold meetings with senior officials in various ministries.

Lastly, the role, mission, and duties of the Office of the Commissioner differ from those of the Office of Francophone Affairs. For example, the Office of Francophone Affairs leads consultations with the public, provides liaison between the ministries and the community, participates in community development, and, in particular, advises and supports the Minister on the creation of new policies that are adapted to the needs of Ontario's Francophones. The Office of the Commissioner, on the other hand, is responsible for surveying and taking the pulse of the community with respect to French-language services, receiving and handling complaints and investigating them if necessary, and following up by making recommendations to the Minister. While its primary role is these investigations, the Office of the Commissioner may also conduct its own independent investigations of ministries and agencies.

²⁴Public Appointments Secretariat of the Government of Ontario. Available online: www.pas.gov.on.ca/scripts/en/BoardDetails.asp?boardID=141780 (website consulted April 2008).

The Office of Francophone Affairs:

Conducts consultations

Provides networking and information sharing between the ministries

Participates in community development

Consults the public on policy development (also through the Provincial Advisory Committee on Francophone Affairs)

Advises and supports the Minister on new policies

Obtains funding for programs

The Office of the French Language Services Commissioner:

Works independently of the Office of Francophone Affairs

Receives and handles complaints and follows up on them

Exercises its powers of investigation and makes recommendations

Increases the public service's awareness of the public's expectations

Conducts investigations of government agencies

Listens to the Francophone population

Advises the Minister and proposes recommendations

Box content explains different roles between the Office of Francophone Affairs and the Office of the French Language Services Commissioner respectively.

2.2 Powers

Two powers have been conferred upon the Commissioner under the *French Language Services Act*: the power to investigate and the power to make recommendations.

The power to investigate conferred by the *Act* means that the Commissioner is free, subject to the *Act*, to determine on his own which procedure to follow in responding to a complaint. He may, at his discretion, decide not to investigate or to take any action in response to a complaint.²⁵ In this case, he shall notify the complainant of the reasons for his decision. If he does decide to investigate, he must notify the administrative head of the government agency²⁶ that is the subject of the complaint. When his investigation is complete, the Commissioner must report the results to the parties concerned.

The *Act* also confers upon the Commissioner the power to make recommendations. The Commissioner's annual reports and any special report may include recommendations for improving the delivery of French-language services. If he feels that it is appropriate, the Commissioner will make recommendations in the reports he submits to the Minister Responsible for Francophone Affairs. It falls to the Minister and to her Cabinet's

²⁵ See Subsection 12.3 (1) of the *French Language Services Act*, *supra* note 12.

²⁶ i.e., the deputy minister in the case of a ministry.

colleagues to take the Commissioner's recommendations into account in the development of policies and programs to meet the needs of Ontario's Francophone population. Since the Commissioner's annual report is also submitted to the Legislative Assembly by the Minister, members of the Legislative Assembly and the other ministers also have the Commissioner's recommendations in their possession. The Commissioner expects to receive a response to his recommendations, and he will perform the appropriate follow up.

2.3 Mission and vision

In the Spring 2008, the Office of the French Language Services Commissioner developed its mission, which reads as follows:

The Office of the French Language Services Commissioner shall ensure that the public receives high-quality services in French from the government.

The Office of the Commissioner shall also ensure, through its investigatory powers, that the French Language Services Act is being applied.

Moreover, the Office of the Commissioner shall urge government ministries and agencies to be proactive in designing policies and programs that are adapted to their Francophone clientele, notably through its power to make recommendations.

The Office of the French Language Services Commissioner has embraced the values of listening, respect, integrity, transparency, and quality. These values provide a foundation for the work undertaken by the team and will guide the decisions that it makes in order to adequately respond to any requests that it receives. The Office of the French Language Services Commissioner is committed to respecting these values and making them a priority.

The Office of the French Language Services Commissioner's vision is to be known, indeed recognized, by the public and by government for having created credible mechanisms for investigating and resolving complaints and for having changed the behaviours and attitudes of Ontario's government agencies.

Simply offering French-language services in Ontario isn't enough; the quality of these services is equally important. The Office of the Commissioner is of the opinion that the province's Francophones are entitled to services in their own language of the same quality as those provided to the rest of the population. Ultimately, a community's development depends upon the services that it is offered. A community is much more likely to develop and grow if it has access to services that are adapted to its needs. This often starts with institutions that the community has created for itself. This is how the future of a community is ensured and how its cultural contribution – in this case, the cultural contribution made by Ontario's Francophone population – is preserved. The Office of the Commissioner understands the importance of a network of institutions to the development of Francophone communities across the province.

2.4 Office of the Commissioner's target clienteles

Every government ministry, institution, and agency identifies its target clientele in order to provide better service. Policies, programs, services, and products are thought

through, created, and implemented based on the specific needs of these target clientele. The Commissioner firmly believes that, not only is this important, but especially with the public service, the French language and bilingualism clearly represent one of the province's competitive advantages.²⁷

Target clientele that the Office of the Commissioner has identified within the greater Francophone community of Ontario include newcomers and migrants from Quebec and other provinces. Other target clientele include Francophiles and, of course, the government.

2.4.1 Exogamous families

Exogamous families make up most of the Office of Commissioner's target market.²⁸ In Ontario, it is easy for a Francophone to switch to speaking English, especially in a situation involving an exogamous couple. Parents in exogamous homes are at a crossroads between two cultures – in some cases, at the crossroads between our two official languages – and their children are living proof of this. These children also represent the future of French Ontario and the future clientele of the Office of the Commissioner.

The Office of the Commissioner must support exogamous families who choose to live their lives entirely or partially in French. They need to be encouraged to join and use institutions in the Francophone community and have their children educated in schools governed by the community (ideally, from daycare straight through to post-secondary education). Knowing French is an advantage for them and they can be proud of contributing to the validation and preservation of their children's Francophone heritage.

²⁷ An article published in *The Windsor Star* on July 10, 2007, reported that an American company decided not to set up its call centre in Windsor citing a lack of workers to fill bilingual positions. This project would have resulted in the creation of 1200 jobs. *City misses out on 1,200 jobs – Company says not enough bilingual workers here*, *The Windsor Star*, July 10, 2007.

²⁸ According to the Office of Francophone Affairs, the percentage of endogamous Francophone families decreased from 39.3% in 1996 to 35.2% in 2001. The percentage of exogamous couples increased from 60.7% to 64.8%.

Chapter 3 Vitality of Ontario's Francophone community

Since 1760, many people have predicted the inevitable and imminent disappearance of French Canada. And yet, after two centuries, the descendants of les canadiens français number in the millions. Who has the knowledge that it would take to predict that French Ontario will disappear? [Unofficial translation]²⁹

— G.Gervais

In recent years, there has been a proliferation of publications on the vitality of the official language minority communities. The key studies are those by Statistics Canada: first, the results of the 2006 survey on the vitality of the official languages³⁰ and, second, a post-censal survey.³¹ Researchers are increasingly interested in this issue and so are governments,³² because the way in which the Francophone community is defined is crucial to them. This is so whether it relates to the notion of significant demand³³ at the federal level, the notion of regions that have been designated as bilingual as in the case of Ontario or the federal-provincial agreements with respect to *per capita* transfer payments.

We need to ask ourselves whether the method that is currently used to define the Francophone population of Ontario actually represents the reality of this evolving community.

Francophones do not all feel the same sense of identity with the Francophone community; this varies from region to region in Ontario. Francophones in southeastern Ontario, for example, feel a stronger sense of belonging to the Francophone community than Francophones in other regions of the province. In other regions, and in the Toronto area in particular, the percentage of Francophones who identify themselves primarily with the Anglophone group or even another language group is much higher.³⁴

3.1 Survey on the Vitality of Official-Language Minorities

3.1.1 Definition of minority

On December 11, 2007, Statistics Canada published a study on the vitality of the official language minority communities, which provides an in-depth look at French in Canada and in Ontario. In this survey (which is also called a post-censal survey), Statistics Canada proposed a definition for the purposes of the survey that is much more inclusive.

²⁹ Gervais, Gaétan, "L'histoire de l'Ontario français (1610-1997)", in Joseph Yvon Thériault, Ed. *Francophonies minoritaires au Canada — L'état des lieux*. Moncton, Éditions d'Acadie, 1999, p.161.

³⁰ Corbeil, Jean-Pierre and Christine Blaser, *The Evolving Linguistic Portrait, 2006 Census: Findings*, Ottawa: Statistics Canada, 2007.

³¹ Corbeil, Jean-Pierre, Claude Grenier and Sylvie Lafrenière. *Minorities speak up: Results of the survey on the vitality of official-language minorities, 2006*. Ottawa: Statistics Canada, 2007.

³² The federal government held a Symposium on Official Languages Research Issues on January 10 and 11, 2008, in Ottawa.

³³ This expression is used in the *Official Languages Act*, R.S.C,1985,C.31(4th supp.)

³⁴ Corbeil, Grenier and Lafrenière, *supra* note 31.

In the study, French-speaking people outside of Quebec are defined as those who:

- a) speak French as their mother tongue, alone or in combination with another language;
- b) speak a non-official language as their mother tongue and, of the two official languages, speak only French;
- c) speak a language other than an official language as their mother tongue, know both French and English, and speak either a non-official language or French alone or in combination with another language most often in the home.

This definition is critical to Ontario's Francophones. For example, a family from the Maghreb that speaks Arabic as its first language, but whose members know both English and French and who usually communicate in Arabic or French or both in the home, will be counted as members of Ontario's Francophone population. The impact of this definition, which reflects openness and the reality of multiculturalism in Canada, cannot be underestimated.

This definition makes it possible to include Francophones from exogamous families, which is the case for the majority of families in Ontario. Indeed, even if more often these individuals don't speak French in the home, they have French as their mother tongue, either alone or in combination with another language and they belong to the new generation of young Francophones who describe themselves first as "bilingual".³⁵

The Office of Francophone Affairs uses a definition that is based on mother tongue (first language spoken and still understood). This includes people who responded that French was their only mother tongue or one of their mother tongues (single or multiple responses).³⁶

Provincial institutions and agencies that offer services to Ontario's Francophone community should take note of this definition of a language minority proposed by Statistics Canada. The government must have an inclusive definition.

The Commissioner feels that it would be useful for the Office of Francophone Affairs to undertake an in-depth study of this issue in order to ensure that the definition that is used is the one that most accurately reflects Ontario's new Francophone reality, specifically explaining its choice of methodology and the consequences.

Recommendation 1: The Commissioner recommends to the Minister that she review the definition of the Francophone population of Ontario in order to ensure that it adequately reflects the new reality of this population.

³⁵ Dallaire, Christine, 'I am English too': *Francophone Youth Hybridities in Canada*. In: Nilan, P. and Feixa, C. *Global Youth? Hybrid Identities, Plural Worlds*, (pp. 32-52). London and New York: Routledge. 2006

³⁶ In: *Francophones in Ontario – Statistical Profiles – 2005 Edition*, the Office of Francophone Affairs "defines Francophones on the basis of their response to the question concerning mother tongue: *What is the language that this person first learned at home in childhood and still understands?* For the purpose of this profile, the term "Francophones" designates those who gave French as their sole mother tongue or as one of their mother tongues (single or multiple responses)". According to this method, which is based on the 2001 Census, Ontario has 548,940 Francophones.

Chapter 4 Key observations

In his first seven months in office, the Commissioner met with almost every senior official in the government. After meeting people in communities throughout Ontario, his first observation was that a great deal of work remains to be done! In this chapter, the Commissioner looks at current practices within the government and makes recommendations for improving the internal coordination of French-language services.

In recent months, the issue of linguistic duality has received wide media coverage, probably due to the Canadian public's interest in the federal government's new dynamic *vis-à-vis* the official languages. In January 2008, the Commissioner had an opportunity to meet with Bernard Lord, special advisor to the Minister of Canadian Heritage on official language issues. Their discussion focused primarily on the need for better cooperation amongst the various levels of government. Where the development and vitality of the official language communities are concerned, such areas as education and health are under provincial jurisdiction. For this reason, the Commissioner welcomed the recommendation on multilateral cooperation between the two levels of government.

In 2004, at the beginning of her first term as Minister Responsible for Francophone Affairs, the Honourable Madeleine Meilleur created the Provincial Advisory Committee on Francophone Affairs. After meeting with the Committee members and familiarizing himself with their work, the Commissioner congratulated the Minister for having created this committee to support her in her duties. Many of the Advisory Committee's recommendations have been implemented by the government. Although the Office of the Commissioner operates independently of the Advisory Committee, the Commissioner foresees opportunities for effective, sustained, and lasting cooperation with all of its members.

4.1 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 from 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.

There are several ways to do this. When a patient comes to *Le Centre de santé communautaire de Sudbury*, the French-language community health centre in Sudbury, he knows for a fact that he will receive health services in French. By definition, this centre embodies active offer.

A person who has a satisfactory experience of obtaining excellent service in French from one government service will feel encouraged to ask to be served in French again. It is uplifting for him to see his language being recognized not only symbolically, but also as a useful, modern, and effective language.

Conversely, the same person will quickly become discouraged and feel undervalued if he contacts a government service by phone, presses “9”, and then waits 20 minutes only to be told, in English, that the person who usually takes French calls is away from the office that day. This does not constitute high-quality French-language service.

This person will also become discouraged if he finally reaches someone who speaks French, only to discover that their French is so poor that he has trouble making himself understood. This does not constitute high-quality French-language service either.

If the website of a government institution or agency is bilingual, as it should be, we can assume that the background documents for the public that are found on the website will also be in both languages. Indeed, every background document for the general public from every government agency must be available in French. The Office of the Commissioner will not tolerate time discrepancies between the publication of a brochure in English and its availability in French. Furthermore, errors in the French translation will undermine the credibility of the government institution or agency in question.

The Commissioner must insist on the importance of actively offering French-language services. The Minister places great importance on the issue of active offer in every public speech that addresses the issue of French-language services. In more remote regions, we need to build trust with the community that French will be treated with equality and dignity by public institutions.

An internal document, entitled *A Framework for Action*, which was published by the Secretary of Cabinet in 2006, represents a step in the right direction.³⁷ In this framework document, there is a clear commitment to the principle of actively offering French-language services.

The Commissioner will listen attentively and watch closely as policies and practices are implemented in the field to enable each government agency to actively offer French-language services. The Commissioner will revisit this over the course of his mandate. This may take the form of a recommendation for an action strategy for general application or for a particular institution.

4.2 Accountability measures

All governments endeavour to report to their constituents as transparently and directly as possible. Results-based management is now a reality, certainly in the common parlance of members of the public service. In Ontario, every ministry must also be accountable, reassuring the government that it is adequately managing public funds, while complying with the statutes and government priorities. This annual exercise is all the more important because budgets are approved on the basis of results achieved.

³⁷ Ministry of Government and Consumer Services, *OPS Framework for Action: A Modern Ontario Public Service*, Queen's Printer for Ontario, 2006, p.17. Available online: www.iccs-isac.org/eng/pubs/FFA%208%20FINAL.pdf

The role of the Office of the French Language Services Commissioner is to constructively criticize the parameters that the Office of Francophone Affairs has set for itself in its mandate for horizontal coordination of the other ministries. Thus, the Office reviews all the summaries of the operational plans and reports on the performance of the ministries.

4.2.1 Critical Analysis

For the 2008-2009 budget planning exercise, the ministries were required to report on their key achievements in the area of French-language services over the course of the previous fiscal year and to prepare an operational plan of their activities in four strategic areas, over the next four years, i.e., from now until March 31, 2012.

The first major area concerns their ability to actively offer French-language services that are equivalent to those being offered in English. This also applies to services being offered electronically or through partnerships. The institutions must ensure that they have in place a human resources plan that includes a sufficient number of designated bilingual positions at every level of their organization. The ministries must report on their performance in this regard.

The second important area concerns the public's and government employees' knowledge of the *Act* and its implications for the delivery of services. It is interesting to note that the ministries' performance on increasing the Francophone public's awareness is optional for the 2008-2009 fiscal year.

The third fundamental area concerns the integration of the legislative requirements with respect to French-language services in the development of strategic plans and decision-making mechanisms and in every activity to transform and modernize the government. The review performed by the Office of Francophone Affairs takes into consideration the integration of the needs of Ontario's Francophone communities.

The fourth key area concerns the participation of Francophones in every public consultation activity and their equitable representation on the boards of directors of agencies, boards, and commissions created by the government. The Office of Francophone Affairs has posted an on-line reminder about this as well as a directory of every Francophone group, association, and institution that wanted to be listed. Once again, the ministries do not have to report to Cabinet on their performance in this area for the current fiscal year.

That said, reporting on the activities of every ministry with respect to the *French Language Services Act* is clearly a government initiative worthy of mention. The government is to be congratulated for instituting horizontal accountability for every ministry, where French-language services are concerned.³⁸

However, much work remains to be done in order to make these accountability mechanisms truly effective. This is particularly true for:

³⁸ It is important to note that, because these documents come from Cabinet, they are not available to the public.

- the performance and result measurement framework;
- the comparative measures of progress on the quality of services offered;
- the consequences of the gaps in the French-language service delivery reports.

In the years to come, the Commissioner will continue to take a strong interest in accountability where French-language services are concerned. The government must ensure that the management of French-language services is fully integrated in every government agency, both in terms of operations and in terms of the development of policies, practices, and programs. The Commissioner doubts that this is the case at the present time.

4.3 Role of the French Language Services Coordinators

Before any restructuring is undertaken, we must ask ourselves the following questions and attempt to answer them:

- What is the status of the French Language Services Coordinators within each ministry's organizational structure?
- How do the French Language Services Coordinators participate in program and service planning and implementation?
- Does their positioning within the public service enable them to be truly effective?
- Do they have the resources they need to do their job effectively?

4.3.1 Current situation

For all sorts of reasons, the French Language Services Coordinators do not get the same treatment. While some have direct access to their Deputy Minister, often under another statute that supports their work,³⁹ most report to a director or even a manager of a division. Some are responsible for two or even three ministries and most of the time they must work with very limited financial resources.

The overall role of the French Language Services Coordinators is very poorly understood by a large majority of government institutions; sometimes, they are even asked to look after the translation of documents. They are far from being given equal consideration. And, few exceptions aside, we are even farther away from being able to count on individuals whose rank and standing within the government would enable them to exert some real influence over public policy.

For these reasons, when the Commissioner entered office, he immediately wanted to break with the tradition of going through the French Language Services Coordinators when handling complaints received at the Office of the Commissioner. This was not done to keep the French Language Services Coordinators out of the loop. Far from it. The Commissioner simply wanted to move closer to the spirit of the *Act* by making the Deputy Ministers directly responsible. He asked the Deputy Ministers to identify a person

³⁹ This is the case with the French Language Services Coordinator of the Ministry of the Attorney General of Ontario, in accordance with the obligations stipulated in the *Courts of Justice Act*.

to whom he could have direct access in order to help the Office of the Commissioner resolve complaints quickly. This would avoid a process by which a notice of formal investigation was systematically sent out. Formal investigations could be conducted, but only in cases involving a systemic complaint that cannot be resolved quickly.

The intent of those who drafted the legislation was to ensure that the French Language Services Coordinators had direct access to their respective Deputy Ministers. The purpose of this access is to facilitate the work of planning, internal liaison, and follow-up. Making the French Language Services Coordinators active participants in the strategic planning process within each ministry makes it easier to integrate the idea of French-language services that are useful and effective for the well-being of Ontario's Francophone communities. The Commissioner believes that it is of the utmost importance that French-language services be taken into consideration from the moment at which policies, programs, services, and products are designed.

The primary responsibility of the French Language Services Coordinators within their ministry is to supervise the incorporation of French-language services into the ministry's short-, medium-, and long-term strategy. Thus, the French Language Services Coordinators play an advisory role with respect to needs and priorities and they play a liaison role both for the ministry and the Francophone communities. Before the creation of the Office of the French Language Services Commissioner, the French Language Services Coordinators played a central role in analyzing complaints from the public, which were then forwarded to the Office of Francophone Affairs.

Section 13 of the *French Language Services Act* states that a French Language Services Coordinator shall be appointed for each ministry. The *Act* also states that there shall be a committee consisting of the French Language Services Coordinators, coordinated by the Office of Francophone Affairs. Lastly, the *Act* states that each French Language Services Coordinator may communicate directly with his or her Deputy Minister. This is not always the case and it is time to return to a strict application of the *Act*.

In having someone who reports directly to the Deputy Minister, the Commissioner hopes that this person will be in a position to influence the development of the ministry's strategic directions, as is the case with the chief administrative officers. At the present time, with a few rare exceptions, the French Language Services Coordinators do not have an opportunity to participate in their ministry's strategic planning process.

Under the circumstances, the Commissioner wishes to point out that, at times, most of the coordinators have a colossal task. They are in urgent need of help; they need to be given the role that those who drafted the *Act* intended them to have. It goes without saying that this would require some changes in terms of human and financial resources, both of which are clearly inadequate at the present time.

Recommendation 2 : The Commissioner recommends that the Minister revise the role of the French Language Services Coordinators to ensure that, right from the strategic planning stage, they are able to directly influence the directions and design of the policies, programs, services, and products of each government agency contemplated in the *French Language Services Act*.

4.4 Regulatory powers

Often, the services that are offered through a provincial program are delivered under a contractual arrangement with a third party. However, such arrangements may bypass the language requirements under the *Act*. Language clauses can be included in each of these third party agreements; however, they will never have the force of a statutory or regulatory obligation.

At the present time, there are unacceptable loopholes in the *Act*. These loopholes must be closed as quickly as possible. The Government of Ontario is making increasing use of third parties to deliver its services to the citizens of Ontario. In so doing, it must comply with the *Act*. A regulation to this effect would clarify this situation.

In anticipation of such situations, and subject to the approval of the Lieutenant Governor in Council, the Minister Responsible for Francophone Affairs may make regulations for the better administration of the *Act*.⁴⁰ The Commissioner believes that it is very important for the public to be informed of the challenges of this issue and of the measures that the government plans to take to put an end to this kind of loophole.

The government has assured the Commissioner that a study is being conducted to determine the scope of this new regulatory power and to identify priorities that the government may want to address. This is certainly a step in the right direction. The Commissioner hopes that this study will be completed and that a regulation will be made as quickly as possible.

Whether the service in question is a service offered by a municipality, a private company or a not-for-profit organization or whether it is a new public service developed in partnership with the private or public sector, the government must follow the spirit and the letter of the *French Language Services Act*. In so doing, it is interpreting language rights in a normal, legal fashion, as the Supreme Court of Canada has interpreted these rights on numerous occasions.

Recommendation 3: The Commissioner recommends that the Minister propose a clear regulation to govern the delivery of French-language services under a contract with a third party who has agreed to provide services on behalf of a government agency or under a new public-private partnership.

⁴⁰ See paragraph 11(4) of the *French Language Services Act*, *supra* note 12.

Chapter 5 Handling of complaints

5.1 Role of a Complaint

The role of a complaint is to provide a mechanism whereby a citizen can provide direct feedback on a government activity. A complaint may concern a specific activity—a particular case—or it may concern a systemic or recurring problem. Filing a complaint is the most effective way for a member of the public to express his/her dissatisfaction, concern or frustration over a failure to provide French-language services or over the provision of poor-quality French-language services.

Table 1 : Total number of complaints received, November 1, 2007, to March 31, 2008

Admissible	43
Inadmissible	19
Total	62

Between November 1, 2007, and March 31, 2008, the Office of the Commissioner received 62 complaints. Of these, 43 were admissible and 19 were inadmissible. Although the number of acceptable complaints seems small when compared to the high volume of government inquiries, it nevertheless shows the Francophones' interest to receive quality French-language services. The Office of the Commissioner received twice as many complaints in six months as the Office of Francophone Affairs received, on average, in the space of a year. One of the major challenges facing the Office of the Commissioner over the next year will be to ensure adequate follow-up on every complaint received. The credibility of the Office of the Commissioner will depend on it.

Table 2 : Inadmissible complaints, by category, November 1, 2007, to March 31, 2008

Trivial, frivolous, vexatious, or not made in good faith	3	
Requests for information	11	
Redirected	5	
	Federal	0
	Provincial	1
	Municipal	1
	Private	3

Table 3 : Number of complaints, by institution

Institution	#Complaints	Under review	Resolved	Founded	Unfounded
Ministry of Health and Long-Term Care	9	9		0	0
Ministry of the Attorney General	11	11		0	0
Ministry of Community and Social Services	1	1		0	0
Ministry of Transportation	1	1		0	0
Ministry of Culture	3	2	1	1	0
Ministry of Government and Consumer Services	7	6	1	1	0
Ministry of Citizenship and Immigration	1	0	1	1	0
Ministry of Community Safety and Correctional Services	2	2		0	0
Ministry of Public Infrastructure Renewal	1	0	1	1	0
Ministry of Labour	2	1	1	1	0
Élections Ontario	3	0	3	3	0
Ministry of Municipal Affairs and Housing	2	2		0	0
Total	43	35	8	8	0

A complaint or a comment can lead to progress. Sometimes, a complaint can be resolved easily by taking the necessary corrective measure. The Office of the Commissioner received many complaints about a lack of French-language services at government service counters. These complaints were resolved fairly quickly through more adequate identification of bilingual staff. An adequate distribution of staff to ensure that French-language services are constantly offered or simply hiring an adequate number of bilingual employees to meet the demand are two other solutions. A complaint may concern the lack of a French translation of the regulations made under a statute that affects members of the public in their daily lives. In one particular case, the Office of the Commissioner received assurances from the ministry in question that the regulations would be available in French in the near future.

Other complaints that are of a systemic nature must be given special attention, with direct involvement of the general director of the government agency concerned. For example, some services previously offered directly by the government are now offered by third parties, such as not-for-profit agencies and organizations. The agreements under which these service delivery entities are created do not always explicitly state that the agency must offer French-language services that are equivalent to those offered in English.

5.1.1 Health

Health is a priority for every citizen of the province, Francophone or otherwise. For this reason, the number of complaints that the Office of the Commissioner has received should not come as a surprise. These complaints concern a specific lack of French-language services from a service provider or a problem of a systemic nature. The health system can seem complex and intimidating for members of the public, who really just want quality services for themselves and for their loved ones. In this context, getting acknowledgement of their right to receive service in French is not an easy thing. A vulnerable health care situation is hardly the time to be taking on this challenge.

There are several new players. These include the French Language Health Services Advisory Council, Ontario's Local Health Integration Networks, and their future Francophone planning entities. These must work with the institutional networks, such as the French language health networks and health centres. And now there is another new player: the Office of the French Language Services Commissioner. Given the importance of this issue, the Commissioner plans to publish a special report for Ontarians on the subject of health, clarifying what they are entitled to when they file a complaint over an alleged lack of French-language health services.

5.1.2 Justice

Since the very beginning of his mandate, the Commissioner received a relatively high number of complaints, compared to other ministries, regarding the provision of French Language services in the justice system. While some were in relation to specific difficulties in obtaining French-language services from the administration of justice system, others were of a more systemic nature, such as the insufficient number of bilingual judges. It is a complex issue as both the provincial and federal governments share the responsibility for the appointment of judges for the Courts of Ontario. As such, Canada's Justice Minister is responsible for the appointments of all judges, including bilingual ones, at the Superior Court of Justice and Ontario Court of Appeal. The responsibility for appointing judges and justices of the peace to the Ontario Court, including bilingual ones, falls under the jurisdiction of the Attorney General of Ontario.

In the coming year, the Commissioner will be working closely with the Ministry of the Attorney General to understand where obstacles prevail in the administration of justice in order to make services more accessible to the Francophone population in specific areas, notably in the Courts system as required by the *Courts of Justice Act*⁴¹.

⁴¹ *Courts of Justice Act*, R.S.O. 1990, chapter C.43.

Access to justice in French and the problematic shortage of bilingual judges was written about extensively following the highly publicized decision of the Ontario Court of Appeal in *Belende v. Patel*, where the Court of Appeal recognized that:

“English and French are the official languages of the courts in Ontario, and the court has a responsibility to ensure compliance with language rights under s. 126 of the *Courts of Justice Act*. A proper interpretation of this provision is one that is consistent with the preservation and development of official language communities in Canada and with the respect and preservation of their cultures” (2008 ONCA 148, para. 24).

It is with great interest that the Commissioner read about the efforts of the Attorney General of Ontario to gather public comments on the report of the Honourable Coulter Osborne entitled *Civil Justice Reform Project: Summary of Findings and Recommendations*. The first two of Justice Osborne’s recommendations deal in part with access to justice in French and the necessity that “Any future appointments to the Superior Court should expressly consider the need for bilingual judges within a given region”. The Commissioner took the initiative, along with Mr. Graham Fraser, the Commissioner of Official Languages for Canada, to share his concerns regarding access to justice in French.

The Commissioner congratulated the Attorney General of Ontario for undertaking this consultation, demonstrating the importance he is giving to this matter. This matter was also raised by the Ministry of the Attorney General recently in response to consultations undertaken by the federal government in the context of the renewal of the Official Languages Action Plan. Recommendations were made to improve/formalize the federal judicial appointment process in order to meet the existing and emerging needs for bilingual judges.

In the Commissioner’s opinion, implementing Justice Osborne’s two recommendations requires joint action by all stakeholders, including Canada’s Justice Minister, and the chief justices of the Superior Court and the Ontario Court of Appeal, not to mention the Commissioner for Federal Judicial Affairs, the Franco-Ontarian community and the *Association des juristes d’expression française de l’Ontario (AJEFO)*.

5.2 Prevention

A complaint filed with the Office of the French Language Services Commissioner may draw two types of reaction from the government agency directly concerned:

- the agency may try to resolve the situation promptly, with assurances that it will not happen again; or
- the agency may respond in a rigid, inflexible manner, with reasons why it cannot conveniently offer the service in high-quality French.

Prevention is one of the most effective ways to avoid the second type of reaction.

Few managers want their institution or agency singled out for failure to offer a public service. Most of the time, this is embarrassing and difficult to justify. When a complaint is over failure to offer a service in French, this embarrassment has the potential to become political. We must be realistic: the issue of linguistic duality is often the subject of a political debate. And when this debate is waged publicly, some people question the cost while others cry “scandal!”. This debate needs to be de-politicized.

The Commissioner wants his Office to be in a position to help prevent situations that are potentially unacceptable for Francophone members of the public. He encourages institutions and other agencies to contact his Office before creating a new policy, program, service or product. When in doubt, it is best to check. Checking with his Office does not necessarily mean that a full investigation will ensue. Quite possibly, the Office will transfer a request for information from a ministry and other public institution to the Office of Francophone Affairs, which also has an important role to play in helping the ministries to deliver high-quality French-language services more effectively. For this, the Office of the Commissioner could act as an internal consultant on preventive measures.

5.3 Filing a Complaint

Complaints may be filed with the Office of the French Language Services Commissioner in person, over the telephone, by email, by courier or by fax. The Commissioner invites any complainant to provide his name, address, and contact information. All information provided to the Office of the Commissioner will remain confidential. The Commissioner invites individuals to contact his Office, even though they may not have all of the information that is required or all of the details of the situation. He also hopes that his staff will respond proactively and empathetically when complaints are received. Under optimal circumstances, complainants will not be required to complete long and elaborate forms; they will be listened to and treated with respect in the process of filing their complaint. It will be the role of the Office of the Commissioner to explain why any additional information is required, if this is the case.

5.4 Complaint Mechanism

All complaints and comments received by the Office of the Commissioner are treated confidentially.⁴² The name and contact information of the complainant are never divulged. However, if the complainant goes public and announces to the media that he plans to file a complaint with the Office of the Commissioner, the confidentiality requirement no longer applies and the Office of the Commissioner is no longer bound by it.

The Commissioner has considerable investigatory powers under the *French Language Services Act* and all government institutions and agencies are required to cooperate in the review of complaints that are the subject of an investigation.

⁴² A complaint may be made anonymously; however, in order to ensure effective handling and follow-up of complaints, the Commissioner discourages this practice.

The Office of the French Language Services Commissioner will acknowledge receipt of every complaint or comment that it receives, so that the complainant knows that it is aware of his complaint. As soon as a complaint is received, the Office of the Commissioner will seek any additional information from the complainant that may be required. If, in the opinion of the Office of the Commissioner, the complaint is admissible, that is to say, the Commissioner has competency under the *Act* to review the complaint, it must then be determined whether it can be resolved quickly.

The *Act* states that the Commissioner shall send a notice of investigation to the deputy head or other administrative head of the government agency that is the subject of the complaint. Consequently, the Commissioner has come to an agreement with most senior officials that they will appoint someone on their immediate staff to immediately serve as a contact with the Office of the Commissioner. This will make it easier to expedite a complaint with the institution concerned.

The complaint may be quickly resolved over the telephone, in person or by email. The Office of the Commissioner will do whatever is necessary to resolve complaints expeditiously. If the complaint is of a systemic nature, an official notice of investigation will be sent to the administrative head of the government agency concerned.

The Commissioner may take the initiative of making an investigation; it may be resolved quickly or it may be the subject of a notice of investigation sent to the administrative head of the government agency directly concerned.

At this point, a formal investigation is undertaken (an investigation plan, specific issues to be resolved, a timetable, mediation if necessary, and a resolution or recommendations by the Commissioner). It is entirely possible that a complaint, although admissible, has no basis and that the government agency is in fact meeting its obligation to provide French-language services adequately. If improvements can and must be made, it is the role of the Commissioner to make recommendations.

At the conclusion of the investigation, if the parties cannot reach a mutually acceptable solution, the Commissioner may submit his recommendations to them in the form of a report. In the case of a systemic complaint, the Commissioner may use his annual report or a special report to make the situation and the proposed solutions public.

For each of the steps described above, the complainant must be kept apprised of the situation. This ensures transparency and trust in the complaint resolution process of the Office of the Commissioner. Therefore it will seek to improve French-language services generally, rather than seeking to resolve a particular service problem for the complainant.

5.5 Mediation

The Office of the Commissioner encourages the parties involved to adopt a creative, innovative approach to resolving complaints. In order to achieve this, complainants are invited to suggest ways in which the problem could be solved, which can then be shared with the government agencies involved. They, in turn, can help to evaluate these options and, if necessary, suggest others. At every stage of the complaints process, all of the

parties involved are therefore called upon to find a solution together in order to improve French-language services for the entire community.

5.6 Complaint Follow-up

Once the institution concerned has provided assurances that corrective measures will be taken, the staff of the Office of the Commissioner will check and follow up in the months following the conclusion of the investigation.

When a recommendation or recommendations are released in an annual report or a special report, the Commissioner expects the government to make its response known, whether positive or negative, so that the public is informed. The Commissioner is committed to this process.

5.7 Commissioner's discretionary powers

Discretionary powers are always limited. Paragraph 12.3 (1) of the *French Language Services Act* states that the Commissioner may, at his discretion, decide not to take any action after receiving a complaint. If the Commissioner decides not to act on a complaint, he must justify it on the basis of his mandate and the purpose of the *Act*.

Moreover, the Commissioner must exercise these discretionary powers in accordance with the general principles of administrative law. A decision must be made based on each individual case, while taking into consideration the purpose of his competency and the powers that have been conferred upon him by the legislation.

5.8 Performance measures

Over the next year, the Office of the Commissioner will establish two ways of measuring the performance of its complaint resolution system. The first concerns the efficacy of the result obtained when the complaint is resolved, as well as its duration and its impact on the community. The second concerns the satisfaction of the parties involved in the complaint process, the relationship that developed between them, and the final result.

The Office of the Commissioner is committed to listening to the public and acting with transparency, integrity, and respect in all of its actions and relations with the community and government representatives. Members of the community may contact the Office of the Commissioner at any time to share their comments and suggestions. If they are not satisfied with the services of the Office of the Commissioner, they may then contact the Office of the Ombudsman of Ontario.

Chapter 6 Activities of the Office of the Commissioner

6.1 Meetings with the Minister

Since beginning his mandate, the Commissioner had met with the Honourable Madeleine Meilleur, Minister Responsible for Francophone Affairs, on several occasions. He has presented the Minister with his vision, work plan, complaint handling process, and priorities for action.

Minister Meilleur and the Commissioner have also agreed on a mutually satisfactory protocol for their future relations, including relations with the Deputy Minister.

The Commissioner has also written to all of the provincial Members of Parliament to inform them that the new Office of the French Language Services Commissioner is open and to share his vision of his mandate with them.

6.2 Meetings with the Deputy Ministers

A complaint procedure had to be developed that was different from the procedure used by the Office of Francophone Affairs. If the Commissioner decides to proceed with an investigation, he must inform the deputy head or other administrative head of the government agency concerned, as identified in the *Act*. A meeting with the Deputy Ministers has taken place on September 14, 2007, since they are the key individuals concerned by the investigation procedure stipulated in the *Act*.

The interim staff has developed a complaint procedure that the Commissioner has validated with the Deputy Ministers. From the outset, it was very important to set the tone for the Commissioner's vision, mandate, and approach to handling complaints. This was done at his meeting with all of the Deputy Ministers.

The Commissioner then met with most of the Deputy Ministers individually to discuss the procedure for resolving complaints with respect to French-language services. In a few cases, these meetings led to other meetings, notably with all of the senior officials of certain ministries. This was the case, for example, with the Ministry of Government and Consumer Services.

6.3 Legal opinions

The Commissioner is pleased to have negotiated a framework agreement with the Ministry of the Attorney General on the legal notices that may be used by the Office of the Commissioner, the purpose of which is to ensure that the Office acts independently, from a legal standpoint. As a government agency, the Office of the Commissioner may now call on the expertise of a bilingual lawyer with the Landlord and Tenant Board Legal Services, which will provide the Office of the Commissioner with support on legal matters such as contracts, human resources, and access to information.

An outstanding exception has been made. The Office of the Commissioner's independence has been formalized in a framework agreement that states that for all matters pertaining to the mandate and scope of the *French Language Services Act*, the Commissioner may seek independent legal counsel from the private sector. Landlord and Tenant Board Legal Services will supervise the hiring of a legal firm, based on a list drawn up by the Commissioner, but without having access to the contents of the legal notices. The Commissioner may thus choose whether or not to act on these external opinions on matters coming under the *Act*.

Establishing a firm foundation of independence for the Office of the Commissioner was critical. It would have been difficult to achieve this without the support of the Minister and her team, and the openness of the representatives of the Ministry of the Attorney General of Ontario.

6.4 Community meetings, speeches, events, and interviews with the media

Within the first few weeks of his appointment, the Commissioner met with members of the Francophone community. Timmins was his first stop. He attended the *Symposium sur les Francophones et de l'École de médecine du Nord*.

From the time he entered office until March 31, 2008, the Commissioner has had close to 90 meetings with members, agencies, and umbrella organizations of the Francophone community. He has participated in 18 public events, delivered 16 speeches, and responded to 27 requests from the media for interviews. And, as with most of his subsequent trips, he has ensured that he meets with a multitude of people from various communities along the way.

Some of these trips would have been impossible without the support and cooperation of Francine Chartrand-Dutrisac. The same can be said of the warm reception from the people at *Collège Boréal*, the *Assemblée de la francophonie de l'Ontario*, the *Alliance française de Timmins*, and *ACFO de Sudbury*. There are many other people to whom the Commissioner is deeply grateful. Hopefully, these people know who they are.

Chapter 7 Exemplary Practices

A great deal has been accomplished in the recognition of the rights of Ontario's Francophones. There are numerous examples of actions and reforms to promote the development of Ontario's Francophone community. The Commissioner firmly believes in the saying « success attracts success ». Therefore, here is a list⁴³ of some recent outstanding achievements.

7.1 *Télévision française de l'Ontario (TFO)*

In 1967, the government of John P. Robarts responded to the demands of groups defending the Franco-Ontarian cause including the *Association canadienne-française de l'Ontario (ACFO)*, by creating the *Comité franco-ontarien d'enquête culturelle*. Under the chairmanship of Roger Saint-Denis, a member of the board of directors of the Ontario Arts Council, this committee launched an investigation into Franco-Ontarian participation in the arts and culture in Ontario. Two years later, it tabled a report that was pessimistic, to say the least.⁴⁴

The report was entitled *La Vie culturelle des Franco-Ontariens* and it was better known as the Saint-Denis Report. Drawing on its recommendations, Premier Robarts created the Franco-Ontarian Arts Office of the Ontario Arts Council and a French Language Section, the precursor to *TFO*, as a means of fighting the assimilation of the Franco-Ontarian community.

Recently relocated, *TFO*, TVOntario's French-language network, started broadcasting in 1987. It became an active participant in the development and vitality of Ontario's Francophone community, especially through its programming for French-language schools, which airs on television and over the Internet.

On April 1, 2007, *TFO* became an independent body with its own board of directors. On April 8, 2008, Education Minister, the Honourable Kathleen Wynne tabled a legislation giving the French-language network independence and budget autonomy from the English-language network, *TVO*.

7.2 *The aménagement linguistique policy*

In October 2004, the Ontario Ministry of Education launched a language planning policy for Ontario's French-language schools and the Francophone community called the *Politique d'aménagement linguistique*, or *aménagement linguistique* policy. The first of its kind in Canada, this policy is designed to help Ontario's Francophone students preserve their culture, strengthen their pride, and improve their academic achievement through a French-language education system of the highest quality that meets the specific needs of this community.

The culmination of a collective effort, the *aménagement linguistique* policy promoting the fulfilment of the mandate of the province's French-language schools was designed by

⁴³ The Commissioner draws its inspiration from a list received from the Office of Francophone Affairs.

⁴⁴ Dennie, *supra* note 9, p. 379.

Ontario's 12 French-language school boards, in cooperation with the parents of students and community organizations.⁴⁵ The role of each school board consists of planning targeted activities based on an analysis of the situation and on needs adapted to Francophone students who are learning in a minority setting.

7.3 Advisory councils and committees

In recent years, French-language advisory councils and committees on education, health services, and the seniors have been created to meet the needs of Ontario's Francophone community.

- French Language Health Services Advisory Council

The French Language Health Services Advisory Council was created in November 2007 under the *Local Health System Integration Act, 2006*, to advise and provide recommendations to the Minister of Health and Long-Term Care on health and service delivery issues related to Francophone communities.⁴⁶ As a participant in the development of policies and strategies, the Council also makes recommendations to promote access to care, in French, for Ontario's Francophones. Its chair was appointed by the Government of Ontario. Seven community organizations and associations are represented on the Council.

- Francophone Advisory Committee for the Canada-Ontario partnership on the promotion of official languages - Ontario Seniors' Secretariat

In 2004, the Ontario Seniors' Secretariat partnered with the *Fédération des Aînés et des retraités Francophones de l'Ontario (FAFO)* to establish a Francophone Senior Advisory Committee to organize and deliver Francophone Seniors Information Fairs across Ontario. Since 2004, 35 fairs have been held, and more than 5,000 seniors have attended. The committee meets bimonthly via teleconference and face-to-face each Fall.⁴⁷

- French Language Expert Panel for Educators

As part of the Domestic Violence Action Plan, the Government of Ontario created, for a two year mandate, an expert panel for educators working in the field of French-language education. The French Language Expert Panel for Educators has developed training

⁴⁵ Ministry of Education of Ontario, *Ontario's aménagement linguistique policy for French-language Education*, Toronto, 2004. Available online:

www.edu.gov.on.ca/eng/document/policy/linguistique/linguistique.pdf

⁴⁶ Ministry of Health and Long-Term Care of Ontario. *Backgrounder, French Language Health Services Advisory Council*, Toronto, November 26, 2007. Available online:

www.health.gov.on.ca/english/media/news_releases/archives/nr_07/nov/french_languages_council_bg_07_20071123.pdf

⁴⁷ Office of Francophone Affairs. Available online: www.ofa.gov.on.ca/francais/loi-fiche.html website consulted in April 2008).

materials and an implementation plan in order to respond more adequately to the needs of French-language educators.⁴⁸

In addition to readily downloadable resources, workshops are being held in the province's 12 French-language school boards to make teachers aware of methods for identifying and supporting children who have witnessed or experienced violence in their home. The *Association des directions et directions adjointes des écoles franco-ontariennes (ADFO)*, which represents all French-language elementary, secondary, public, and Catholic schools in Ontario, is responsible for the rollout of the training to French-language educators across Ontario.

- Elementary and Secondary French-language Education Task Force

In March 2006, the Government of Ontario decided to create a permanent Elementary and Secondary French-language Education Task Force to address the unique challenges faced by Francophone students. Meeting every three months, this task force advises the Education Minister on matters affecting the Francophone community, such as reducing assimilation, promoting French culture, and retaining Francophone students.⁴⁹

- Forum on Linguistic Duality

In the Fall of 2006, as part of the events marking the 20th anniversary of the *French Language Services Act*, the Ministry of Community and Social Services and the Ministry of Children and Youth Services created a forum on community development and linguistic duality.⁵⁰ With representatives from the ministries and agencies and stakeholders in the Francophone community, this forum brought together over 300 participants and made it possible to identify priorities in the form of recommendations for more adequately meeting the needs and current realities of Ontario's Francophone community.

These recommendations provided the foundation for the development of a concrete action plan by the various ministries. In 2007, they reported on progress in the area of French-language services, based on priorities that had been established by the community.

⁴⁸ Ontario Women's Directorate. *Training for Professionals and Service Providers*. Available online: www.citizenship.gov.on.ca/owd/english/resources/training/ (website consulted in April 2008).

⁴⁹ Ministry of Education of Ontario. *Press Release*, Toronto, March 14, 2006. Available online: www.ogov.newswire.ca/ontario/GPOE/2006/03/14/c2080.html?lmatch=&lang=_e.html

⁵⁰ Speech by the Honourable Madeleine Meilleur, Minister responsible for Francophone Affairs and Minister of Culture, at the launch of the celebrations for the 20th anniversary of the *French Language Services Act* in March 2006 in Toronto.

7.4 Ontario Francophonie Awards

Created in 2006 by the Government of Ontario, the Ontario *Francophonie Awards* honour individuals who have contributed to the development of the province's Francophone community and who have played a key role in its vitality.⁵¹

The Ontario *Francophonie Awards* are presented every two years to Francophones and Francophiles who have actively participated in the political, social, and economic prosperity and vitality of Ontario's Francophone community. An independent selection committee, appointed by the Minister Responsible for Francophone Affairs, considers all nominations before selecting the recipients.

7.5 *Carrières en justice*

Carrières en justice [Careers in Justice] is a perfect example of an initiative piloted by the *Association des juristes d'expression française de l'Ontario (AJEFO)*, with support from other organizations and two levels of government. *Carrières en justice* was designed to introduce young bilingual Canadians to careers, trades, and professions in law and in the justice system in order to address the shortage of qualified professionals in these fields.

Launched in September 2007, *carrieresjustice.ca* is intended for high school students. It provides them with an opportunity to explore different careers in justice through fun video clips.⁵²

⁵¹ Office of Francophone Affairs. Available online: www.ofa.gov.on.ca/docs/francophonie2008form.html (website consulted in April 2008).

⁵² *Association des juristes d'expression française de l'Ontario*. Available online: www.carrieresenjustice.ca/ (website consulted in April 2008).

Conclusion

In 2007, Ontario's Francophones witnessed many important changes within their community, the first of which was the creation of a position for a French Language Services Commissioner. The diligence with which the first Commissioner was appointed and the speed with which the Office of the Commissioner of French Language Services was set up reflect hard work and determination on the part of many different individuals, primarily within the Government of Ontario. The Commissioner has acknowledged and highlighted the leadership demonstrated by the Premier and the Minister Responsible for Francophone Affairs in amending the *French Language Services Act* so expeditiously. It was important to breathe new life into the *Act*, both for the Francophone communities and for government organizations.

In his first annual report, the Commissioner set out his role and his vision and the mandate of the new Office of the Commissioner of French Language Services. He stated that Ontario's Francophones must develop a habit of asking for high-quality services in French. He emphasized the need not to hesitate to complain if such a request becomes a problem. And he will continue to make this point. The Commissioner believes that complaints are one way in which the public can provide the government with direct feedback.

In Ontario, citizens have the right to receive high-quality French-language services from government institutions. These institutions must actively offer French-language services in order to create a demand for them. In his report, the Commissioner reiterated the vital purpose of the services that are offered to the province's Francophone clientele; the development of the Francophone community depends upon access to French-language services. These services must meet the needs of the specific clientele of each provincial government institution or agency. The Commissioner stated clearly that these services must be thought through, developed, and implemented with these needs in mind, identified by the government. For this reason, it is his firm intention to closely monitor the way in which the concept of active offer is actually applied in the delivery of services.

One of the ways in which the planning of high-quality French-language services can be facilitated is to give the French Language Service Coordinators back the role that the framer of the *French Language Services Act* intended for them. The Coordinators must be able to directly influence on the directions and design of the policies, programs, services, and products of every government organization contemplated in the *Act*—right from the strategic planning stage. The Commissioner made a recommendation for this. The attention paid to this issue over the next few years will be critical.

Moreover, the Commissioner noted that, in the case of government services delivered by a third party, the application of the *Act* may not be accurate or fully reinforced. A government institution cannot circumvent its language requirements, simply because a third party is offering a service on its behalf. The same is true of public-private partnerships. The Commissioner therefore recommended to the Minister that a regulation on this matter be adopted.

Lastly, the health system can seem complex and intimidating for members of the public, who really just want quality services for themselves and for their loved ones. In this

context, getting acknowledgement of their right to receive service in French is not an easy thing. A vulnerable health care situation is hardly the time to be taking on this challenge. The Commissioner is particularly interested in this issue. After seven months in office, he wants to *pave the way* for improvements in regards to French-language health care services, by seeing the system from the standpoint of a Francophone health care consumer. Indeed, the Commissioner has announced that he plans to prepare a special report on this issue in the next year.

Appendix A

The Creation of the Office

On August 1, 2007, the government announced the appointment of François Boileau as Ontario's first French Language Services Commissioner. The Commissioner took office on September 4, 2007, for a period of two years. His priorities were to familiarize himself with the government's policies and directives, to set up an office, and to hire staff on an interim basis to support him in his duties.

In mid-October 2007, Administrative Assistant Madalina Petre and Acting Analyst-Investigator Claude Roy joined the Commissioner. Both of these individuals played a key role in setting up the new Office of the Commissioner.

The permanent quarters are located both in Toronto's emerging Francophone neighbourhood and at the centre of decision-making at Queen's Park.

The Commissioner felt that it was important for the Office to be functional as quickly as possible. By mutual agreement, complaints were transferred from the Office of Francophone Affairs to the Office of the Commissioner on November 1, 2007. Clearly, in the first few months following the creation of the Office of the Commissioner, priority was given to hiring staff and creating a website.

Since then, the Office of the Commissioner has devised its own simple, friendly, and dynamic visual identity. A communications plan has complemented the development of the website.

Permanent staff

The staff of the Office of the Commissioner is made up of competent, young, dynamic, and diverse people. The following permanent positions have been filled:

Jocelyne Samson, Senior Analyst, Investigations

Mohamed Ghaleb, Analyst, Research and Monitoring

Anne Nguyen, Administrative Assistant to the Commissioner

In addition, the Office of the Commissioner can count on the support of Marie-Eve Pépin, Public Relations and Communications Officer, until the position is posted.⁵³

Diversity

The Office of the Commissioner believes in, and fully adheres to, the Government of Ontario's policy on diversity. The Office of the Commissioner has made a firm commitment to take whatever steps are necessary in order to remove obstacles, whatever form they may take.

French Ontario is a vibrant, dynamic, inclusive, and multicultural community. The Office of the Commissioner is proud to have a team that is representative of Ontario's French community as it is now and as it will be in the future.

⁵³This position could not be posted in time for the 2007-2008 fiscal year.

Appendix B

French Language Services Act R.S.O. 1990, CHAPTER F.32

Consolidation Period: From August 20, 2007 to the e-Laws currency date.

Last amendment: 2007, c. 8, s. 204.

Preamble

Whereas the French language is an historic and honoured language in Ontario and recognized by the Constitution as an official language in Canada; and whereas in Ontario the French language is recognized as an official language in the courts and in education; and whereas the Legislative Assembly recognizes the contribution of the cultural heritage of the French speaking population and wishes to preserve it for future generations; and whereas it is desirable to guarantee the use of the French language in institutions of the Legislature and the Government of Ontario, as provided in this Act;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“Commissioner” means the French Language Services Commissioner appointed under section 12.1; (“commissaire”)

“government agency” means,

- (a) a ministry of the Government of Ontario, except that a psychiatric facility, residential facility or college of applied arts and technology that is administered by a ministry is not included unless it is designated as a public service agency by the regulations,
- (b) a board, commission or corporation the majority of whose members or directors are appointed by the Lieutenant Governor in Council,
- (c) a non-profit corporation or similar entity that provides a service to the public, is subsidized in whole or in part by public money and is designated as a public service agency by the regulations,
- (d) a nursing home as defined in the *Nursing Homes Act* or a home for special care as defined in the *Homes for Special Care Act* that is designated as a public service agency by the regulations,

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (d) is repealed by the Statutes of Ontario, 2007, chapter 8, section 204 and the following substituted:

(d) a long-term care home as defined in the *Long-Term Care Homes Act, 2007* that is designated as a public service agency by the regulations, other than a municipal home or joint home established under Part VIII of the *Long-Term Care Homes Act, 2007*, or a home for special care as defined in the

Homes for Special Care Act that is designated as a public service agency by the regulations,

See: 2007, c. 8, ss. 204, 232 (2).

(e) a service provider as defined in the *Child and Family Services Act* or a board as defined in the *District Social Services Administration Boards Act* that is designated as a public service agency by the regulations,

and does not include a municipality, or a local board as defined in the *Municipal Affairs Act*, other than a local board that is designated under clause (e); (“organisme gouvernemental”)

“service” means any service or procedure that is provided to the public by a government agency or institution of the Legislature and includes all communications for the purpose. (“service”) R.S.O. 1990, c. F.32, s. 1; 1997, c. 25, Sched. E, s. 3; 2007, c. 7, Sched. 16, s. 1.

Provision of services in French

2. The Government of Ontario shall ensure that services are provided in French in accordance with this Act. R.S.O. 1990, c. F.32, s. 2.

Use of English or French in Legislative Assembly

3. (1) Everyone has the right to use English or French in the debates and other proceedings of the Legislative Assembly. R.S.O. 1990, c. F.32, s. 3 (1).

Bills and Acts of the Assembly

(2) The public Bills of the Legislative Assembly introduced after the 1st day of January, 1991 shall be introduced and enacted in both English and French. R.S.O. 1990, c. F.32, s. 3 (2).

Translation of Statutes

4. (1) Before the 31st day of December, 1991, the Attorney General shall cause to be translated into French a consolidation of the public general statutes of Ontario that were re-enacted in the Revised Statutes of Ontario, 1980, or enacted in English only after the coming into force of the Revised Statutes of Ontario, 1980, and that are in force on the 31st day of December, 1990. R.S.O. 1990, c. F.32, s. 4 (1).

Enactment

(2) The Attorney General shall present the translations referred to in subsection (1) to the Legislative Assembly for enactment. R.S.O. 1990, c. F.32, s. 4 (2).

Translation of regulations

(3) The Attorney General shall cause to be translated into French such regulations as the Attorney General considers appropriate and shall recommend the translations to the Executive Council or other regulation-making authority for adoption. R.S.O. 1990, c. F.32, s. 4 (3).

Right to services in French

5. (1) A person has the right in accordance with this Act to communicate in French with, and to receive available services in French from, any head or central office of a government agency or institution of the Legislature, and has the same right in respect of any other office of such agency or institution that is located in or serves an area designated in the Schedule. R.S.O. 1990, c. F.32, s. 5 (1).

Duplication of services

[\(2\)](#) When the same service is provided by more than one office in a designated area, the Lieutenant Governor in Council may designate one or more of those offices to provide the service in French if the Lieutenant Governor in Council is of the opinion that the public in the designated area will thereby have reasonable access to the service in French. R.S.O. 1990, c. F.32, s. 5 (2).

Idem

[\(3\)](#) If one or more offices are designated under subsection (2), subsection (1) does not apply in respect of the service provided by the other offices in the designated area. R.S.O. 1990, c. F.32, s. 5 (3).

Existing practice protected

[6.](#) This Act shall not be construed to limit the use of the English or French language outside of the application of this Act. R.S.O. 1990, c. F.32, s. 6.

Limitation of obligations of government agencies, etc.

[7.](#) The obligations of government agencies and institutions of the Legislature under this Act are subject to such limits as circumstances make reasonable and necessary, if all reasonable measures and plans for compliance with this Act have been taken or made. R.S.O. 1990, c. F.32, s. 7.

Regulations

[8.](#) The Lieutenant Governor in Council may make regulations,

- (a) designating public service agencies for the purpose of the definition of “government agency”;
- (b) amending the Schedule by adding areas to it;
- (c) exempting services from the application of sections 2 and 5 where, in the opinion of the Lieutenant Governor in Council, it is reasonable and necessary to do so and where the exemption does not derogate from the general purpose and intent of this Act. R.S.O. 1990, c. F.32, s. 8.

Public service agencies; limited designation

[9. \(1\)](#) A regulation designating a public service agency may limit the designation to apply only in respect of specified services provided by the agency, or may specify services that are excluded from the designation. R.S.O. 1990, c. F.32, s. 9 (1).

Consent of university

[\(2\)](#) A regulation made under this Act that applies to a university is not effective without the university’s consent. R.S.O. 1990, c. F.32, s. 9 (2).

Notice and comment re exempting regulation, etc.

[10. \(1\)](#) This section applies to a regulation,

- (a) exempting a service under clause 8 (1) (c);
- (b) revoking the designation of a public service agency;
- (c) amending a regulation designating a public service agency so as to exclude or remove a service from the designation. R.S.O. 1990, c. F.32, s. 10 (1).

Idem

[\(2\)](#) A regulation to which this section applies shall not be made until at least forty-five days after a notice has been published in *The Ontario Gazette* and a newspaper of general circulation in Ontario setting forth the substance of the proposed regulation and

inviting comments to be submitted to the Minister responsible for Francophone Affairs. R.S.O. 1990, c. F.32, s. 10 (2).

Idem

(3) After the expiration of the forty-five day period, the regulation with such changes as are considered advisable may be made without further notice. R.S.O. 1990, c. F.32, s. 10 (3).

Responsible Minister

11. (1) The Minister responsible for Francophone Affairs is responsible for the administration of this Act. R.S.O. 1990, c. F.32, s. 11 (1).

Functions

(2) The functions of the Minister are to develop and co-ordinate the policies and programs of the government relating to Francophone Affairs and the provision of French language services and for the purpose, the Minister may,

- (a) prepare and recommend government plans, policies and priorities for the provision of French language services;
- (b) co-ordinate, monitor and oversee the implementation of programs of the government for the provision of French language services by government agencies and of programs relating to the use of the French language;
- (c) make recommendations in connection with the financing of government programs for the provision of French language services;
- (d) Repealed: 2007, c. 7, Sched. 16, s. 2 (1).
- (e) require the formulation and submission of government plans for the implementation of this Act and fix time limits for their formulation and submission,

and shall perform such duties as are assigned to the Minister by order in council or by any other Act. R.S.O. 1990, c. F.32, s. 11 (2); 1993, c. 27, Sched.; 2007, c. 7, Sched. 16, s. 2 (1).

Annual report

(3) The Minister, after the close of each fiscal year, shall submit to the Lieutenant Governor in Council an annual report upon the affairs of the Office of Francophone Affairs and shall then lay the report before the Assembly if it is in session or, if not, at the next session. R.S.O. 1990, c. F.32, s. 11 (3).

Regulations

(4) Subject to the approval of the Lieutenant Governor in Council, the Minister responsible for Francophone Affairs may make regulations generally for the better administration of this Act and, without limiting the generality of the foregoing,

- (a) governing the publication of government documents in French;
- (b) governing the provision of services in French under a contract with a person who has agreed to provide services on behalf of a government agency, including the circumstances in which the agency may enter into such a contract. 2007, c. 7, Sched. 16, s. 2 (2).

Office for Francophone Affairs

12. (1) Such employees as are considered necessary shall be appointed under Part III of the *Public Service of Ontario Act, 2006* for the administration of the functions

of the Minister responsible for Francophone Affairs, and shall be known as the Office of Francophone Affairs. R.S.O. 1990, c. F.32, s. 12 (1); 2006, c. 35, Sched. C, s. 48.

Function of Office of Francophone Affairs

- (2) The Office of Francophone Affairs may,
- (a) review the availability and quality of French language services and make recommendations for their improvement;
 - (b) recommend the designation of public service agencies and the addition of designated areas to the Schedule;
 - (c) require non-profit corporations and similar entities, facilities, homes and colleges referred to in the definition of “government agency” to furnish to the Office information that may be relevant in the formulation of recommendations respecting their designation as public service agencies;
 - (d) recommend changes in the plans of government agencies for the provision of French language services;
 - (e) make recommendations in respect of an exemption or proposed exemption of services under clause 8 (1) (c),

and shall perform any other function assigned to it by the Minister responsible for Francophone Affairs, the Executive Council or the Legislative Assembly. R.S.O. 1990, c. F.32, s. 12 (2); 1993, c. 27, Sched.

French Language Services Commissioner

12.1 (1) The Lieutenant Governor in Council shall appoint an individual to act as French Language Services Commissioner. 2007, c. 7, Sched. 16, s. 3.

Official name

(2) The person appointed shall be known in English as the French Language Services Commissioner and in French as commissaire aux services en français. 2007, c. 7, Sched. 16, s. 3.

Office established

(3) There is hereby established an office to be known in English as the Office of the French Language Services Commissioner and in French as Commissariat aux services en français. 2007, c. 7, Sched. 16, s. 3.

Employees

(4) Such employees as are considered necessary shall be appointed under the *Public Service of Ontario Act, 2006* for the administration of the functions of the Office of the French Language Services Commissioner. 2007, c. 7, Sched. 16, s. 3, 4.

Temporary replacement

(5) The Commissioner may designate in writing an employee in his or her office to act on a temporary basis in his or her place when the Commissioner is for any reason unable to carry out his or her functions and, when acting in that capacity, the designate has all the powers of the Commissioner, subject to any conditions, limitations or restrictions set out in the designation. 2007, c. 7, Sched. 16, s. 3.

Immunity

(6) No proceeding shall be commenced against the Commissioner or any employee in the Commissioner’s office for any act done or omitted in good faith in the execution or intended execution of his or her duties under this Act. 2007, c. 7, Sched. 16, s. 3.

Crown liability

[\(7\)](#) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (6) does not relieve the Crown of any liability to which the Crown would otherwise be subject. 2007, c. 7, Sched. 16, s. 3.

Functions of Commissioner

[12.2](#) It is the function of the Commissioner to encourage compliance with this Act by,

- (a) conducting investigations into the extent and quality of compliance with this Act, pursuant to complaints relating to French language services made by any person or on the Commissioner's own initiative;
- (b) preparing reports on investigations, including recommendations for improving the provision of French language services;
- (c) monitoring the progress made by government agencies in providing French language services;
- (d) advising the Minister on matters related to the administration of this Act; and
- (e) performing such other functions as may be assigned to the Commissioner by the Lieutenant Governor in Council. 2007, c. 7, Sched. 16, s. 3.

Commissioner's discretion to investigate complaints

[12.3 \(1\)](#) The Commissioner may, in his or her discretion, decide not to take any action based on a complaint relating to French language services, including refusing to investigate or ceasing to investigate any complaint, if, in his or her opinion,

- (a) the subject-matter of the complaint is trivial;
- (b) the complaint is frivolous or vexatious or is not made in good faith;
- (c) the subject-matter of the complaint has already been investigated and dealt with;
- (d) the subject-matter of the complaint does not involve a contravention of or failure to comply with this Act or, for any other reason, does not come within the authority of the Commissioner under this Act. 2007, c. 7, Sched. 16, s. 3.

Notice to complainant

[\(2\)](#) If the Commissioner decides not to act on a complaint, or to take no further actions with regard to a complaint, he or she shall give the complainant notice in writing of the decision, and of the reasons for it. 2007, c. 7, Sched. 16, s. 3.

Investigations

[12.4 \(1\)](#) Subject to this Act, the Commissioner may determine the procedure to be followed in conducting an investigation. 2007, c. 7, Sched. 16, s. 3.

Notice to be given to deputy head

[\(2\)](#) Before beginning an investigation, the Commissioner shall inform the deputy head or other administrative head of the government agency concerned of his or her intention to conduct an investigation. 2007, c. 7, Sched. 16, s. 3.

Power of commission

[\(3\)](#) For the purposes of conducting an investigation, the Commissioner has the powers of a commission under Part II of the *Public Inquiries Act*, and that Part applies to the investigation as if it were an inquiry under that Act. 2007, c. 7, Sched. 16, s. 3.

Report on results of investigation

- [\(4\)](#) The Commissioner shall report the results of an investigation,
- (a) where the investigation arises from a complaint, to the complainant, the deputy head or other administrative head of the government agency concerned and the Minister;
 - (b) where the investigation is at the Commissioner's own initiative, to the deputy head or other administrative head of the government agency concerned and the Minister. 2007, c. 7, Sched. 16, s. 3.

Annual and special reports

[12.5 \(1\)](#) The Commissioner shall prepare and submit to the Minister responsible for Francophone Affairs an annual report on his or her activities, which may include recommendations for improving the provision of French language services. 2007, c. 7, Sched. 16, s. 3.

Special report

[\(2\)](#) The Commissioner may at any time make a special report to the Minister on any matter related to this Act that, in the opinion of the Commissioner, should not be deferred until the annual report and may request the Minister to submit it to the Speaker of the Assembly to be laid before the Assembly. 2007, c. 7, Sched. 16, s. 3.

Tabling of report

[\(3\)](#) The Minister shall, without delay, submit to the Speaker the annual report and any special report that the Commissioner requests the Minister to submit under subsection (2), and the Speaker shall lay it before the Assembly forthwith if it is in session or, if not, at the next session. 2007, c. 7, Sched. 16, s. 3.

Publication of report

[12.6](#) The Commissioner may publish, in any manner he or she considers appropriate, a report mentioned in this Act 30 days after it has been given to the Minister, unless the Minister consents to the report's earlier publication. 2007, c. 7, Sched. 16, s. 3.

French language services co-ordinators

[13. \(1\)](#) A French language services co-ordinator shall be appointed for each ministry of the government. R.S.O. 1990, c. F.32, s. 13 (1).

Committee

[\(2\)](#) There shall be a committee consisting of the French language services co-ordinators, presided over by the senior official of the Office of Francophone Affairs. R.S.O. 1990, c. F.32, s. 13 (2).

Communication

[\(3\)](#) Each French language services co-ordinator may communicate directly with his or her deputy minister. R.S.O. 1990, c. F.32, s. 13 (3).

Deputy minister

[\(4\)](#) Each deputy minister is accountable to the Executive Council for the implementation of this Act and the quality of the French language services in the ministry. R.S.O. 1990, c. F.32, s. 13 (4).

Municipal by-laws re official languages

[14. \(1\)](#) The council of a municipality that is in an area designated in the Schedule may pass a by-law providing that the administration of the municipality shall be conducted in both English and French and that all or specified municipal services to the public shall be made available in both languages. R.S.O. 1990, c. F.32, s. 14 (1).

Right to services in English and French

[\(2\)](#) When a by-law referred to in subsection (1) is in effect, a person has the right to communicate in English or French with any office of the municipality, and to receive available services to which the by-law applies, in either language. R.S.O. 1990, c. F.32, s. 14 (2).

Regional councils

[\(3\)](#) Where an area designated in the Schedule is in a regional municipality and the council of a municipality in the area passes a by-law under subsection (1), the council of the regional municipality may also pass a by-law under subsection (1) in respect of its administration and services. 2002, c. 17, Sched. F, Table.

SCHEDULE

MUNICIPALITY OR DISTRICT	AREA
City of Greater Sudbury	All
City of Hamilton	All of the City of Hamilton as it exists on December 31, 2000
City of Ottawa	All
City of Toronto	All
Regional Municipality of Niagara	Cities of: Port Colborne and Welland
Regional Municipality of Peel	City of Brampton
Regional Municipality of Peel	City of Mississauga
County of Dundas	Township of Winchester
County of Essex	City of Windsor
	Towns of: Belle River and Tecumseh
	Townships of: Anderdon, Colchester North, Maidstone, Sandwich South, Sandwich West, Tilbury North, Tilbury West and Rochester
County of Glengarry	All
County of Kent	Town of Tilbury
	Townships of: Dover

	and Tilbury East
County of Middlesex	City of London
County of Prescott	All
County of Renfrew	City of Pembroke
	Townships of: Stafford and Westmeath
County of Russell	All
County of Simcoe	Town of Penetanguishene
	Townships of: Tiny and Essa
County of Stormont	All
District of Algoma	All
District of Cochrane	All
District of Kenora	Township of Ignace
District of Nippissing	All
District of Parry Sound	Municipality of Callander
District of Sudbury	All
District of Thunder Bay	Towns of: Geraldton, Longlac and Marathon
	Townships of: Manitouwadge, Beardmore, Nakina and Terrace Bay
District of Timiskaming	All

R.S.O. 1990, c. F.32, Sched.; O. Reg. 407/94, s. 1; 1997, c. 26, Sched.; 1999, c. 14, Sched. F, s. 4; 2000, c. 5, s. 12; O. Reg. 405/04, s. 1.