



# Annual Report of the French Language Services Commissioner of Ontario

OFFICE OF THE OMBUDSMAN OF ONTARIO

2019-2020

  
**Ombudsman**  
ONTARIO

ONTARIO'S WATCHDOG



## Office of the Ombudsman of Ontario

### WHO WE ARE:

An independent, impartial Office of the Ontario Legislature that resolves and investigates public complaints about provincial government bodies, as well as French language services, child protection services, municipalities, universities and school boards.

The Ombudsman recommends solutions to individual and systemic administrative problems. The French Language Services Commissioner makes recommendations to improve the delivery of French language services.

### OUR VALUES:

Fair treatment  
Accountable administration  
Independence, impartiality  
Results: Achieving real change

### OUR MISSION:

We strive to be an agent of positive change by enhancing fairness, accountability and transparency in the public sector, and promoting respect for French language service rights as well as the rights of children and youth.

### OUR VISION:

A public sector that serves citizens in a way that is fair, accountable, transparent and respectful of their rights.

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December 2020

Hon. Ted Arnott, Speaker  
Legislative Assembly  
Province of Ontario  
Queen's Park

Dear Mr. Speaker,

Pursuant to section 12.5 of the *French Language Services Act*, French Language Services Commissioner Kelly Burke and I are pleased to submit the first Annual Report on the activities of my Office under that Act, so that you may table it before the Legislative Assembly.

This report covers the period from May 1, 2019 to September 30, 2020.

I fully support the recommendations made herein by Commissioner Burke. Pursuant to s. 12.5(3) of the Act, a copy of this report will subsequently be provided to the Minister of Francophone Affairs.





Sincerely,



**Paul Dubé**  
Ombudsman

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-  Ontario Ombudsman
-  OntOmbuds

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## Two watchdogs, one access point

On January 13, 2020, I officially took up my duties as French Language Services Commissioner, following a rigorous selection process conducted across the country by the Office of the Ombudsman of Ontario.

It is a privilege for me to become the first French Language Services Commissioner appointed to the Office of the Ombudsman.

As a proud Franco-Ontarian, I have passionately promoted the protection of the language rights of Francophones in Ontario throughout my career, striving for excellence in the delivery of public services in both of Canada's official languages.

My role as Commissioner is to ensure that Francophones have access to the services in French to which they are entitled. I am motivated by a simple motto: **Equivalent service, without delay (s'il vous plaît)!**

When I took office, the novel coronavirus was just beginning to make international headlines. Within a few weeks, everything changed radically. COVID-19 has brought a large number of challenges, from which opportunities emerged to improve the offer of services in French in Ontario. That is the focus of my report.

Despite obstacles, the Office of the Ombudsman has demonstrated its commitment to the French Language Services Unit.

We work consistently to strengthen the expertise within our team, and the Office of the Ombudsman strongly encourages knowledge transfer among all its employees, so that they can develop oversight skills in both English and French.

I also recognize the exceptional work of a team motivated to offer outstanding service to complainants and explore avenues to resolve the issues they raise. I am very proud to report that we have seen results that confirm our work has already had an impact on the lives of many Franco-Ontarians.



Kelly Burke, French Language Services  
Commissioner of Ontario

I would also like to acknowledge the work of the entire Office of the Ombudsman of Ontario, which has contributed to this report as we continue our integration efforts. In the midst of a pandemic, the Office of the Ombudsman is deploying its many strengths and resources to recruit and train staff in the French Language Services Unit, synchronize our computer systems and provide all necessary legal, financial, communications and other services, so that we remain ready to handle complaints about gaps in the delivery of French language services in the province.

“I am very proud to report that we have seen results that confirm our work has already had an impact on the lives of many Franco-Ontarians.”

The Ombudsman’s Annual Report, released on June 30, provided an update on the integration of the French Language Services Unit within the Office of the Ombudsman and an overview of the Unit’s activities since May 1, 2019. This work is of such significance to our organization that we have decided it warrants a separate annual report dedicated to activities and accomplishments in French language services.

Between May 1, 2019 and September 30, 2020, we dealt with 431 complaints and requests from the public. Most of the complaints we received were resolved with significant co-operation from the government of Ontario, its agencies and third parties, as well as organizations that are not obligated to provide services in French but want to make a difference.

I have met with hundreds of stakeholders, public servants and elected officials to better understand the challenges of offering services in French, to promote respect for language rights, and to highlight individual issues raised by complaints and potential systemic problems.

These relationship-building efforts have given me a clear understanding of the barriers to accessing services, whether those barriers are encountered by individual citizens or by the public sector. I wish to convey my appreciation for all the expressions of support and collaboration I have received.

But we still have a lot to do and our work is far from complete. I am determined to build on these successes in the coming years. I remain vigilant and committed to ensuring that the French Language Services Unit remains a centre of excellence that contributes a unique perspective, and applies its expertise in accordance with all other units and teams of the Office of the Ombudsman.

We are laying the foundation of a pillar of oversight that is unique in Canada.

Although Ontario's legislative framework differs from that of the federal government or New Brunswick, where two official languages are recognized, the entire Office of the Ombudsman works to promote the principles of respect for language rights and fairness in the provision of services. The notion of fairness makes it possible to exercise influence in all sectors subject to the Ombudsman's oversight, to strengthen and improve services in both English and French.

To this end, when I took office, my first task was to evaluate the structure of the French Language Services Unit, with a view to integration with the policies and procedures of the Office of the Ombudsman, in accordance with the enabling legislation.

During my first weeks with the Office of the Ombudsman, I learned about its culture, processes and values. I also learned about its objectives for my role as Commissioner, which reflected my personal intentions: To be accessible, proactive, committed and influential. These are values that I share and hold dear to my heart.

I have been able to assess the advantages to working within the Office of the Ombudsman, with its vast jurisdiction and its ability to handle tens of thousands of complaints each year. This Office is not only uniquely positioned to resolve issues directly related to the application of the *French Language Services Act*; it can also identify other opportunities to improve services in French from amongst the broad array of complaints received in all areas of its jurisdiction.

We have been granted an important mandate under the *French Language Services Act*, to ensure that Ontarians have access to quality services in French – with the goal being equivalent services to those provided in English, without delay.

“I remain vigilant and committed to ensuring that the French Language Services Unit remains a centre of excellence that contributes a unique perspective, and applies its expertise in accordance with all other units and teams of the Office of the Ombudsman.”

This context shapes our priorities, as follows:

- Raise awareness about the right to access services in French, and about the role of the Commissioner and the French Language Services Unit within the Office of the Ombudsman, among Ontario Francophones, as well as within the government, its agencies and third parties.
- Demonstrate through concrete outcomes how the government and the public benefit from our oversight of services in French.
- Explore possible avenues of collaboration so that the government and our Office can align our efforts towards a common goal of ensuring that Francophones have access to the services to which they are entitled.
- Promote and raise public awareness of equity in language rights.

All private citizens, agencies, public servants and elected officials I have spoken with have emphasized the important role we play at the Office of the Ombudsman in safeguarding French language services rights. I have also received testimonials of appreciation from complainants about the resolution of their cases, which have already had a concrete impact on access to these services.

At this historic time when French language services are more crucial than ever, the recommendations contained in this report are based on the knowledge we have gained from the complaints we received. My aim in making these recommendations is to develop best practices that will make it possible for the province to improve the offer of services in French in a sustainable and concrete manner.

In union there is strength, and our achievements depend on our concerted efforts. I would like to acknowledge the unreserved commitment of the Ombudsman of Ontario, Paul Dubé, to establish this unique pillar of protection for the rights of Francophones. I also wish to pay tribute to the work done by my predecessor, François Boileau, Ontario's first French Language Services Commissioner, who demonstrated a passion for the Francophonie that I share, and whose efforts continue to fuel our own.



**Kelly Burke**

French Language Services Commissioner of Ontario



# OUR WORK AND METHODS

## About the Office of the Ombudsman

Established in 1975, the Ombudsman of Ontario is an independent Officer of the Legislature, appointed by the Legislative Assembly, who resolves and investigates public complaints about the Ontario government and broader public sector services. The Ombudsman's jurisdiction includes all provincial government ministries, agencies, corporations, boards, commissions and tribunals, as well as municipalities, universities and school boards.

As of May 1, 2019, the Ombudsman's jurisdiction was extended to child protection services and French language services.

Under the *Ombudsman Act*, the Ombudsman's jurisdiction does not include: Provincial politicians, decisions of judges or courts, patient care at hospitals and long-term care facilities, professional associations (e.g., doctors, lawyers, teachers), or police. We also have no jurisdiction over federal government or private sector organizations.

However, we can take complaints about French language services provided by certain hospitals, long-term care homes and other bodies specified in the regulations to the *French Language Services Act*.

Our Office handles more than 25,000 complaints per year, most of which are resolved without formal investigation. The Ombudsman publishes reports with recommendations when he conducts individual and systemic investigations. He also publishes an Annual Report each June, which includes complaint statistics and highlights of the work of all areas of our Office – including the French Language Services Unit.



**March 5, 2020:** French Language Services Commissioner Kelly Burke and Ombudsman Paul Dubé, at our Office.

## Role of the Ombudsman

The role of an ombudsman is to enhance governance by promoting transparency, accountability, and fairness within government and the public sector, as well as promoting and protecting the rights of citizens.

The ombudsman institution – also known as *protecteur du citoyen*, *défenseur des droits*, or *médiateur* in Francophone countries, and as citizen’s representative, public protector or human rights defender in many others – has evolved over 200 years and proliferated around the world. It has proven itself as one of the most effective features of democracy for enhancing governance and protecting and promoting rights.

The institution of the parliamentary ombudsman – independent of government and responsible to the legislative assembly – originated in Sweden. The title of “Ombudsman” is Swedish for “citizen’s representative” and is considered to be gender-neutral. Promoting language rights is part of the ombudsman’s role in many countries.

The hallmarks of the ombudsman institution are:

- **Independence** – The Ombudsman is independent of government, political parties and stakeholders.
- **Impartiality** – The Ombudsman does not advocate for individual complainants, groups or public sector bodies; the Ombudsman only advocates for fairness, and for recommendations he makes based on evidence.
- **Confidentiality** – All complaints to the Ombudsman are confidential, and investigations are conducted in private.
- **Procedural fairness** – The Ombudsman’s complaint handling and investigative processes are evidence-based, and organizations under investigation are given the opportunity to respond.
- **Power to investigate and to recommend, not enforce** – Public sector bodies are required to co-operate with the Ombudsman’s investigations, but the Ombudsman can only make recommendations for change. Most of the Ombudsman’s recommendations are accepted and implemented, because they are evidence-based, constructive, feasible and stem from effective investigative methods.

## Role of the French Language Services Commissioner

Ontario's *French Language Services Act* has been in effect since 1989, ensuring the linguistic rights of Franco-Ontarians through the delivery of provincial government services in French at head offices and in designated areas throughout the province. The role of French Language Services Commissioner was established in 2007 as an office within the government, to review public complaints and ensure compliance with the Act.

Under the *French Language Services Act*, the Commissioner can review complaints about the offer of services in French by or on behalf of government agencies and institutions of the Legislature. These include ministries, boards, commissions and corporations that have a majority of members and directors appointed by the Lieutenant-Governor in council, as well as agencies designated in O. Reg. 398/93. The regulation specifies more than 250 hospitals, long-term care facilities, daycares, universities, and other public sector or non-profit entities.

In 2013, the Commissioner was made an independent officer of the Legislature, like the Ombudsman. In 2019, new legislation took effect that transferred the Commissioner's responsibilities to the Ombudsman and required the Ombudsman to appoint a Deputy Ombudsman to be known as the French Language Services Commissioner.

The powers and functions of the Ombudsman and Commissioner with respect to French language services are the same as those of the former Commissioner. We are required by the Act to ensure there is an Annual Report of the French Language Services Commissioner, which is to include recommendations for improving the provision of French language services. To emphasize the importance of this work, we have decided that the Commissioner's report will be published separately from the Ombudsman's Annual Report.



As part of our Office, the Commissioner is completely independent of government, political parties, individual complainants and interest groups. Like the Ombudsman, the Commissioner has the power to make recommendations, and uses moral suasion – not legal authority – to ensure they are accepted. Her recommendations are based on evidence gathered through the assessment of complaints and interaction with citizens, government agencies, and officials as well as an analysis of relevant legislation.

The Commissioner leads the French Language Services Unit – a team of Early Resolution Officers, Investigators and research staff that is fully supported by the Ombudsman’s Legal Services, Communications, Finance and Information Technology, and Human Resources teams. The Commissioner and the Director of Operations, French Language Services Unit are members of the Ombudsman’s Executive Management Team.

## What we do

Beyond the Commissioner’s principal focus on answering questions from our stakeholders and informing Franco-Ontarians about their rights, her work involves three areas in particular:

- Creating productive and appropriate relationships;
- Being proactive through education and by disseminating information; and
- Managing complaints.

## The importance of complaints

Complaints allow us to:

- Raise awareness among Francophones in Ontario and the government about the right of access to services in French;
- Explain the role of the French Language Services Unit;
- Explore possible avenues of collaboration between the government and the Office of the Ombudsman;
- Demonstrate concrete results; and
- Promote equity in language rights

Since we operate as an independent and impartial institution, we have a special relationship with the people of Ontario. The complaints we receive allow us to hear directly from those who feel their rights are not being respected or who believe they are being treated unfairly by the government. By listening to these complaints and making inquiries of public sector organizations, we have a unique perspective that allows us to assess whether services are well-matched to needs, and to make recommendations to remedy service gaps, where necessary.

Complaints are therefore essential. They unearth issues and give us the opportunity to resolve them by suggesting solutions based on concrete evidence.

A complaint also presents unique opportunities:

- To inform people of their rights;
- To understand their realities and experiences;
- To connect with members of the public and provide them with direct services;
- To review and analyze the policies and procedures of public organizations and identify issues to be resolved;
- To provide feedback and raise awareness among the public sector about the impact of policies and procedures on Francophones; and
- To be proactive by presenting public sector bodies with concrete, evidence-based solutions so they can improve their services in a way that respects the right to French language services and promotes Francophone culture in Ontario.

“Since we operate as an independent and impartial institution, we have a special relationship with the people of Ontario. The complaints we receive allow us to hear directly from those who feel their rights are not being respected or who believe they are being treated unfairly by the government.”

These are the reasons why complaints and complainants lie at the heart of all that we do. Our role is to improve governance by promoting fairness and respect for the rights of citizens. We are committed to our mission and we welcome complaints from people who feel their rights have been ignored.

We seek to fully understand a **complaint**, identify the **facts**, and measure the **impact** of the lack of French language services on the lives of complainants.

There are as many ways to deal with a complaint as there are complaints. Our strategies are adapted to each individual case and are aimed at a quick and efficient resolution with those directly involved, according to our principles of early resolution. We resolve the majority of our complaints without need for formal investigation.

When we receive a complaint, **we communicate with the parties involved**, whether this concerns the government, its agencies or third parties.

We conduct our analysis and then continue the efforts required to reach a resolution. Our goal is to resolve complaints as quickly as possible with the people directly concerned.

Occasionally, when cases can be handled quickly and efficiently by the organizations involved, we refer complainants to them. We are an **office of last resort**, but this does not mean that people cannot contact us directly regarding a lack of services in French.

Before making a referral, however, we ensure that there is a French language complaint mechanism and a contact person to guide complainants. Even in cases where the complaint lies outside our jurisdiction, we will still try to identify resources that complainants can use in their attempt to obtain service in French.

The concept of last resort allows us to call on the organizations involved in complaints to be accountable, and to ensure that they can address issues and, if needed, resolve them efficiently.

But we remain vigilant. Complainants who are not satisfied with the response they received may contact us again.

This complaint handling process is based on **best practices**, something for which ombudsman offices are internationally recognized. This approach also allows us to deal with public complaints in a timely manner. Last year, the Office of the Ombudsman handled 26,423 complaints, of which more than half, or 64%, were resolved within two weeks.

Complaints also allow us to have conversations based on concrete facts. **Facts are catalysts for change.** With facts, we can point out to government, its agencies and third parties where improvements are needed.

## Proactive work

Our role involves showing leadership in several areas. We work proactively to promote and protect rights; we educate and liaise; we resolve complaints; we investigate, monitor and report.

We are not content to wait for issues to come to our attention through complaints or news. By virtue of our ongoing interactions with key stakeholders, our one-on-one conversations with members of the Franco-Ontarian community, and our engagement with government and various agencies and organizations, we can often resolve issues long before they lead to complaints.

In addition to receiving complaints and grievances from Francophones who feel that their rights to French language services have not been respected, we build productive and appropriate relationships with the government, its agencies, third parties, Ontario's Francophone community and all those who have an interest in French language services across the province.

“Ontario Health contacted me as soon as I took office to consult me regularly on health system transformation. In particular, we were pleased to be able to offer our perspective on the first reference framework for French language services issued by Ontario Health, which I congratulate for its commitment.”

– Kelly Burke, French Language Services Commissioner of Ontario



One example of this is a recent discussion between the Commissioner, the Ombudsman, and Ottawa Mayor Jim Watson to discuss common objectives for supporting the vitality of Ottawa’s Francophone community, by recognizing our respective powers and responsibilities to do so. The Mayor noted on Twitter: “We have a very good relationship and want to continue to improve the services/programs we offer to Ottawa’s Francophone residents.”

The Commissioner not only meets with and listens to citizens, as well as many Francophone associations across the province, she also communicates regularly with the Minister of Francophone Affairs, the Premier, and the leaders of all opposition parties, as well as other elected officials. The Commissioner has had more than 60 such interactions and has connected with most ministries and deputy ministers. She addressed the Council of Deputy Ministers in August 2020.

Moreover, the Commissioner meets regularly with her counterparts across the country and around the world, such as the Official Languages Commissioners of Canada and New Brunswick and the members of the International Association of Language Commissioners, of which she is an executive member. She also meets regularly with stakeholders, individually and at public events.

Thanks to these relationships and the information gathered by the Office of the Ombudsman, the Commissioner is uniquely positioned. She can inform the government of the concerns of Francophones in Ontario and their experiences with government services in French, and recommend changes – all based on concrete facts.

“The European mediator, Emily O’Reilly, wrote this in her recent annual report: “To be effective, mediation institutions must develop constructive relationships with the organizations whose work they review.” I share her view and I am constantly working to build relationships with the public service and the government.”

– Kelly Burke, French Language Services Commissioner of Ontario



## Communications and outreach

From the very first day that the Ombudsman’s oversight of French language services took effect (May 1, 2019), our Office ensured that we were visible and accessible to the Franco-Ontarian community, through the media, events and meetings with stakeholders, and public statements. As noted in the Ombudsman’s 2019-2020 Annual Report, Ombudsman Paul Dubé participated in many of these activities prior to the appointment of Commissioner Burke. He also hosted the June 2019 conference of the International Association of Language Commissioners in Toronto.

During the first three months of 2020, the Commissioner actively participated in outreach activities with key stakeholders from the Ontario and municipal governments and members of the Francophone community. She also took part in many Franco-Ontarian community events and roundtables throughout the province, including in Ottawa, Sudbury and the Greater Toronto Area.

The coronavirus pandemic has forced all organizations to rethink the way they work and to make use of videoconferencing and online events, as well as recording video messages. The Commissioner’s activities since March 18, 2020 reflect this adaptation to the special circumstances that have become familiar to all of us.

Between January 13 and September 30, 2020, the Commissioner participated in 21 events, 18 meetings with counterparts or representatives of Canadian or international organizations, and 36 meetings or interactions with Franco-Ontarian stakeholders and community organizations.

Since the pandemic forced the Office of the Ombudsman to work remotely, the Commissioner has recorded more than 10 videos, both in the form of messages recorded at the request of stakeholders and messages to the general public, entitled “La minute de la Commissaire (The Commissioner’s Minute).” She has also posted several statements on the Office’s website and published messages on social media.

Finally, in addition to the media questions she answered at the press conference following her appointment in January and those she responds to from journalists on a regular basis, she has taken part in five media interviews with print and radio reporters.

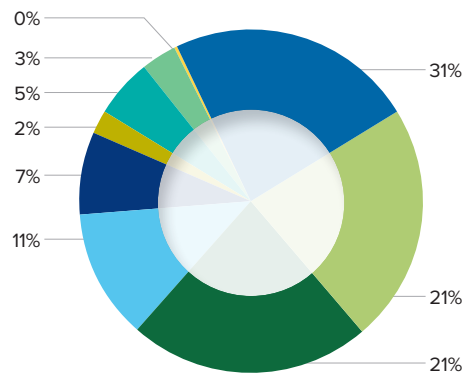
# 2019-2020 HIGHLIGHTS

## Complaints and inquiries received

May 1, 2019 - September 30, 2020

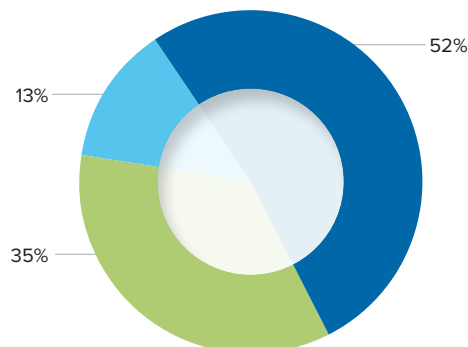


**431**  
cases



## Types of complaints

- In-person services
- Online services
- Written communications
- Social media
- Signage on government buildings
- Highway signage
- Telephone services
- Fines
- Other



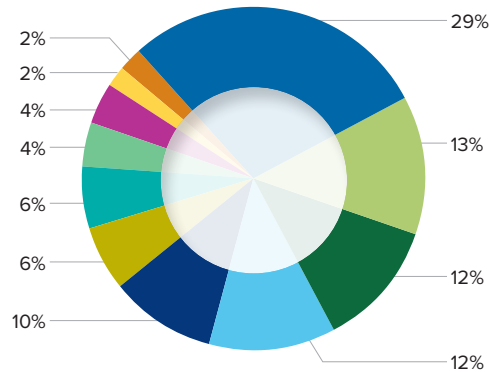
## Disposition of cases

- Within jurisdiction
- Outside jurisdiction
- In progress/under review

# 2019-2020 HIGHLIGHTS

## Most complained-about organizations

- Cabinet Office
- Ministry of Health
- Ministry of the Solicitor General
- Ministry of the Attorney General
- Ministry of Transportation
- Ministry of Government and Consumer Services
- Ministry of Education
- Ministry of Colleges and Universities
- Ministry of Energy, Northern Development and Mines
- Ministry of Labour
- Ministry of Children, Community and Social Services



## Communications and outreach

Events attended, in-person and virtual

**21**

Meetings and exchanges with government ministers and deputy ministers

**60**



Meetings with Canadian and international counterparts and organizations



**18**

Videos and statements published

**30**



Meetings and exchanges with Franco-Ontarian community stakeholders and groups

**36**

# 2019-2020 AT A GLANCE

**Ontario Ombudsman** @Ont\_Ombudsman

Already in my third week as Commissioner and meetings with stakeholders are underway. Great to have the opportunity to meet with @C\_Mulrone today to share an early vision for our French Language Services Unit and how I will engage with the community – Kelly Burke



3:10 PM · Jan 28, 2020 · Hootsuite Inc.

**Ontario Ombudsman** @Ont\_Ombudsman

Very pleased to witness the outcome of the exceptional work bringing la Maison de la francophonie to fruition. It's a terrific example of community engagement to enhance francophone service delivery. Congratulations to all the contributors! @cmfoottawa @Ottawacepeo - Kelly Burke



7:52 PM · Jan 30, 2020 · Twitter for iPhone

**Ontario Ombudsman** @Ont\_Ombudsman

"We wish to congratulate the many people who have contributed to this historic project @universityON @DyaneAdam." (Paul Dubé and Kelly Burke)



10:43 AM · Feb 26, 2020 · Twitter for iPhone

**Ontario Ombudsman** @Ont\_Ombudsman

Productive meeting with the Official Languages Commissioners of Canada @OCOLCanada and New Brunswick @COLNB2. Collaboration, access to French language services and bilingual workforce among topics of common interest. (KB) #officiallanguages



7:44 PM · Mar 11, 2020 · Twitter for iPhone

**Ontario Ombudsman** @Ont\_Ombudsman

Roundtable @MonAssemblee in Sudbury: informative discussions on the realities of Northern Ontario. As I said, write us or call us! My team at the French Language Services Unit is there to respond to your concerns. (KB)



3:08 PM · Mar 12, 2020 · Hootsuite Inc.

**Ontario Ombudsman** @Ont\_Ombudsman

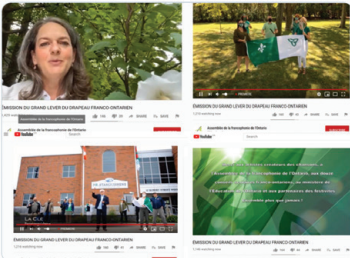
Why is the month of September important for Francophones in Ontario? Commissioner Burke gives her point of view in her fifth video. Watch and share her videos, ask your questions: 1 866-246-5262 | sf-fls@ombudsman.on.ca ombudsman.on.ca/resources/vid... #onfr #FrenchLanguageServicesAct



11:30 AM · Sep 8, 2020 · Hootsuite Inc.

**Ontario Ombudsman** @Ont\_Ombudsman

Thank you to @MonAssemblee for including me in the virtual Franco-Ontarian flag raising ceremony across Ontario this morning, with all the members of the Franco-Ontarian community and their very creative videos! (KB) #FrancoOntarianDay



L'Assemblée @MonAssemblee · Sep 25  
Branchez vous dès 10h45 pour vivre l'ÉMISSION DU GRAND LEVER DE DRAPEAU FRANCO-ONTARIEN! youtube.be/yMBRIToxfOY

4:20 PM · Sep 25, 2020 · Twitter Web App

**Ontario Ombudsman** @Ont\_Ombudsman

I would like to thank @LaurentianU, @UofSudbury and l'ACFO du Grand Sudbury for inviting me to take part in this successful 45th flag raising ceremony at the University of Sudbury this morning! #FrancoOntarianDay (KB)



Caroline Mulrone

University of Sudbury / Université de Sudbury @UofSudbury · Sep 25  
C'est CE MATIN!!! usudbury.ca/fr/nouvelles/n...  
THIS MORNING! usudbury.ca/en/news/curren...

4:11 PM · Sep 25, 2020 · Twitter Web App

**Ontario Ombudsman** @Ont\_Ombudsman

"My vision: Services [in French] that are equivalent to those in English, and without delay. Nothing happens in the Francophonie unless we are united in our efforts. It takes a group, motivated people and a collaborative approach." (KB)

L'Assemblée @MonAssemblee · Oct 19  
#RAV2020 Le premier épisode SOUS LES PROJECTEURS avec la Commissaire aux services en français, Kelly Burke, c'est par ici facebook.com/watch?v=18068...



2:31 PM · Oct 19, 2020 · Twitter Web App

## Summary

The Office of the Ombudsman began handling complaints about French language services on May 1, 2019. This annual report therefore covers a **17-month period** from May 1, 2019 to September 30, 2020. Future annual reports will cover a 12-month period from October 1 to September 30.

We have analyzed **431** cases, received between May 1, 2019 and September 30, 2020:

- The Ombudsman's Annual Report noted that we received 321 cases between May 1, 2019 and March 31, 2020.
- 110 cases were received between April 1 and September 30, 2020.

The complaints received reflect the historic event that affected all aspects of our societies in 2020: The global coronavirus pandemic, or COVID-19. The government's response to the pandemic led to a number of complaints, particularly with respect to public communications in French, or a lack thereof.

The COVID-19 pandemic has put the spotlight not only on health care, but also on the critical role of communicating information essential to public health and safety. **COVID-19 highlighted the importance of planning – a theme we identified repeatedly in the complaints we analyzed.**

These complaints relate to government press conferences, public health advisories and even teleconference lines used for virtual meetings. But planning also emerged as a key theme in other areas related to communications in a time of crisis, such as automated alerts, which have been a longstanding issue for Franco-Ontarians.

Generally speaking, the complaints we received can be divided into two categories: Government communications and government services.

The most commonly identified issues are:

- Lack of bilingual staff;
- Lack of time to develop communications products in both languages;
- Lack of policies and procedures within organizations for the provision of French language services, and lack of staff knowledge of such policies and procedures; and
- Lack of verification and assessment of capacity for existing and needed services.

The areas of government most affected are:

- Cabinet Office;
- The Ministry of Health;
- The Ministry of the Solicitor General;
- The Ministry of the Attorney General;
- The Ministry of Transportation;
- The Ministry of Government and Consumer Services; and
- The Ministry of Education.

This report summarizes the complaints we handled that illustrate these findings, and it contains **eight** recommendations from the Commissioner for improving the offer of French language services in Ontario. The report also includes some of the **150** complaints we received that were not within our jurisdiction. In many cases, these complaints demonstrate the limitations of the *French Language Services Act*, limitations that could be taken into consideration by the government as part of an initiative to modernize this Act.

## Trends in cases: Government communications

### COVID-19 – Informing the public in times of crisis

We received many complaints about the daily media briefings by Ontario Premier Doug Ford, often accompanied by the province’s Chief Medical Officer of Health, which were only conducted in English.

The complainants explained that they felt the briefings showed the government’s lack of respect for them, because only English-speaking people were represented. They also told us they were concerned that instructions regarding the health of all Ontarians were issued in English only. Some said they had to get their information from press briefings by the federal and Quebec governments. Others told us that their elderly parents did not have access to the digital tools required to obtain the necessary information in French online.

During our review of these complaints, we determined that the position of Chief Medical Officer of Health for Ontario is a government agency subject to the *French Language Services Act*.



As far as the Premier is concerned, the conduct and the language skills of elected officials are outside the jurisdiction of the *French Language Services Act*.

Despite this, the issue was raised with the government in a letter from the Commissioner to the Premier, informing him of the concerns and feelings expressed by Francophones across the province. The Premier acknowledged this:

“As you noted, Francophones in Ontario have the right to receive communications services in French, equivalent to those offered in English. This is even more critical in times of crisis.”

– Letter from Premier Doug Ford to Commissioner Burke, April 2, 2020

Our efforts contributed to the implementation of simultaneous translation for all pandemic-related press briefings, as of April 16. Simultaneous translation is provided by the Legislative Assembly and is standard on the government’s YouTube channels.

But unilingual press briefings were not the only subject of complaints:

- On April 7, the government launched the Health Workforce Matching Portal. This portal links the availability and skills of frontline workers with employers who need help to perform public health tasks. The website was only available in English at the time of its launch. We made inquiries under the *French Language Services Act* to the Ministry of Health to clarify why this website was only available in English. We were told these were technical problems that would be resolved quickly. On April 10, the site was available in French as well.
- We received a complaint involving the website for North Bay Regional Health Centre – a centre partially designated under the *French Language Services Act* – which posted its notices regarding COVID-19 in English only. We contacted the Centre’s Patient Advocacy Office, which explained that there were delays at the central translation service of the Ministry of Health. Instead of waiting, however, the Centre decided to pay for external translation services to ensure that the information was posted in French as soon as possible.



- On September 30, the government released a plan entitled *Keeping Ontarians Safe: Preparing for Future Waves of COVID-19* in English only. This issue was brought to our attention through social media and complaint mechanisms and we approached the government to resolve it. By the next morning, this document was available in French.

### Local public health units

We received many complaints about information provided by some local public health units solely in English, both in their correspondence and on their websites.

We do not have jurisdiction over local public health units under the *French Language Services Act*.

Given the health emergency, we contacted officials at the Office of the Chief Medical Officer of Health of Ontario to inform them of the content of these complaints and to try to find a solution to improve the office's offer of service in French.

The Office of the Chief Medical Officer of Health issued a memo to all local public health units to encourage them to offer services in French, and to promote the sharing of best practices among public health units. It also provided a website template that public health units can use to quickly post information in French on their own sites. In addition, updated information is regularly sent to public health units to facilitate the publication of information in French.



**RECOMMENDATION 1:** That the government systematically plan to offer services in French at press briefings.

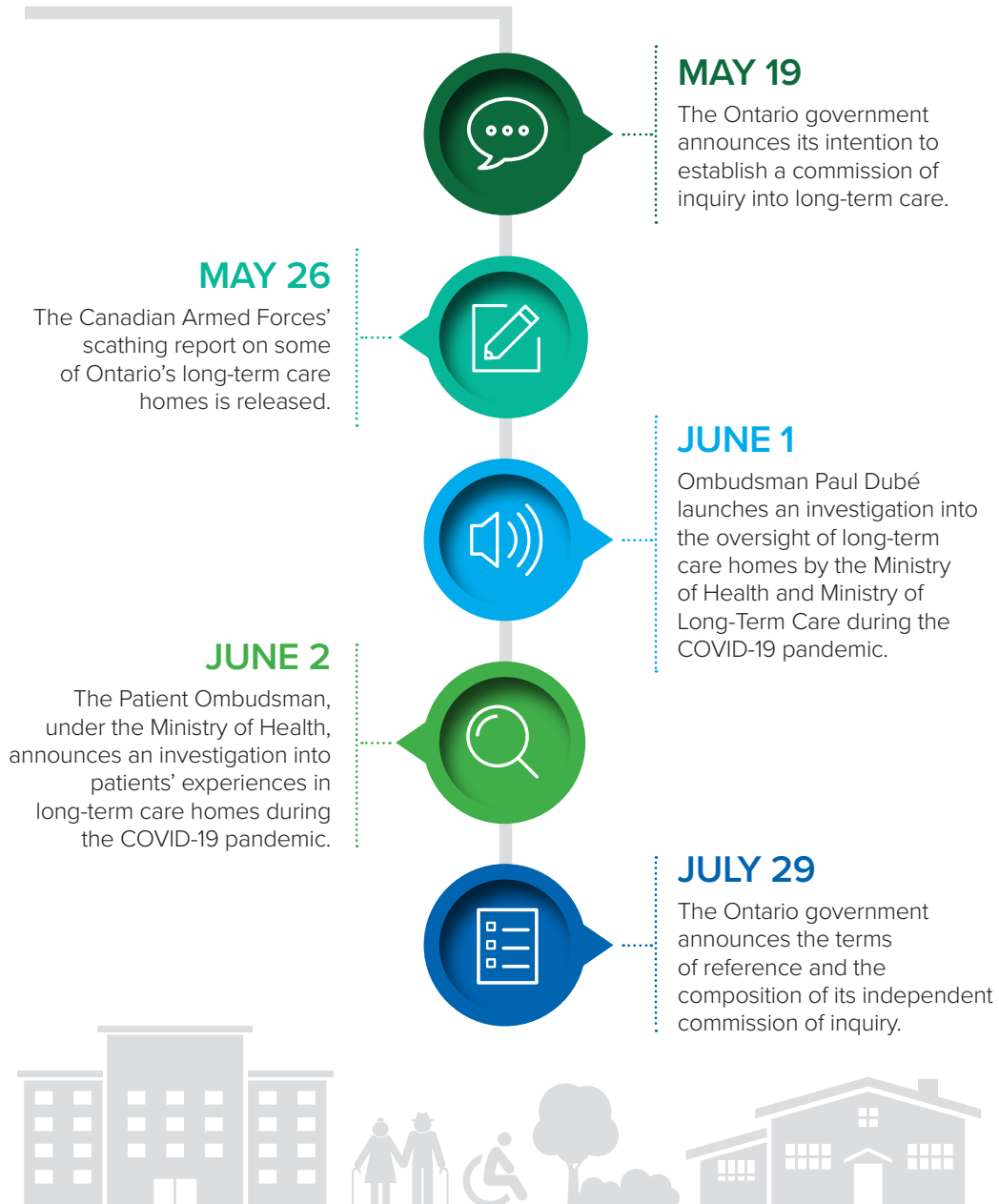


**RECOMMENDATION 2:** That the government ensure that the communication of all public health information be provided in French and English simultaneously.



## Long-term Care COVID-19 Commission

### 2020 TIMELINE



The COVID-19 pandemic has shone a harsh light on the long-term care sector. The Canadian Armed Forces report on the situation in Ontario painted a devastating picture. The Ontario Ombudsman has launched an investigation that the Commissioner is monitoring; we are addressing any language issues identified during the course of our investigation. The Commissioner is also making additional efforts:

- She works closely with the Patient Ombudsman to identify and address language issues regarding patients' health.
- She launched a social media campaign to encourage Francophones to contact us when they experience a lack of French language services in long-term care homes.
- She consults regularly with key stakeholders in the health care system.
- She is also monitoring the work of the Long-term Care COVID-19 Commission.

The goal of these ongoing efforts is to identify concrete evidence of gaps in French language services and to remedy them. We bring these shortcomings to the attention of the responsible ministries and departments to help shape solutions.

We also analyzed the mandate and the composition of the Long-term Care COVID-19 Commission, and we identified potential issues for the province's Francophones, which Commissioner Burke shared publicly:

“I also communicated to the Premier today that I am concerned about the Terms of Reference issued by the government for the Commission that do not include any explicit expectations regarding the offer of French language services or that any consideration is to be given to issues specific to Francophones [...]

I strongly recommended to the Premier that he ensure that the Commission's report is produced in French and English simultaneously to avoid any delay. I also asked that the government explicitly communicate its expectations regarding the offer of French language services to the Commission.”

– Statement by Commissioner Burke, July 29, 2020

The government welcomed our advice and the commissioners assured us of their determination to take into consideration the needs and interests of the Francophone community. They indicated that the Commission would obtain the necessary expertise regarding the experience and needs of the Ontario Francophone community in the area of health care.

The Commission will also have to ensure that services in French of a quality equal to those in English are provided to any person wishing to receive – or provide – information about the investigation.



## Emergency alerts and 911

In his 2019-2020 Annual Report, Canada's Commissioner of Official Languages, Raymond Th  berge, commented:

**How can you ensure the public's safety and security if you address them in just one official language? The obvious lack of bilingual services puts public safety at risk.**

A lack of services in French can have a significant impact on Francophones during emergency situations. These are generally situations where the level of stress is extremely high, and the circumstances can have repercussions on the health and safety of the population. Adding the language barrier increases the complexity of situations, and Francophones find themselves even more vulnerable.

We have dealt with several complaints about the lack of French language services in emergency situations.

## Calls to 911

A Francophone man from Northern Ontario contacted us after he made an emergency call to 911. The call started in both languages. However, when the call was transferred to the ambulance dispatch service, the dispatcher could not communicate in French. The man was outraged that the dispatcher asked him if he could speak English before asking about the nature of the emergency or the medical condition of the victims. He continued with his call in English.

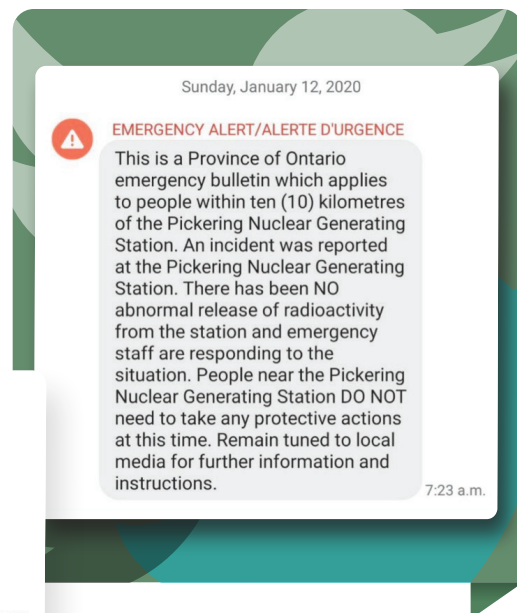
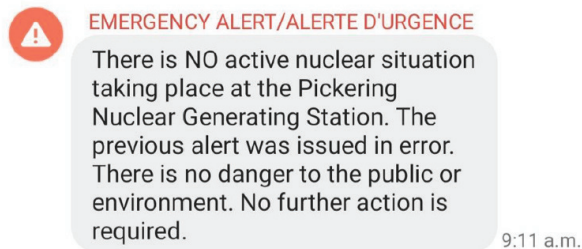
As a result of our review, we learned that when a French-speaking person calls 911 in this region, the call is transferred to a bilingual agent. When a unilingual agent identifies a call from a French-speaking person, he or she is supposed to offer to transfer the call to a bilingual colleague. In most cases, this transfer is made to an agent within the same organization. When a bilingual agent is not available, the call may be transferred to the nearest Central Ambulance Communications Centre (CACC), where the agents are mostly bilingual. These transfers take a few seconds.

Following our intervention, the CACC involved in this case instructed its employees to ensure they offer to transfer calls from French-speaking people to bilingual agents, to avoid such incidents in the future.

## False nuclear emergency alert

We received many complaints in the wake of a nuclear emergency alert that was sent out about the Pickering Nuclear Generating Station on Sunday, January 12. ▶

A little more than 90 minutes after the first alert, a second alert, once again in English, warned that the first one was in fact a false alarm: ▼



The complainants were concerned about the lack of services in French, particularly those who live only a few kilometres from the generating station.

Our analysis determined that the alerts were issued by the Office of the Fire Marshal and Emergency Management, which is part of the Ministry of the Solicitor General. The January 12 alert was issued in error.

We requested clarification from the Ministry regarding the issuance of the alert, the retraction, and the lack of communication in French with the public.

We were informed that, on January 15, 2020, the Deputy Solicitor General (Community Safety) asked the Provincial Security Advisor to investigate the circumstances surrounding the alerts, in order to help the government prevent future incidents and maintain public confidence in the emergency alert process.

We suggested that the issuance of emergency alerts in French be included in the scope of the investigation. We pointed out the impact on the Francophone community, in particular the fact that issuing alerts in a unilingual English format created fear and uncertainty among Francophones.

The Provincial Safety Advisor's investigation report was released on February 27, 2020, including a *Provincial Emergency Operations Centre Action Plan*.<sup>1</sup> The report and action plan summarize a list of corrective actions taken and to be taken, to address the identified shortcomings, prevent erroneous alerts and promote the improvement of the alert system in Ontario.

In the section "Immediate actions implemented since January 12," the Action Plan looks at French language resources:

- a) All alert notification template messages, including "end alert" messages, are now available in French.
- b) All staff at the Provincial Emergency Operations Centre have been provided refresher training on emergency translation procedures.

The report also demonstrates that, although procedures were in place to translate emergency alerts, these procedures were not followed because the first alert was issued in error. The same is true for the second alert. The report also notes that the established service standard calls for a response time of 30 minutes for such a translation.

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<sup>1</sup> <https://www.mcscs.jus.gov.on.ca/english/Publications/InvestigationemergencyalertssentJanuary122020.html>

We carefully reviewed the report, its findings and the corrective measures already taken to determine if there are any outstanding issues regarding French language services.

In the event that an alert is issued in error, management at the Provincial Emergency Operations Centre reminded staff that alerts should be sent out in a bilingual format at all times. In addition, officers and managers at the Centre received refresher training on the issuance of emergency alerts in both languages, to prevent such a situation from occurring in the future.

The Commissioner remains concerned about the delay in translation, and we continue to work with the Ministry of the Solicitor General to ensure that it provides equivalent services in French, at all times and without delay, when issuing emergency alerts.

### [Amber Alerts](#)

The Ontario Amber Alert is a warning system that quickly alerts the public of abducted children who are in imminent danger. The complaints we received about Amber Alerts focus on three main areas:

- The Amber Alert was issued in English only, either on television, on cell phones or on social media (Facebook or Twitter);
- The Amber Alert was issued in a bilingual format, but with French of a lesser or unacceptable quality. This includes spelling and syntax errors that make it difficult to understand the message in French; and
- The Amber Alert was issued in French after long delays – often more than 30 minutes after it was issued in English.

The complainants told us that, although they had no information to share with authorities, they found it unacceptable that messages as important as Amber Alerts were only sent in English, or were sent in French after a long delay.

Our research indicates that the Provincial Operations Centre of the Ontario Provincial Police (OPP) is responsible for ensuring that the Amber Alert activation process is properly followed, and that alerts are translated.

Before 2016, the OPP had internal resources devoted to writing and publishing a French version of the alerts. Now, it has alerts translated by external professionals. This change in practice to the use of external services has led to challenges, resulting in delays in the issuing of Amber Alerts in French, which are subject to the same 30-minute turnaround time as nuclear emergency alerts.

We also studied what was being done elsewhere: In New Brunswick (the only constitutionally bilingual provincial jurisdiction in the country) and in Quebec (the largest Francophone population in Canada). In both cases, the staff involved in the Amber Alert program are bilingual. Quebec has also developed templates:

- A short, very brief version that is used to send an alert to cell phones. This template does not require a thorough knowledge of English or French to be completed.
- A longer version that is posted on the Internet, with much more detail, and which is just as easy to complete in both languages.

Regarding nuclear emergency and Amber Alerts, we continue to work with the Ministry of the Solicitor General to ensure that a solution is identified and implemented.



**RECOMMENDATION 3:** That the Ministry of the Solicitor General and the Ontario Provincial Police continue their efforts to guarantee an equivalent offer of services in French, without delay, when issuing emergency alerts.

## Podium signs

We received a considerable number of complaints about the unilingual English signs used by ministers and the Premier on their lecterns during public announcements.

In keeping with the principles of fairness to which the Office of the Ombudsman adheres, we raised the issue with the government.

As a result of these discussions, the Secretary of the Cabinet made a commitment that the government would extend the use of bilingual signage on lecterns to all announcements made by ministers and the Premier. This measure has been approved and is now in place.



## Traffic signs

Signage on Ontario's roads and highways continues to be the subject of many complaints. Most of these complaints are about signs on provincial highways.

In the wake of two complaints about unilingual English electronic signs on Highway 401 in Toronto, we learned from the Ministry of Transportation that the technology in use in the Mississauga-Durham corridor is outdated, and will be replaced in the spring of 2021 at the earliest. In the meantime, the Ministry has begun the process of approving bilingual messages. We continue to monitor the progress of this project.

We also receive complaints about many other types of signs. For example, we intervened with the Ministry of Natural Resources and Forestry (MNRF) after receiving a complaint about unilingual signs for fish culture stations in designated regions.

The Ministry reviewed the signs posted in front of fish culture stations in the province, and the materials made available to the public at these stations. The Ministry found that, in addition to the signs in North Bay that were mentioned in the complaint and those in Sault Ste. Marie that were mentioned in the media, the sign in Hill Lake, north of Sudbury, was also unilingual in English.



In this Twitter exchange, a Sudbury newspaper's photo of a unilingual English sign for a fish culture station was shared by NDP MPP Guy Bourgouin. Commissioner Burke responded that our intervention resulted in several changes.



The Ministry has replaced these signs with bilingual signs. It also ensured that its “Summary of Fish Stocking by Station” and its map of fish stations and fish stocking sites were translated into French. These two documents are now available in bilingual format at all stations throughout the province.

Finally, the Ministry has modified its website to add that, within a designated area, tours in French can be arranged.

## Trends in cases: Government services

### In-person services

We receive numerous complaints about the lack of bilingual staff at ServiceOntario outlets.

Designated points of service generally have protocols in place to ensure the availability of services in French, whether by telephone or in person. It is when these protocols are not followed that we receive complaints. The active offer of service in French is also often lacking at ServiceOntario locations.

- In one case, the Ministry of Government and Consumer Services had to remind a third party operating ServiceOntario location in the Toronto area of its obligation to provide services in French. As a result of this reminder, an additional bilingual officer was hired at this location and a contingency plan was developed to ensure services in French when bilingual staff are absent.
- In two cases in Ottawa, our interventions led to a commitment to review the policies and procedures of the location involved to ensure the consistent presence of bilingual staff.

But ServiceOntario is not alone in facing these challenges. We also received complaints about branches of the Liquor Control Board of Ontario (LCBO) that are designated to offer services in French in central Ottawa.

- A Francophone man complained that he arrived at the cash register and the LCBO employee did not attempt to respond to him in French. Instead, the employee yelled across the store that a customer required services in French. A bilingual employee came to assist, but the customer was embarrassed by the incident. We contacted the LCBO, which indicated that staff at this branch would be reminded of the LCBO's expectations regarding French language services.
- In another case, a complainant told us he visited an LCBO branch during the holiday season. When he went to the cashier, the LCBO employee did not acknowledge that he had the right to interact with her in French. We were informed that the LCBO had hired this employee on a short-term basis for the season. Although the LCBO provides annual training on French language services, seasonal employees receive only condensed training. The LCBO informed the customer that its training program for short-term employees would be reviewed in order to improve service in French. Our Office followed up with the LCBO, which told us that for the 2020 holiday season, temporary employees will receive the same training on service in French as permanent staff.

In two other cases:

- A man visited a London DriveTest centre with his son, who wanted to take the theory component of the road test, and requested services in French, which, according to the complainant, were not provided. We approached the centre, and it committed to ensure that French language services will be available, even in the absence of a bilingual customer service employee, either by seeking the assistance of a French-speaking driving instructor or by calling another centre that could provide service in French over the phone.
- A motorcyclist who had recently moved to Canada complained to us after he was required to take a driver's test to obtain his licence in Ontario, without having the option to do it in French. The man had been assigned an English-speaking examiner, even though he requested a French-speaking examiner in

advance at a designated DriveTest centre. He told us that he had failed the test because he did not understand the examiner's instructions, and he was worried he would have to start the whole process all over again. We discovered that this DriveTest centre did not have a certified bilingual examiner for motorcycle road tests. Thanks to our intervention, the man's road test was rescheduled, this time with a bilingual examiner from another DriveTest centre. The Ministry of Transportation also committed to ensuring that there are qualified employees at the designated DriveTest location.

Planning plays a key role in ensuring that sufficient staff are available to provide services to the public. The Commissioner therefore recommends:



**RECOMMENDATION 4:** That the government plan for the provision of equivalent French language services, without delay, where required by the *French Language Services Act* and its Regulation 284/11 regarding third parties.



**RECOMMENDATION 5:** That the government regularly assess its capacity to offer services in French, particularly for frontline services.



**RECOMMENDATION 6:** That the government ensure that regular updates are provided to staff, particularly frontline staff, on French language services policies and practices.

## Accent on driver's licences, health cards and photo cards

The absence of French language characters (e.g., ç, è, é, ê, ë) on driver's licences and health cards in Ontario has been a longstanding issue. It has been raised several times over the years through complaints and in the Legislature. Many Francophones have seen their names altered against their will.

Complainants told us that they find it unacceptable that laminated identification cards issued by the Ontario government do not have accents because of computer limitations, and it makes them feel that the province lacks respect for them.

Some also told us that this situation has had an impact outside of Ontario. For example, we heard the story of a man who was unable to get an accent added on his name in a contract of sale made in Quebec, because his Ontario identification did not show an accent on his name. This person found it unjustifiable that the Ontario government did not respect the spelling on his birth certificate and effectively changed his name, with the result that future legal documents might not reflect the correct spelling of his name.

We approached the Ministry of Transportation and the Ministry of Health in order to understand why they were not including accents or other characters specific to the French language on driver's licences, photo cards, and health cards, and to find a way to remedy the situation.

Our efforts contributed to the government's announcement, on September 25, 2020, that drivers' licenses and photo cards would now include French language characters.

**“Ombudsman Paul Dubé was tired of being called Mr. Dubeeee. He will surely be one of the first to seek one of these new licences.”**

– Minister of Transportation Caroline Mulroney, as quoted on Twitter (in French) by #ONFR+, September 25, 2020

However, these accents have yet to be included on Ontario health cards, and we are continuing our efforts with the Ministry of Health on this issue, so that complainants who have contacted us can have access to the same service.



## French in the transportation sector

We received complaints about French language services on GO trains and buses in the Greater Toronto Area, as well as other services offered by Metrolinx. These services are offered in designated areas, or are provided on trains that pass through such areas regularly.

- In one case, a man who takes the train every day complained that the service announcements made by the train attendant were in English only, including emergency or service delay messages. As a result of our inquiries with Metrolinx, we confirmed that several standard messages, previously available only in English, have been recorded in French, including emergency messages.
- In another case, a Francophone student who had recently arrived in Canada was unable to speak French with a fare inspector on a GO train. She had not used the pay terminals in the train station, believing that there would be some inside the train. She was fined, without the inspector offering to use the simultaneous interpretation system to communicate with her. Her efforts to complain directly to Metrolinx about this matter resulted in an English response to the French email she had sent.

We spoke with Metrolinx authorities, who informed us of their intention to review and evaluate job descriptions and recruitment practices to add French skills as an asset for certain positions. Metrolinx has also reminded its compliance department employees of the policies and procedures already in place for offering services in French, such as the use of its simultaneous interpretation system. Metrolinx also told us that it is evaluating the possibility of adding training about the simultaneous interpretation system for on-train personnel.

We continue to conduct regular follow-ups with Metrolinx.

## Teleconference lines

With the pandemic and the need to work from home, the use of teleconference lines has increased in organizations. We received a complaint about the recorded greetings and instructions for connecting to one of the Ontario Public Service teleconference lines because these messages were in English only.

We approached the Ministry of Government and Consumer Services, which provides information technology services to various ministries. This complaint was resolved within a week, as the message of the teleconference line was switched to a bilingual format.

Our intervention also contributed to a project to update all teleconference lines across the Ontario Public Service. Thanks to this project, all lines are now English-French bilingual.

## Access to justice in French

Since 2012, there has been increased interest in access to justice in French in Ontario.

In 2012, the report *Access to Justice in French*<sup>2</sup> by the French Language Services Bench and Bar Advisory Committee was submitted to the Attorney General. It made a series of recommendations on improving the justice system for Francophones. In 2015, the steering committee for the implementation of those recommendations issued the follow-up report, *Enhancing Access to Justice in French: A Response to the Access to Justice in French Report*.<sup>3</sup>

Several advances have been made. In 2015, the Ministry of the Attorney General announced a pilot project at the Ottawa courthouse to ensure quick and seamless access to justice in French. The pilot project ended in 2017 and the majority of its initiatives were adopted on a permanent basis.

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<sup>2</sup> [https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/fls\\_report\\_response/index.html](https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/fls_report_response/index.html)

<sup>3</sup> [https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/fls\\_report\\_response/index.html](https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/fls_report_response/index.html)

The Ministry of the Attorney General also established an Access to Justice in French Advisory Committee in 2018. In 2019, the Ministry launched a partnership with the Superior Court of Justice and the Ontario Court of Justice in the Sudbury courthouses to identify other areas for improvement, in order to facilitate Franco-Ontarians' access to court services and the conduct of court proceedings in French.

We have, however, continued to receive complaints about inadequate services in French in the justice sector.

Many of these complaints relate to the lack of bilingual staff at the Landlord and Tenant Board.

On January 9, 2020, the Ombudsman announced an investigation into significant delays at the Landlord and Tenant Board (LTB), the administrative tribunal that resolves residential tenancy disputes. The goal of the investigation is to determine whether the government is taking adequate measures to address the delays and backlog of cases. The investigation is also looking at other potential systemic factors that may be contributing to the problem, such as recent applicable legislation, training, funding and technology. Some of the complaints that the French Language Services Unit received about the LTB have been incorporated into this investigation.

- In one case, the Board ensured the presence of a bilingual member, a bilingual mediator and interpretation services for the parties in attendance during a telephone hearing, after a Francophone tenant contacted us regarding his difficulties gaining access to a bilingual hearing, after several months of waiting.
- In another case, changes were made to the Board's teleconferencing system to ensure messages were in both languages.



We have also been informed of inadequacies at the Consent and Capacity Board.

In one instance, a case conference was held in English, with interpretation services. The reason this case conference was held in English, rather than before a bilingual lawyer member, was that there was only one bilingual lawyer member at that time, who would have to preside over the hearing on the merits.

According to the Board's rules of practice:

**The member who presides over a case conference may preside over the hearing of the application on the merits, unless the parties attempted to settle the issues during the case conference, in which case the member may only participate with the consent of all parties.**

The Board's Registrar explained to us that the Board exercises its discretion to ensure fair procedures and that, in this particular case, it was determined that the bilingual lawyer member should only participate in the hearing on the merits. According to the Registrar, a second bilingual lawyer member has since been appointed.

As we worked on various complaints, we were also able to confirm that Tribunals Ontario, the umbrella organization for 14 administrative tribunals, has put in place a French language services policy to ensure the active offer of French language services throughout all the tribunals under its jurisdiction. Tribunals Ontario has also informed us of its intention to standardize processes, to jointly appoint bilingual members to several tribunals and to recruit new bilingual members. These efforts are well underway, and we continue to monitor this issue.





## The limitations of the *French Language Services Act*

We have received many complaints about organizations that, although they appear to be a government service, do not fall under the jurisdiction of the *French Language Services Act*.

For example:

- We were informed that some websites owned by Ontario Power Generation and some websites it administers jointly with municipalities were only available in English.
- We received complaints from health care professionals regarding the French language services offered by their professional associations.
- We also received a complaint about the Real Estate Council of Ontario, from a person who was looking for training in French to become a real estate agent. The sole college program recognized by the Real Estate Council of Ontario is offered only in English by Humber College.

In these cases, the process by which agency heads are appointed blocks the application of the *French Language Services Act*. Therefore, we cannot intervene directly under this Act.

However, the *Ombudsman Act* allows for intervention in certain situations – for instance, in the case of Ontario Power Generation. Through our case-by-case analysis of these situations as we follow up on complaints, complainants may have their matter dealt with via either the *French Language Services Act* or the *Ombudsman Act*, through the single access point of our Office.

## The importance of effective planning

In this report, we have reviewed some of the 431 cases we have dealt with, to illustrate the general trends arising from the issues brought to our attention.

The **lack of planning** for the offer of services in French is the most significant trend.

We have demonstrated throughout this report that many issues could be resolved before becoming the subject of complaints, through effective planning for the provision of French language services.

We examined the *French Language Services Act* to identify avenues for reflection. The Act provides that each Deputy Minister be accountable to Executive Council for implementation of the Act and the quality of French language services within their ministry.

The Act also provides for the appointment of a French Language Services Coordinator in each government ministry. It also stipulates that these coordinators may communicate directly with their Deputy Minister.

In light of the issues discussed in this report, the Commissioner raises the question of the most appropriate use of these resources within the government:

“What form does this accountability to the Executive Council take? Although the role of French Language Services coordinators is not specifically defined in the Act, there appears to be an intention of supporting Deputy Ministers in their accountability role to the Executive Council. These coordinators can be good resources to support effective planning.”

– Kelly Burke, French Language Services Commissioner of Ontario

We made inquiries with the government to understand how Deputy Ministers are meeting their obligations. Our research has led us to conclude that there is no standard process at this time.

We also did some research to understand the procedure by which other jurisdictions have developed accountability mechanisms for the provision of services in French.

In Manitoba<sup>4</sup>, for example, accountability takes the form of multi-year strategic plans for French language services, including templates and guidelines established by the Francophone Affairs Secretariat.

The *Francophone Community Enhancement and Support Act, 2016* provides that:

11(2) In its proposed plan, the public body must describe:

- The priorities of Manitoba’s Francophone community in relation to the public body’s French language services;
- The public body’s capacity to provide French language services;
- The provision of French language services by the public body as they relate to its policies, programs and services, including those programs and services provided by third parties on its behalf;
- The provision of French language services by each administrative tribunal that falls within the public body’s mandate;
- Other measures to be taken by the public body to enhance the vitality of Manitoba’s Francophone community and to support and assist its development; and
- Any matter required by regulation or the minister.

At the federal level, accountability takes the form of the Annual Report on Official Languages<sup>5</sup> presented by Canadian Heritage, which reports on official languages initiatives by the federal government, including its departments and agencies.

In order for the government to ensure effective planning of French language services, the Commissioner recommends the following:



**RECOMMENDATION 7 :** That each Deputy Minister table a plan to the Executive Council each year that reports on the implementation of the *French Language Services Act* and the quality of French language services in the ministry for which they are responsible.

<sup>4</sup> [https://manitoba.ca/fls-slf/multi\\_year\\_strategic\\_fls\\_plans.html](https://manitoba.ca/fls-slf/multi_year_strategic_fls_plans.html)

<sup>5</sup> <https://www.canada.ca/en/treasury-board-secretariat/services/values-ethics/official-languages/reports.html>



**RECOMMENDATION 8 :** That, as part of her obligation under the *French Language Services Act* to submit an annual report on the activities of the Ministry of Francophone Affairs to the Lieutenant Governor in Council and to the Legislative Assembly, the Minister of Francophone Affairs report annually, beginning April 1, 2022, on the plans tabled by Deputy Ministers and their implementation.

The Commissioner offers her support to advise the government in the development of these plans.

### **French Language Services Act**

In this report, we have identified some of the limitations of the *French Language Services Act*, namely, that it does not apply to:

- Elected officials;
- Local public health units;
- Delegated administrative authorities; and
- Ontario Power Generation.

The Commissioner also shared some other limitations at the virtual symposium on “French and the Law” at the University of Toronto’s Massey College on September 25, 2020:

“Regulation 398/93 (Designation of Public Service Agencies) is not up to date, making it difficult, if not impossible in some cases, to follow the French language services obligations of designated bodies. The regions of Ontario have changed, there have been amalgamations, and the map of designated regions, in many cases, no longer corresponds to the current regions. In many respects, it is therefore difficult to understand the obligations that the government has set for itself, hence the importance of having up-to-date laws and regulations.”

The Commissioner concludes this report with the importance of the government’s commitment to modernize the *French Language Services Act*:

“I welcome the opportunity to be consulted by the government and to share my experience in monitoring the application of the Act.”

– Kelly Burke, French Language Services Commissioner of Ontario

# APPENDIX

## List of recommendations



**RECOMMENDATION 1:** That the government systematically plan to offer services in French at press briefings.



**RECOMMENDATION 2:** That the government ensure that the communication of all public health information be provided in French and English simultaneously.



**RECOMMENDATION 3:** That the Ministry of the Solicitor General and the Ontario Provincial Police continue their efforts to guarantee an equivalent offer of services in French, and without delay, when issuing emergency alerts.



**RECOMMENDATION 4:** That the government plan for the provision of equivalent French language services, without delay, where required by the *French Language Services Act* and its Regulation 284/11 regarding third parties.



**RECOMMENDATION 5:** That the government regularly assess its capacity to offer services in French, particularly for front-line services.



**RECOMMENDATION 6:** That the government ensure that regular updates are provided to staff, particularly front-line staff, on French language services policies and practices.



**RECOMMENDATION 7:** That each Deputy Minister table a plan to the Executive Council that reports annually on the implementation of the *French Language Services Act* and the quality of French language services for the ministry for which they are responsible.



**RECOMMENDATION 8:** That, as part of her obligation under the *French Language Services Act* to submit an annual report on the activities of the Ministry of Francophone Affairs to the Lieutenant Governor in Council and to the Legislative Assembly, the Minister of Francophone Affairs report annually, beginning April 1, 2022, on the plans tabled by Deputy Ministers and their implementation.

## Achievements of the Office of the Ombudsman with respect to French Language Services, May 1, 2019 - September 30, 2020

OBJECTIVE	COMPLETED	IN PROGRESS
Host the annual conference of the International Association of Language Commissioners.	✓	
Ensure continuity of services to Francophones and stakeholders.	✓	
Meet with stakeholders and government to explain the Commissioner's mandate, authority and operational autonomy, highlight benefits and opportunities, the Ombudsman's and Commissioner's vision for the French Language Services Unit, and listen to concerns.	✓	
Conduct a selection process to recruit and appoint a Commissioner (accomplished January 2020) with the necessary experience and qualifications to ensure that the government of Ontario provides services in French in accordance with the <i>French Language Services Act</i> .	✓	
Conduct an organizational assessment.	✓	
Recruit staff.		✓
Standardize computer systems; standardize complaint submission, review, resolution and investigation processes.	✓	
Ensure adequate orientation and training of new employees to optimize organizational cohesion.	✓	
Develop a strategic approach to: <ul style="list-style-type: none"> <li>Identify opportunities within areas of the Ombudsman's jurisdiction to improve the offer of French language services;</li> <li>Proactively inform stakeholders about issues and trends, with a view to resolving problems and improving governance;</li> <li>Engage with government, its agencies and third parties on the value and importance of planning for French language services at the policy and procedure development stage;</li> <li>Liaise with other language commissioners around the world to share best practices; and</li> <li>Develop a communications strategy and establish the Commissioner's presence on social media.</li> </ul>	✓	
Coordinate the relocation of office spaces to new offices within the Office of the Ombudsman.	✓	
Transition to telework during the pandemic.	✓	
Produce the 2019-2020 <i>Annual Report of the French Language Services Commissioner</i> , highlighting the Commissioner's activities, achievements and recommendations for the improvement of French language services.	✓	

## Meeting with and listening to the Franco-Ontarian community

The following is a snapshot – not an exhaustive list – of the Commissioner's outreach activities, from her appointment in January to September 30, 2020.



**Toronto, January 15, 2020** ▶ Press conference at Queen's Park with Ombudsman Paul Dubé to announce the Commissioner's appointment

**Ottawa, January 30, 2020** ▶ Attendance at the opening of the Maison de la francophonie d'Ottawa

**Toronto, February 26, 2020** ▶ Attendance at the press conference for the official launch of the Université de l'Ontario français

**Toronto, March 6, 2020** ▶ Panelist at public service event organized by Ministry of the Attorney General to mark International Women's Day

**Mississauga, March 11, 2020** ▶ Participation in regional roundtable organized by l'Assemblée de la francophonie de l'Ontario (AFO) for the South Central West Region

**Sudbury, March 12, 2020** ▶ Participation in the AFO's regional roundtable for the Northern Region

**Ottawa, June 20, 2020** ▶ Video message presented at the virtual Annual General Meeting of Parents partenaires en éducation (PEP)

**Toronto, June 30, 2020** ▶ Media interviews with Radio Canada, ONFR+ and *Le Droit* following the publication of the Ombudsman's Annual Report

**Toronto, September 3, 2020** ▶ Video message presented at the virtual Annual General Meeting of Reflet Salvéo-Entité 3

**Toronto, September 21, 2020** ▶ Video message presented at the virtual Annual General Meeting of the Centre Francophone du Grand Toronto

**Toronto, September 25, 2020** ▶ Video message presented at the virtual flag raising for Franco-Ontarian Day, hosted by AFO

**Sudbury, September 25, 2020** ▶ Video message presented at the virtual flag raising for Franco-Ontarian Day, hosted by the University of Sudbury, Laurentian University and ACFO Greater Sudbury

**Toronto, September 25, 2020** ▶ Panelist on "Equity for Francophones: Accessing Justice and Education" at the 2020 Law and French Language Symposium organized by Massey College, University of Toronto



  
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