



**Languages Commissioner
of the Northwest Territories**

Annual Report 2021–2022



**Explore Our Land
Hear Our Many Languages!**

Version française au verso.



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Brenda M. Gauthier
Languages Commissioner of the Northwest Territories

Message from the Languages Commissioner

Greetings,

I am pleased to present the Annual Report for the 2021-2022 fiscal year.

This year's Annual Report will provide an overview of the activities of the Office during the 2021-2022 fiscal year. In the report you will find the recommendations from the Office of the Languages Commissioner to the Standing Committee on Government Operations for the review of the 2020-2021 Annual Report and the *Official Languages Act*. The report also provides an overview of court decisions that may impact the language services in the Northwest Territories.

This past year was the second year of the global COVID-19 pandemic which has impacted the daily operations of all services in the Northwest Territories and the Office of the Languages Commissioner. This pandemic limited the travel and promotion of the *Official Languages Act* and the Office of the Languages Commissioner. We are hoping, in the next fiscal year, the Office of the Languages Commissioner will see more interaction with the public and with the communities.

I look forward to working with the Members of the 19th Legislative Assembly and the residents of the Northwest Territories to ensure the provisions of the *Official Languages Act* are met and honoured.

Please do not hesitate to contact the Office if you have any questions or concerns about this Annual Report. Also, do not hesitate to contact this office if you have any concerns, complaints or inquiries regarding the *Official Languages Act*.

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Overview of the *Official Languages Act* and the Office of the Languages Commissioner

In 1984, the Legislative Assembly passed the first *Official Languages Act*. Modelled after the Federal *Official Languages Act*, it had two purposes; the Act guaranteed equal status for English and French by members of the public using government programs and services, and the Act officially recognized the Aboriginal languages in use in the Northwest Territories. The Legislative Assembly made major amendments to the Act in 1990, to give greater status to northern Aboriginal languages. Recognizing the official status of Aboriginal languages was intended to preserve and promote Aboriginal cultures through protection of languages.

The 1990 amendments to the Act also created the position of Languages Commissioner of the Northwest Territories. This position is appointed by the Legislative Assembly for a term of four years. The Act gave the Languages Commissioner authority to investigate complaints in regards to compliance with the Act, to initiate investigations as appropriate, and engage in activities related to the promotion and protection of Official Languages.

In 2001, the Legislative Assembly appointed a Special Committee on the Review of Official Languages (SCOL). In 2003 - 2004, the Government of the Northwest Territories (GNWT) considered and responded to the SCOL report. As a result, major amendments were made to the Act. Some of those amendments had a direct and significant impact on the Office of the Languages Commissioner:

- Section 20(1) of the *Official Languages Act* contained a provision giving the Languages Commissioner a broad mandate, including taking steps to ensure the promotion and preservation of Official Languages. This promotional role was removed, and the position of Languages Commissioner was narrowed to that of an “ombudsman type” role. The role of the Languages Commissioner became one of ensuring compliance with the Act through investigating complaints, handling inquiries, and initiating investigations where appropriate.
- The role of promoting and preserving Official Languages was turned over to the newly created position of Minister Responsible for Official Languages. As part of fulfilling this role, the Minister established two Boards - the Official Languages Board and the Aboriginal Languages Revitalization Board. The Official Languages Board is to review the rights and status of Official Languages and their use in the administration and delivery of services by government institutions. The Aboriginal Languages Revitalization Board is responsible for reviewing programs and initiatives dealing with Aboriginal languages and promoting and revitalizing Aboriginal languages. Plans are in place to amalgamate the two boards into one board.



- Before the amendments, the Act referred to eight Official Languages (Chipewyan, Cree, Dogrib, English, French, Gwich'in, Inuktitut, and Slavey). In the definitions section of the Act, "Slavey" was defined to include North Slavey and South Slavey, and "Inuktitut" was defined to include both Inuinnaqtun and Inuvialuktun. With the amendments, the Act now clearly identifies North Slavey, South Slavey, Inuinnaqtun and Inuvialuktun as separate Official Languages. As well, "Dogrib" is referred to by its proper name, Tłı̄chǫ. As such, the Northwest Territories now has eleven distinct Official Languages.

With the 2004 amendments, the Languages Commissioner now needs to be available to handle inquiries, investigate complaints, and initiate investigations of non-compliance with the Act. The Languages Commissioner acts in a truly ombudsman like fashion and maintains distance from the Legislative Assembly and the GNWT. This adds to the independence of the Office.

Section 35(1) of the *Official Languages Act* stipulated that the Act had to be reviewed in 2008 and every five years afterwards. As required, the Standing Committee on Government Operations started a review in 2021 and it is currently in process; however, things did slow down as a result of the COVID-19 pandemic.

Recommendations Previously Made by the Languages Commissioner

During the tenure of previous Languages Commissioners, many recommendations were made. Many of these recommendations have been contained in annual reports. Others can be found in special reports (i.e. the “Special Report on Privatization and Language Services” in 2000; “Speaking of Health - Official Languages as part of Quality Health Care in the Northwest Territories” in 2008; Report on Languages Services at the Legislative Assembly in 2019). All of these recommendations were provided to the Legislative Assembly for consideration. Typically, the recommendations were accepted by the Standing Committee on Accountability and Oversight (or Standing Committee on Government Operations). The rest were seen to be of interest, and the Committee passed motions that they be given serious consideration by the Government of the Northwest Territories, with a comprehensive report to be provided within 120 days. These Committee reports were then tabled and approved by the Legislative Assembly.

Except for the steps referred to above, there has been little concrete response to the numerous recommendations put forward by the Languages Commissioner to the Legislative Assembly in the annual reports and special reports of the Languages Commissioner over the years. Further, from what can be determined, there has never been a report back to the Languages Commissioner. The Special Committee on Official Languages pointed this out. At page 15 of their summary report, the committee stated:

“... the Legislative Assembly has often not responded to the Commissioner’s recommendations...”

This point was reiterated by the Court of Appeal in the case of Northwest Territories (Attorney General) v. Federation Franco - T noise (2008 NWTCA 06). This point has also been reiterated by each Languages Commissioner over time, with the same lack of response by the Legislative Assembly.

The continued failure of the Legislative Assembly to respond to recommendations put forth by Languages Commissioners in annual reports and special reports over the years downplays the importance of the Office, and undermines the role of the Office. It must be remembered that the only “power” the Languages Commissioner has is to make recommendations. If recommendations are ignored, it calls into question whether the Office has any real purpose.

To highlight the importance of a formal process for the Legislative Assembly to respond to the recommendations made by the Languages Commissioner, the recommendation will be put forward again in this report.



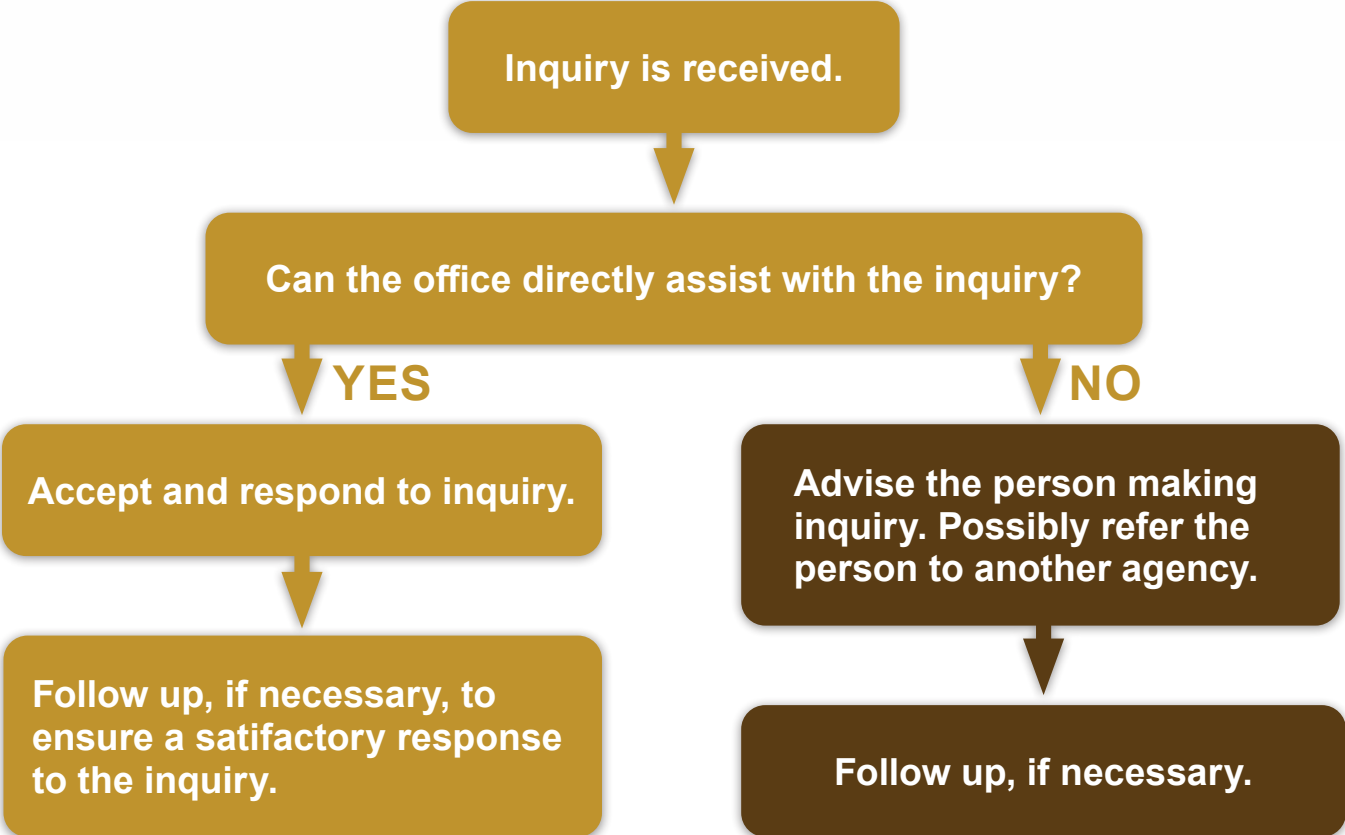
It must be remembered that the only “power” the Languages Commissioner has is to make recommendations.

RECOMMENDATION

That the Legislative Assembly develops a formal process for responding back to the Office of The Languages Commissioner, on recommendations presented by the Office. The process should include that the response be in writing, and that there be a specific time frame for response.

Inquiries and Complaints

The inquiry process established for the office is as follows:



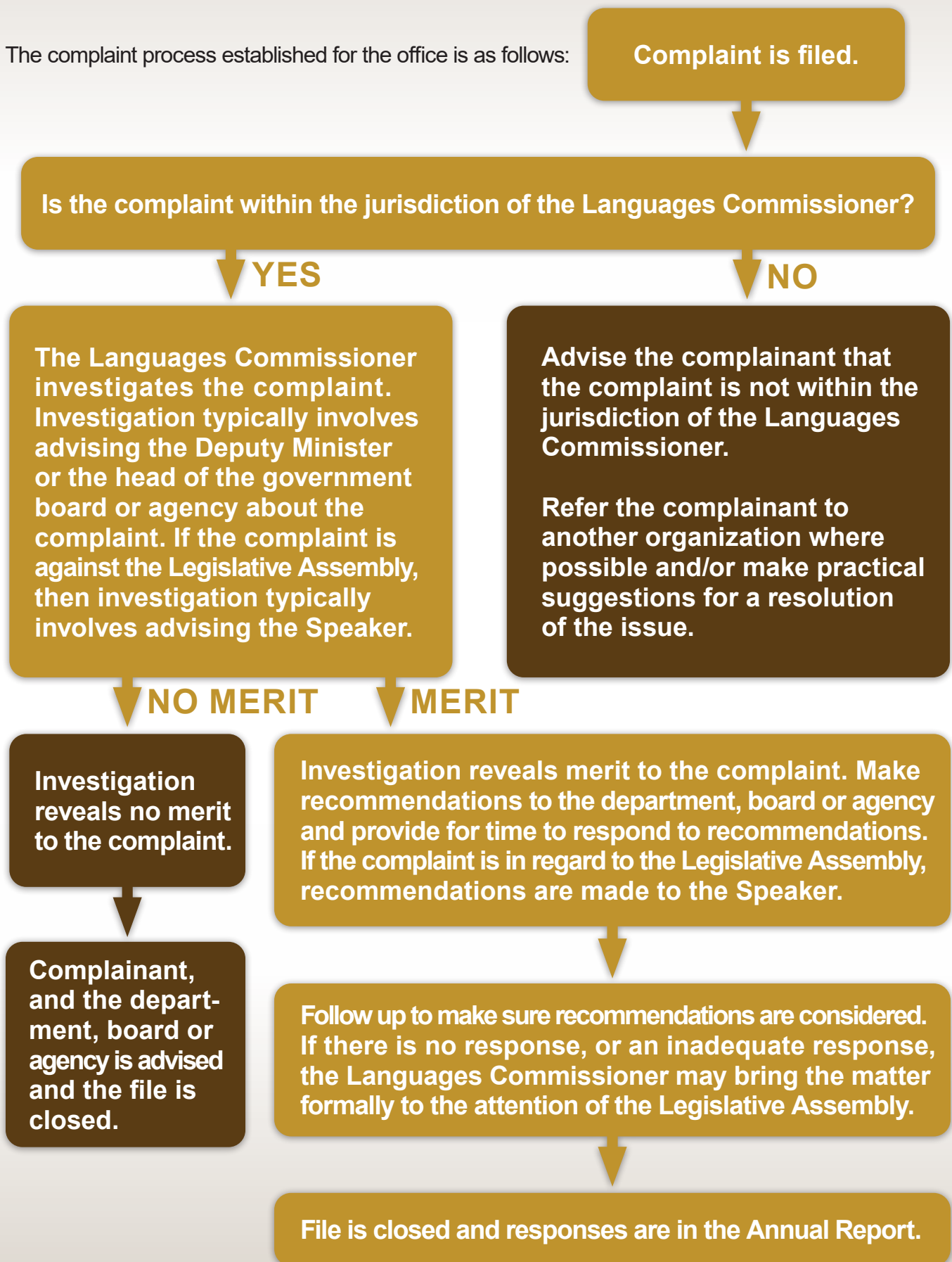
DEFINITIONS

INQUIRY A simple request for information, usually related to the status or use of Official Languages, or about the Official Languages Act. It does not include any suggestion that a person feels that she or he has been unfairly treated.

COMPLAINT A complaint involves a situation where a person or group feels that their language rights or privileges have been infringed or denied. They may feel that they have been treated unfairly or have been adversely affected by some policy, program, action or lack of action.

INVESTIGATION A situation where the Languages Commissioner decides to investigate a specific situation or larger systemic issue, regardless of whether a complaint has been filed with the office.

The complaint process established for the office is as follows:



Statistics for 2021–2022

Complaints

In the 2021 - 2022 fiscal year, the Office of the Languages Commissioner received seven (7) complaints. Six (6) of these complaints were regarding French language services and one (1) was regarding the English language. Two (2) complaints were regarding the Department of Justice, two (2) complaints were regarding the Northwest Territories Health and Social Services Authority, two (2) complaints were regarding the Department of Infrastructure and one (1) complaint was regarding the COVID-19 Coordinating Secretariat. All of the complaints came from the private sector; except for one which was initiated by the Office of the Languages Commissioner for the Northwest Territories. Five (5) of the complaints originated in Yellowknife, one (1) was from Fort Smith and one (1) was from Camrose, Alberta.

Four (4) of the complaints were completed with reports and recommendations. Two (2) files are in process as additional information continues to arrive and one (1) complaint was investigated and deemed to not violate languages rights.

There were no complaints received by this office for the last three months of this reporting period.

Inquiries

There were no formal inquiries made of the office in 2021-2022; however, there were a number of discussions that occurred where there were concerns regarding language services, including the provision of plain English in written form.

It is important to note that, while the number of official complaints and inquiries is small, statistics alone do not account for all of the issues brought forward. For example, through informal discussions, individuals will raise issues with respect to language services in various settings, namely health care - this is a common issue of concern, the issue of sign language provision is also mentioned. They also raise concerns about the adequacy and accuracy of interpretations/translations. It is also paternalistic, and unrealistic, to assume that all complaints or inquiries about languages will be made through formal processes. Regardless of whether individuals bring forward formal complaints, their comments are important and deserve full consideration.

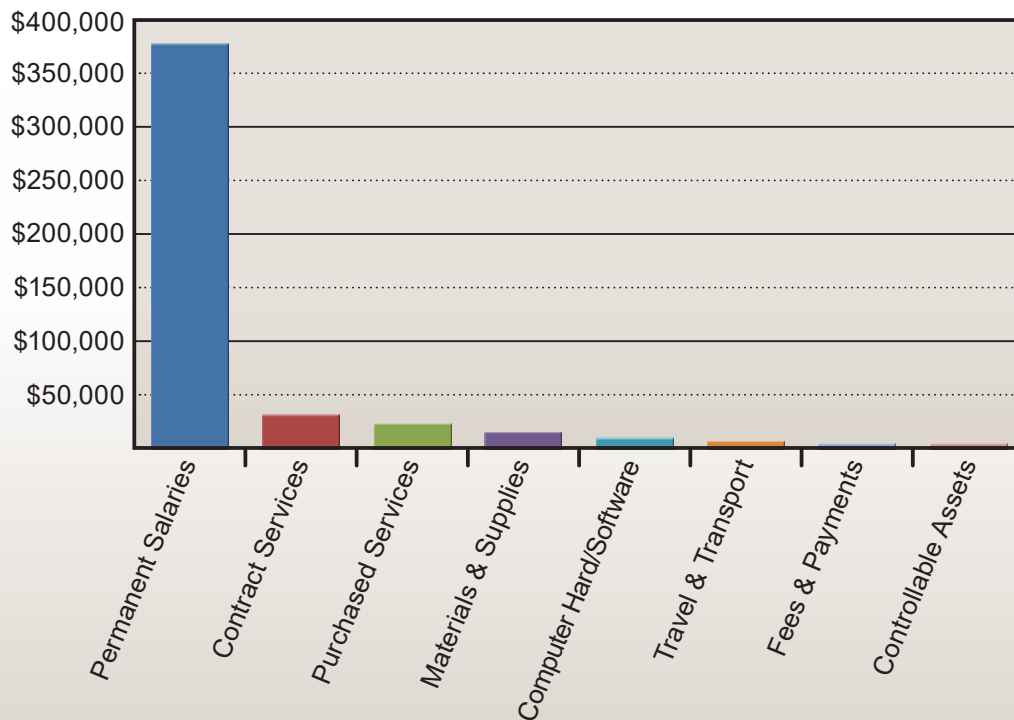
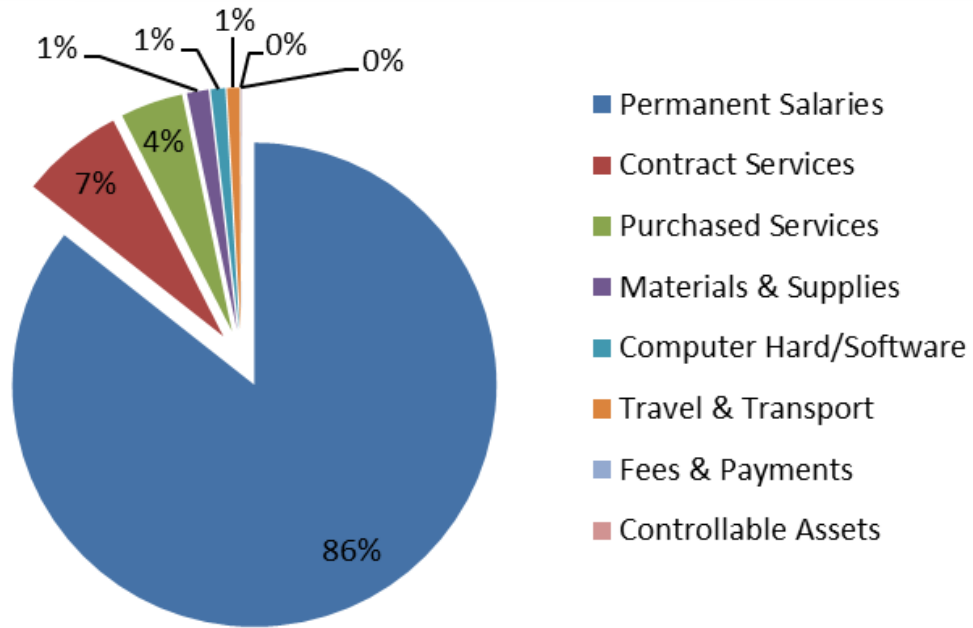


Further, the comments can form the basis for other actions, such as initiating investigations. Common themes include:

- Lack of resources to support the use of the Indigenous languages
- Lack of funding to participate in language conferences
- Lack of education in Aboriginal languages
- The requirements needed for taking specific language programs
- Lack of formal training for interpreters/translators including interpreters/translators in specific settings such as courts and health care facilities
- The use of family and/or friends to provide interpretation services
- Lack of ability to access well trained interpreters/translators
- Lack of standardization of languages

Budget

Total expenditures to run the Office of the Languages Commissioner in the 2021/2022 fiscal year were \$451,122.00. A more detailed breakdown of all the expenses are highlighted in the charts below.



Highlights

Website

The website offers the best way to gather information about the Office of the Languages Commissioner and the *Official Languages Act*.

COVID-19 Pandemic

The global pandemic grounded the Languages Commissioner and many other organizations close to home. There was little to no travel or interaction with other agencies to ensure we maintained the safety of our Office and other offices. Also, during this fiscal year, there were COVID-19 outbreaks throughout the NWT, including Fort Smith in which we were limited to working from home.

Promotional Activities

The COVID-19 pandemic limited personal interactions; as a result, other ways to promote the Office were utilized which include:

- Radio advertisements and quiz events for the Office were run during the month of February 2022 to celebrate Indigenous Languages Month.
- The Languages Commissioner's Office sponsored the CKLB request shows for 4 weekends with ads informing the public of the contact information if they felt their language rights have been violated.
- Print advertisements were run in the various newspapers and magazines of the N.W.T.
- Advertisements were placed in the various newspapers throughout the N.W.T. to bring attention to various days of importance throughout the year. Indigenous Languages Month, National Indigenous Day, Francophone Month, French Language Day, to name a few.
- Promotional materials for presentations and special events were refreshed.

Highlights (continued)

Important Meetings and Events

There were numerous, important events and meetings attended throughout the year, including:

- Participated in a number of radio and print interviews. Some interviews were general in nature, and some were about current cases and issues in the media.
- Met and review of NWT Métis Nation Language Program (*April 9, 2021*)
- Virtual Investigative Training (*April 15, 2021*)
- Virtual Report Writing for Investigators Training (*April 20, 2021*)
- Office Manager started position (*May 3, 2021*)
- Introduction meeting with the Salt River First Nation Executive Director and Chief (*May 19, 2021*)
- Active Offer Training (*May 26, 2021*)
- Virtual meeting with Fédération Franco-Ténoise (FFT) Executive Director (*June 1, 2021*)
- Canadian Forum of Ombudsman virtual AGM (*June 16, 2021*)
- Met with Northwest Territories Ombud (*July 9, 2021*)
- Introduction meeting with Chief Martel on K'at'l'odeeche First Nation (*July 9, 2021*)
- Met with Executive Director of the NWT Native Women's Association (*July 20, 2021*)
- Met with Executive Director of the Status of Women for the NWT (*July 20, 2021*)
- Canadian Forum of Ombudsman Virtual 20th Anniversary (*November 2, 2021*)
- Met with Indigenous Languages and Education Secretariat staff (*December 9, 2021*)
- Virtual presentation to Standing Committee on Government Operations – Annual Report and presentation on review of the *Official Languages Act* (*February 17, 2022*)
- Met with the NWT Human Rights Commission's Executive Director (*February 17, 2022*)

Census Information

The results of the 2016 NWT Census show that Official Languages of the Northwest Territories, with the exception of English, are in danger. Some highlights of the census are:

- English remains the predominant mother tongue (first language learned during childhood still understood) in the Northwest Territories (76.8% of the population). English is the most commonly spoken at home of the vast majority of the population (almost 87.7%).
- Those with an Indigenous language as mother tongue decreased from 13.4% in 2011 to 11.2% in 2016. With the exception of Tłıchǫ, having an A original language as a mother tongue is concentrated in older age groups.
- There was no change in the proportion of persons with French as their mother tongue (2.8% in both 2011 and 2016). In 2016, French as a mother tongue increased in the under 25 age group and decreased in the 25 and older age group compared to 2011.
- Language retention is characterized by the ratio of home language to mother tongue. If the ratio is greater than one, the language is considered healthy. If the ratio is less than one, the language is being eroded. With the exception of English, all Official Languages have a ratio of less than one.
- From 1989 to 2019, the percentage of NWT residents able to speak an Aboriginal Language decreased in all regions throughout the Northwest Territories. In 1989, 55.6% of the Indigenous population 15 years old and older could speak an Indigenous Language. By 2019 this decreased to 33.2 %. (The sharpest decline was in the Sahtu region 39.6%, where there was a decrease from 85.6% in 1989 to 46.0 % in 2019. The smallest decline was in the South Slave region 17.2%, where the decrease was from 39.5% in 1989 to 22.3 % in 2019.)
- From 1989 to 2019, the percentages of Northwest Territories residents 15 years old and older who are able to converse in English and French have increased by 1.4 and 5.4 percentage points respectively. The percentage of Northwest Territories residents able to converse in Tłıchǫ decreased from 6.6 % to 6.1%. With respect to all other Aboriginal Official Languages, all the percentages decreased, with the largest percentage decrease in South Slavey (1.8 percentage points), North Slavey (1.6 percentage points) and Chipewyan (1.5 percentage points).



These statistics are alarming and require that immediate steps be taken to ensure the health of all Official Languages. This includes ensuring that all items in the Aboriginal Language Action Plan and Strategic Plan on French Language Communication and Services be taken. All steps should be taken in conjunction with community leaders, ensuring that the needs of the public are being met and that all Official Languages are healthy.

There is a NWT Census occurring at this time; we are hopeful that there will be a positive change reported in the next Census stats.

Recent Court Cases of Interest

Canada (Commissioner of Official Languages) v. Canada (Employment and Social Development) 2022 FCA 14

This is a case out of British Columbia that revolves around a federal institution's language obligations as part of a transfer payment agreement with a provincial or territorial government.

The federal government entered into a transfer agreement with the Province of British Columbia respecting employment assistance services throughout various portions of the province (the Canada - British Columbia Labour Market Development Agreement). The Federation des Francophones de la Colombie-Britannique (FFCB) filed a complaint with the Federal Commissioner of Official Languages stating that the agreement excluded community organizations providing employment assistance services.

The Commissioner investigated and concluded that the complaint was founded, and the matter proceeded to Federal Court. The Federal Court held that Part IV of the Official Languages Act did not apply to the situation, and found the province was acting within its jurisdiction and that the federal government did not exercise sufficient control over the actual delivery of employment assistance services. The court also found that Human Resources and Skills Development Canada ("HRSDC") met its obligations pursuant to Part VII of the Act, finding there was not sufficient evidence showing a negative impact to British Columbia's minority community (the agreement had not yet been signed).

The Federal Court of Appeal set aside the trial judge's decision and concluded that the HRSDC had violated Part VII of the Act in that it did not take positive measures to enhance vitality of official language minority communities. It added that an interpretation of the Act must be guided by the standard of substantive equality and the objective of preventing the erosion of official language minority communities. The court agreed with the analysis of the Commissioner:

"Federal institutions must first be sensitive to the particular circumstances of the country's various official language minority communities and determine the impact that the decisions and initiatives that they are called upon to take may have on those communities. Second, federal institutions must, when implementing their decisions and initiatives, act, to the extent possible, to enhance the vitality of these communities; or where these decisions and initiatives are susceptible of having negative impact, act, to the extent possible, to counter or mitigate these negative repercussions."

The court ordered that the agreement be terminated unless it could be renegotiated in compliance with Part VII of the Act. The court also ordered the Francophone community's network of employment assistance services be restored, taking into account current needs.

The decision is now under appeal to the Supreme Court of Canada. The Commissioner has expressed “dismay” at the Government of Canada’s appeal of the decision. He stated that the Federal Court of Appeal’s decision was an “historic decision” that “made it possible to effectively enhance the vitality of the English and French minorities in Canada and to support their ongoing development. ...”

Thibodeau v. Edmonton Regional Airports Authority 2022 FC 565

Thibodeau made a complaint to the Federal Commissioner of Official Languages claiming the Edmonton Regional Airports Authority (“ERAA”) had violated several provisions of the Federal Official Languages Act. The Commissioner determined that the allegations were founded and that the ERAA had violated several provisions of the Act. This resulted in Thibodeau applying to the Federal Court for a declaration and damages for the breach.

By the time the matter went to the Federal Court, the ERAA admitted to breaching several provisions of the Act, mostly around use of social media communications, documents and slogans in various contexts. Despite this, the ERAA submitted it should not be required to pay damages and took the position that an award would not compensate for any harm or provide deterrence. The ERAA also argued that an award of damages would allow Thibodeau to “enrich himself” and “commodify his language rights.” The ERAA specifically argued that Thibodeau filed multiple complaints against various institutions and that allowing damages for these various complaints would bring the administration of justice into disrepute.

The Federal Court disagreed with the perspective of the ERAA and stated the accusations were “unfounded and outrageous.” The court stated:

“... I have no doubt that Mr. Thibodeau is motivated by his deep commitment to the defence of the French and language rights...”

While he has received significant sums in damages since 2017, the monetary aspect cannot overshadow the immense personal investment he has made in the defence of language rights. There is absolutely no evidence that Mr. Thibodeau has “commodified” language rights or that profit has become his motivation. In fact, to make such an argument shows a profound lack of sensitivity to the situation of linguistic minorities and their desire to have their rights respected.”

What is most interesting about this case is that the court is clear - private plaintiffs are a significant driver in the preservation of language rights. The court was equally clear that a federal institution can not argue that, because a plaintiff has brought a number of complaints or proceedings, awarding damages would bring the administration of justice into disrepute. Further, the court did not accept the argument that the ERAA’s funds would be better spent on compliance rather than on paying damages. The court found that the “modest award” given to the plaintiff would not “deprive [the ERAA] of the financial resources necessary to ensure the bilingual nature of its services and communications.” These sentiments are applicable to the preservation of language rights throughout the country.

Canada (Commissioner of Official Languages) v. Office of the Superintendent of Financial Institutions 2021 FCA 159

This is a case from the Federal Court of Appeal and revolves around the rights of bilingual Federal government employees who are working in designated bilingual regions environment.

In this case, an employee holding a bilingual position in Montreal (a prescribed bilingual region) filed a complaint that the Office of the Superintendent of Financial Institutions breached its obligations to him. The employee alleged that he was forced to work in English with unilingual employees from a non-prescribed region. The Federal Court trial judge dismissed his argument.

On appeal, the Federal Court of Appeal held that, pursuant to section 36(1)(a) of the Federal OLA, an employee working in a prescribed bilingual region had to be provided with adequate supports and tools by their employer so they can provide high-quality services to the public in both official languages. The court also found that, pursuant to section 36(1)(2) of that Act, the employer failed in its positive duty to take measures to establish and maintain a work environment that is conducive to the effective use of both official languages. More specifically, it found the employee was required to work in English but do reports in French and that the task of translating fell on bilingual employees. The court found that an ability to speak both official languages does not mean that a bilingual employee should be required to work as a translator.

This case shows the impact of having legislation which provides that employees must have adequate supports to do their jobs as they provide services to the public. It is interesting that the Northwest Territories OLA does not have any provision similar to section 36(2) of the Federal Official Languages Act. Further, it is interesting to note, as has been stated numerous times by various Language Commissioners, there must be supports in place to allow employees to provide services in the various Official Languages. Employees can not be left scrambling to try and find another employee who speaks the language of the client. Nor should bilingual employees be required to provide language services that are beyond the scope of their job and expertise. Nor should employees be using family members or friends of the client to provide interpreter/translator services. Further, if an interpreter or translator is going to be used, they must be readily available at all times. If other services are to be used, such as CanTalk, then employees must know how to readily access those services. Whatever means are used to provide language services, employees must have the tools and resources to provide those services in a streamlined fashion.

Amendments to the Official Languages Act and Regulations

Over the years, Languages Commissioners have made numerous recommendations to revise the Official Languages Act. The *Official Languages Act* must undergo an extensive review pursuant to section 35 of the Act. This review is currently underway. The Languages Commissioner made a presentation to the Standing Committee on Government Operations on February 17, 2022, the statement presented is below. During the presentation, a member of the Standing Committee advised that the review may not be finished before the Members of the Legislative Assembly's terms are up by the fall of 2023. The Languages Commissioner is hopeful the required formal review of the *Official Languages Act* will be completed in time to see changes that will strengthen the legislation and enhance the protection of all the Official languages.

Since the Legislative Assembly has access to all previous recommendations made by the office in regard to amendments to the *Act*, they will not be repeated here.

Languages Commissioner's presentation to the Standing Committee on Government Operations on the review of the *Official Languages Act*

Section 35 of the *Official Languages Act* requires that the legislation be reviewed every five years after the last review. The Standing Committee on Government Operations is currently completing this review and here are my comments as the Official Languages Commissioner for the Northwest Territories.

Some of the items discussed may have already been covered in our earlier discussions or repeated in parts of this presentation; please bear with me.

I have been the Languages Commissioner for the Northwest Territories for just over one year. Before that I was an employee with the Government of the Northwest Territories, in various positions, for over thirty years. I believe, like just about every other government employee, I did not understand this legislation.

There was discussion amongst GNWT employees, often asking "why don't we hear the GNWT employees speaking the Indigenous languages in the offices?", "Why aren't the GNWT employees and Ministers using translators when they go into the communities to meet with the people or the various Indigenous governments?" We often asked "what are we supposed to do when someone comes to us speaking another language other than English?" To add to this, we didn't know where we were supposed to take our concerns.

I strongly believe when any government, including the GNWT, goes into an Indigenous government's region, they should be speaking the language of that region. When attending meetings in communities or regions, I enjoy listening to the people speak their language. It is too bad that it is often only at meetings that we hear the language spoken, we need to do more to normalize the speaking of Indigenous languages. This is one reason translators and Interpreters are so important.

There is only one time in my 30-year career with the GNWT, did I have a department representative advise me of a service that would provide translation services for French and the 9 Indigenous languages. I recently spoke with an employee from the Department of Justice who indicated that she is not aware of what is supposed to be provided should another language be required to be spoken. She added that she is aware of "Can Talk", and this is only because she was at the same orientation I was at many years ago. In this Department there has not been any discussion or orientation for the new employees on services provision in regard to the 11 official languages of the Northwest territories. This employee was not aware if this "Can Talk" service was still available.

The GNWT now offers long service awards in the Indigenous languages. When I was in my twenty-fifth year, I asked to receive my long service award in the Dehcho Dene Zhatié language. I was asked to get my own translation done. This was a situation in which, thankfully, the person I reached out to worked with others to complete the translation. This was done without the request for payment. I don't know if the department would have paid for this translation should it have been required. This is the type of service the GNWT provided at that time. I am not sure how much of an improvement has been made since.

The biggest issue with the Legislation is that it applies to government institutions. The government employees in these institutions are not aware of the role they are to be providing or where to get direction when required.

I am aware that I am speaking of the implementation of the legislation, not necessarily the legislation. However, these are connected.

As part of the review of the legislation, I believe the policy, guidelines and regulations are required to be reviewed as well. The legislation recognizes 11 Official Languages in the Northwest Territories. However, once you start applying the policy, guidelines and regulations; you quickly see that other than English, all of the languages are not of the same standing and recognition. It can become a very confusing process depending on where you are physically. I mean this literally.

It is sad to see a language being used in a region lose its standing when you go to another community. A good example of this is the Tłıchq language. Behchokq is approximately one hour away from Yellowknife where the Tłıchq language is strong. There you can receive service in your language, however, if you have to go into Yellowknife, you no longer can access service in your language. This can be challenging, especially when English may be your second language and there is no translator available to assist in receiving the service.

When reviewing the legislation, I ask that you consider, what do you see the NWT Languages Commissioner doing?

This is an important question.

Section 20 of the Official Languages Act states:

1. It is the duty of the Languages Commissioner to take all actions and measures within the authority of the Languages Commissioner with a view to ensuring recognition of the rights, status and privileges of each of the Official Languages and compliance with the spirit and intent of this Act in the administration of the affairs of government institutions.
2. In carrying out the duties set out in subsection (1), the Languages Commissioner may conduct and carry out investigations either on his or her own initiative or pursuant to any complaint made to the Languages Commissioner and may report and make recommendations as provided in this Act.

This description of the duties performed by the Languages Commissioner is basically to ensure the language rights of the 11 Official Languages are protected, this is done by completing investigations whether through a complaint or identified.

This in a nutshell is what the Languages Commissioner does. I can only speak to the duties of the Languages Commissioner's Office and the *Official Languages Act*, which are limited. The Languages Commissioner does not promote the official languages.

Where complaints are concerned, the only option available is whether or not to complete an investigation. There is no option for conflict resolution, mediation or at times just picking up the phone and discussing the issue.

To date, all departments that I have been dealing with have been cooperative. However, after one year in the position, I am encountering new situations in which I am wondering how I would deal with non-cooperation because that is basically the only power I have.

I do not have the power to obtain information or require participation in investigations.

There are situations in which the complainant may be in the charge of an institution such as a correctional facility, hospital or other institution. A number of issues arise from this scenario. Am I able to request their "internal program" information? How do I maintain confidentiality when correspondence flows through another mechanism? Should this office have privilege in these situations? Something to consider.

There are situations in which a complaint is submitted to the Office of the Official Languages Commissioner and other statutory offices, whether it be Territorial or Federal. There is no process on how to address this issue.

The Languages Commissioner can make recommendations when an Investigation is completed. However, the Languages Commissioner has no power to ensure that the government institutions implement the recommendations and there are no consequences for not complying.



Section 22(4) states that if appropriate action was not taken in the opinion of the Languages Commissioner, a report may be submitted to the Legislative Assembly. I believe this requires more clarity on who specifically would take this report and ensure action is taken.

Things get complicated when trying to follow all the processes. The issue of significant demand is noted in the legislation, however, there is no definition for what this is. When you go to the government institution's regulations, section 2 defines significant demand communities for French and English as Fort Smith, Hay River, Inuvik and Yellowknife. This regulation only speaks to French and English, not the 9 Indigenous languages.

Other documents that support the Official Languages Act are:

The Official Languages Policy (1998) and the Official Languages Guidelines Manual (1997). Both are very dated and require updating.

Active Offer is another term that is linked to the Official Languages, however, it is not commonly understood. It appears to only be explained by the Francophone Affairs Secretariat. This is not something you see or hear anywhere else in government institutions.

The Francophone Affairs Secretariat's website defines active offer as - The active offer is a way of greeting members of the public that informs them that they are welcome to communicate with the GNWT in French when seeking information or a service. An active offer can be a sign, a personal greeting, or a recorded message.

There are two divisions within the Department of Education, Culture and Employment that supports the Official Languages.

The Francophone Affairs Secretariat provides French language services to the NWT including translation services.

The Indigenous Languages and Education Secretariat focuses on revitalization and the protection of Indigenous languages throughout the NWT.

I believe all learners are required to hear their language, The Francophone Affairs Secretariat ensures this is done within the government institution by working with the Departments and providing services. The Indigenous Language and Education Secretariat needs to focus on service in addition to revitalization; so, we can ensure the Indigenous languages are being heard within these same institutions.

The Minister Responsible for Official Languages is supported and advised by the Official Languages Boards. The Minister Responsible for Official Languages role was implemented in 2004; the reasons for the creation of this role should be reviewed. At this time, it appears to be hidden within the role of the Minister of Education, Culture and Employment.

Other language issues of concern that should be considered in the review:

Encroachment of other languages in the NWT, needs to be considered. There are no contravention/ consequences for the lack of use of the 11 Official Languages in government institution. However, there isn't consequences for using a non-official language in government institutions either.

We also have to be mindful of using basic English when we are developing and releasing documents to the general public. This is not within the legislation, however, it is an issue of concern brought to this office's attention.

The issue of bilingual bonus for fluent Indigenous language speakers needs to be addressed. This needs to be reviewed to ensure the Indigenous speakers are getting the bonus as required.

There is no formalized process for this that I am aware of. The Francophone Affairs Secretariat has this organized for French language speakers.

In concluding, I realize that I am focused a lot on the Indigenous languages, and this is not dismissing the English or French languages, but we are living in a time in which there is a lot of focus on the Indigenous languages throughout the world and Canada.

The United Nations has declared 2022 – 2032 the International Decade of Indigenous Languages. This was done to draw attention to the urgent need to preserve Indigenous language.

Article 13 of the United Nations Declaration on the rights of Indigenous Peoples states:

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
2. States shall take effective measures to ensure that this right is protected and also to ensure that Indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

In the Truth and Reconciliation Calls to Action, Language and Culture, 13 to 17 focus on Aboriginal languages. The Federal Government developed and implemented the *Indigenous Languages Act* in 2019 and hired their Indigenous Languages Commissioner and three Directors in 2021, announcing that services in the federal services will recognize the spelling of Indigenous languages on passports, etc.

The Northwest Territories has made some minor changes to recognize Indigenous names on government issued identification in 2016, however, we all know that has not been fully implemented and we still have people who are trying to have the correct spelling of their Indigenous names with the correct diacritics.

Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls' Calls for Justice, recommendations #2.1 states: The Commissioners call upon all governments to acknowledge, recognize, and protect the rights of Indigenous Peoples to their cultures and languages as inherent rights, and constitutionally protected as such under section 35 of the Constitution.

The Commissioners call upon all governments to recognize Indigenous languages as official languages, with the same status, recognition, and protection provided to French and English and to create a permanent empowerment fund devoted to supporting Indigenous-led initiatives for Indigenous individuals, families and communities to access cultural knowledge.

There are many more areas I can touch on in this review. However, in my presentation, I speak to the areas of the legislation that require addressing, to strengthen the role of the Languages Commissioner of the Northwest Territories. I hope you find my recommendations helpful as you go forward in the Official Languages Act Review.

At the conclusions of this presentation; the Languages Commissioner was asked what three items would be of priority for changes should the review of the Official Languages Act not be concluded during this legislative assembly. Three recommendations were put forward. The following are a paraphrase of recommendations put forward:

1. The Legislation indicates that the Languages Commissioner is to bring concerns and recommendations to the Legislative Assembly, however, the legislation does not indicate to whom or where these should go. The Minister for the Official Languages' mandate is also in the legislation; however, there is no process on how these two roles are to work together to strengthen the legislation. This needs to be clarified.
2. The Languages Commissioner is to investigate complaints, however, the legislation is weak on how the Languages Commissioner is to request information of Departments or hold them accountable to ensure there is a response to the requests.
3. The Languages Commissioner also indicated that when recommendations are put to Departments at the completion of an investigation, there is no requirement for the Departments to respond to the recommendations put forward. This also should be addressed.

Additional recommendations from the Office of the Languages Commissioner

1. Currently, the Minister Responsible for Official Languages is also the Minister of Education, Culture and Employment. There is a lot of work occurring for education and official languages in the education curriculum, however, the Minister Responsible for Official Languages has a number of other mandates such as “service” within the GNWT, which appears to be lost in the provision of providing education services. The public of the Northwest Territories is not getting service in all 11 of the official languages from the government institutions as required. It is recommended that the Minister Responsible for Official Languages be a stand alone role within a department that serves a broader mandate, similar to the Minister responsible for the Status of Women.
2. It was recommended (above) that the roles be clarified between the Official Languages Commissioner and the Minister responsible for Official Languages to provide the Languages Commissioner an opportunity to bring recommendations for change of legislation/process forward. One concern that was not mentioned as part of this recommendation, is that both of these roles are within the same legislation, and one provides oversight of the other. Is this the appropriate way to have the Languages Commissioner’s concerns heard? The Languages Commissioner’s role is to monitor how the Minister Responsible for Official Languages is promoting and implementing all official languages within Government Institutions, the Legislative Assembly, and the Courts and this would be the position that the Languages Commissioner would have to go to, to request changes in the legislation.
3. Section 29 (a) of the *Official Languages Act* states, the mandate of the Official Languages Board: “may review the rights and status of each of the Official Languages and their use in the administration and delivery of services by government institutions, and may, in the course of that review, evaluate the provisions, operation and effectiveness of the Official Languages Act.” It is recommended that this section of the legislation be actioned by the Official Languages Board to evaluate the administration and delivery of services by government institutions and departments in all official languages but in particular the 9 (nine) Indigenous languages.

The Office of the Languages Commissioner

It is imperative that the Office of the Languages Commissioner be adequately resourced to ensure the mandate of the office is maintained and the rights of all official languages are protected.

The Office of the Languages Commissioner is settling into the new location and it is important to touch on what has occurred:

- At present, there is no backlog of complaints. The two complaints carried over were a result of additional information presented that required the process to extend.
- The position of Languages Commissioner has shifted from part-time to full-time with the recent appointment of the Languages Commissioner. A full-time Office Manager position was also created and filled.
- The Office of the Official Languages Commissioner is currently located in the Town of Fort Smith.
- Due to the COVID-19 global pandemic, there was little in-person promotion of the Office of the Languages Commissioner and the *Official Languages Act* as planned. There is hope there will be an increase of activity in this area.
- The Commissioner is required to be mindful of the changes in the *Official Languages Act* that occurred in 2004, in which the responsibility for the promotion and preservation of Official Languages shifted from the Languages Commissioner to the Minister Responsible for Official Languages. The Languages Commissioner's role is now considered an ombuds type, designed to deal with complaints where language rights have been violated.
- In 2019 the Federal *Indigenous Languages Act* was passed; in 2021 an Indigenous Languages Commissioner and three Directors were appointed to set up the office and implement the legislation. It is unknown, at this time, what the impact may be for the Indigenous languages of the Northwest Territories.
- It should be noted that the Legislative Assembly should revisit the needs and responsibilities of the Office of the Languages Commissioner on a regular basis to ensure adequate resources for the functioning and requirements of the Office; especially since the Office relocated and set up its own office space with staff.

Official Languages Map of the Northwest Territories



French is mostly spoken in Hay River, Fort Smith, Inuvik and Yellowknife.
English is spoken throughout the Northwest Territories.
Inuktitut is mostly spoken in Yellowknife.

Contact Us

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