



Office of the
Commissioner of
Official Languages

Commissariat
aux langues
officielles

AUDIT

OF SERVICES PROVIDED TO ELECTORS IN
ENGLISH AND FRENCH BY THE OFFICE OF THE
CHIEF ELECTORAL OFFICER OF CANADA

FOLLOW-UP
May 2019



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Introduction

In July 2015, the Office of the Commissioner of Official Languages (the Office of the Commissioner) released its audit report, which focused on determining whether the Office of the Chief Electoral Officer of Canada, also known as Elections Canada, was meeting its language obligations to electors. The then Commissioner of Official Languages (the Commissioner) issued nine recommendations intended to ensure that Canadian electors could vote in their official language of choice, as set out in Part IV of the *Official Languages Act* (the Act). The audit report, the list of recommendations by objective, and Elections Canada's comments and action plan in response to the audit can be found on the Office of the Commissioner's website.¹

The nine recommendations sought to achieve the following four objectives:

- Ensure that Elections Canada's senior management is committed to implementing Part IV of the Act so that electors are guaranteed the possibility of voting in the official language of their choice.
- Ensure that Elections Canada has an official mechanism for making an active offer and providing electors with services of equal quality in English and in French at all returning officers' and assistant returning officers' offices, mobile polling stations and polling places,² including advance and central polling places.
- Ensure that Elections Canada takes official language minority communities into account when planning recruitment campaigns for election officers and workers.
- Ensure that Elections Canada effectively monitors its performance in terms of delivering services in order to ensure they are of equal quality in both official languages in all returning officers' and assistant returning officers' offices, mobile polling stations and polling places, including advance and central polling places.

Methodology

Elections Canada provided documents in two waves, including a record of progress to date in September 2017 and an update with additional clarifications between September 2018 and December 2018. As part of the follow-up, representatives of the Office of the Commissioner also met with Elections Canada officials. In response to the preliminary audit follow-up report sent on January 10, 2019, Elections Canada provided comments and additional documents, which were analyzed and taken into account in this final follow-up report.

The results of the audit follow-up were based on an analysis of progress reports, updates and various documents submitted by Elections Canada in response to the recommendations made at the time of the audit. The "Review on Official Languages

¹ Office of the Commissioner of Official Languages, *Audit of Services Provided to Electors in English and French by the Office of the Chief Electoral Officer of Canada*, Ottawa, July 2015. On-line version (www.officiallanguages.gc.ca/en/publications/audits/2015/electionscanada) consulted on March 27, 2019.

² Geographical concept. One or more polling divisions are assigned to a polling place.

2017–18” was also reviewed and analyzed, as were the work descriptions available on Elections Canada’s website. The Commissioner would like to thank the Elections Canada team for its excellent collaboration in sending the documentation and during meetings.

Different interpretation

As a preliminary point to this final audit follow-up report, it should be noted that a disagreement persists between the Office of the Commissioner and Elections Canada regarding the application of section 24 of the Act in the context of the institution. This disagreement is important, as it has an impact on the measures taken by Elections Canada to implement the Commissioner’s nine recommendations. As mentioned in the action plan Elections Canada submitted following the audit,³ the Commissioner is of the opinion that the notion of significant demand does not apply to Elections Canada, whereas Elections Canada considers that it does.⁴ However, since the release of the final audit report, the Commissioner has noted positive progress on the issue of Elections Canada’s definition of areas where there is significant demand. Elections Canada now acknowledges the duty of returning officers to provide services of equal quality in all polling divisions in the country where at least 5% of the population speaks the minority official language. The previous definition put forward by the institution since the release of the final audit report was much broader and ran the risk of excluding *de facto* a number of official language minority communities. Therefore, the difference of interpretation between Elections Canada and the Commissioner has decreased considerably, and this is a positive development. The phrase “area where there is significant demand” will be used throughout this audit follow-up report.

The report includes terminology specific to Elections Canada. The glossary available on the institution’s website⁵ may be consulted as needed for clarification. Note that, in some cases, more comprehensive terms were used in the context of this follow-up.

³ Office of the Commissioner of Official Languages, *Audit of Services Provided to Electors in English and French by the Office of the Chief Electoral Officer of Canada*, Appendix D, Ottawa, July 2015. On-line version (www.officiallanguages.gc.ca/en/publications/audits/2015/electionscanada) consulted on March 27, 2019.

⁴ Elections Canada maintains that the *Canada Elections Act* makes a distinction between the Office of the Chief Electoral Officer and returning officers’ offices in each electoral district. According to Elections Canada, the Office of the Chief Electoral Officer is subject to section 24 of the Act, but polling stations are independent institutions that are subject to the obligations set out in section 22, which stipulates that federal institutions are to provide services in both official languages in the National Capital Region and in areas where there is significant demand for the use of both English and French. The Commissioner is instead of the view that returning officers’ offices are part of the Office of the Chief Electoral Officer and that it must therefore ensure that services at polling places are provided in both official languages in all circumstances, in accordance with section 24 (throughout Canada).

⁵ Elections Canada, Glossary, Ottawa, August 2018. On-line glossary (www.elections.ca/content.aspx?section=res&dir=glo&document=index&lang=e) consulted on March 1, 2019.

Analysis of findings and recommendations

Recommendation 1

The Commissioner of Official Languages recommends that Elections Canada develop an official languages accountability framework and communicate the framework to election officers and workers and employees working at headquarters and the enquiries centre. This accountability framework must:

- a) specify the roles and responsibilities of election officers and workers who must serve electors in English or French at all returning officers' and assistant returning officers' offices, mobile polling stations and polling places, including advance and central polling places;*
- b) identify and present the roles and responsibilities of headquarters employees involved in the implementation of Part IV of the Official Languages Act, both in the Human Resources Branch and in the Electoral Events Sector, including enquiries centres established for returning officers' offices and electors;*
- c) specify how the persons responsible will be held accountable.*

In response to the audit, Elections Canada committed to developing an official languages accountability framework after the 2015 general election. The institution stated at the time that the framework would be developed in conjunction with the official languages action plan, official languages policy and monitoring mechanisms. The then Commissioner was satisfied with the measures being proposed at that time.

Since the audit, Elections Canada has made organizational changes, including designating a new official languages champion and establishing an official languages steering committee. The Commissioner has noted these changes and hopes that they will foster ongoing improvements with respect to official languages so that they become an integral part of Elections Canada's culture.

Regarding the official languages accountability framework, Elections Canada stated that a governance structure was established and that the roles and responsibilities of the Office of the Chief Electoral Officer and election officers were at the preliminary draft stage. Although Elections Canada submitted a draft accountability framework, the Commissioner is unable to comment on the content since it is not yet official. Monitoring and reporting mechanisms still need to be determined because, according to the institution, they must be established in conjunction with the official languages policy for field employees and the official languages action plan for the next general election. Neither of these documents have been finalized to date.

According to Elections Canada, a key impediment to finalizing the accountability framework has been ensuring that it is aligned with the obligations and responsibilities stated in the official languages policy for field employees and associated directives. These documents required an extensive consultation process with returning officers. The

institution expects to finalize the new accountability framework and communicate it to all employees, including election officers, in April 2019, through internal communications. Given that the accountability framework is a core document for identifying and communicating the roles and responsibilities of each party with respect to official languages and given that it would foster progress, the Commissioner questions whether implementation in 2019 will allow the institution to establish the necessary measures to ensure that Canadian electors can vote in the official language of their choice in the next general election.

In light of the foregoing, Elections Canada has partially implemented Recommendation 1.

Recommendation 2

The Commissioner of Official Languages recommends that Elections Canada establish and implement a new action plan for Part IV of the Official Languages Act before the 2015 federal general election and communicate this plan to election officers holding key positions throughout the network and at headquarters. The new plan must:

- a) include deadlines, performance indicators and concrete measures that take into account all of Elections Canada's activities related to services to electors, including the activities of election officers and workers and those related to federal by-elections, federal general elections and referendums;*
- b) include an accountability and follow-up mechanism;*
- c) be communicated to key persons, such as the managers responsible for ensuring bilingual operational services at headquarters, returning officers, assistant returning officers and field liaison officers.*

Although Elections Canada stated that it agreed with this recommendation in its response to the preliminary audit report, the institution could not guarantee that a new official languages action plan would be established before the 2015 general election. However, Elections Canada committed to making changes to its 2012–2014 action plan. After the 2015 election, Elections Canada stated that, to help meet its official languages commitments, it would strengthen its future action plans by including the official languages accountability framework and its official languages policy. The then Commissioner was satisfied with the proposed measures and noted that identifying areas of significant demand was a step in the right direction pending the development of a completely new action plan.

For the 2015 general election, Elections Canada was able to develop an official languages action plan that included objectives, activities, deadlines and performance indicators to support returning officers in recruiting bilingual staff and ask them to contact the official language minority communities in their electoral district to seek advice for this process. This information was distributed through internal communications, including an article in the *Dialogue* newsletter and memos during the electoral period. The Commissioner would like to point out that, unlike the 2012–2014 action plan, the 2015

action plan specifically addressed election officer activities, which is a major step forward.

After the 2015 election, the official languages working group discussed the efforts made during that election and drew up a list of lessons learned. The Commissioner was unable to confirm whether this information was taken into account in the new official languages action plan for the 2019 general election, as the plan was still in development at the time this final follow-up report was written. Elections Canada stated that the concepts of “designated office” and “significant demand” will be clarified in the new plan. It should also be noted that, according to the information provided in response to Recommendation 1, monitoring and reporting mechanisms had yet to be defined. Although Elections Canada did ultimately manage to develop an action plan for returning officers for the 2015 election, the Commissioner unfortunately does not believe, given the proposed deadline, that the action plan for the 2019 election will be ready far enough in advance for the Office of the Chief Electoral Officer and returning officers to complete the many complex steps involved in planning service of equal quality in both official languages in time for the 43rd general election.

In light of the foregoing, Elections Canada has partially implemented Recommendation 2.

Recommendation 3

The Commissioner of Official Languages recommends that Elections Canada develop a new official languages policy and communicate it effectively to headquarters employees and election officers and workers, including returning officers, assistant returning officers and field liaison officers. This policy must:

- a) *take into account the structure and particularities of Elections Canada and the requirements set out in Part IV of the Official Languages Act;*
- b) *be communicated, during by-elections, federal general elections and referendums, to headquarters senior management and managers, as well as returning officers, assistant returning officers and field liaison officers, who must then communicate it effectively to other election officers and workers.*

In response to the audit, Elections Canada committed to developing two separate official languages policies after the 2015 general election: one policy for the Office of the Chief Electoral Officer and one policy for election officers. The then Commissioner was satisfied with the manner in which the institution intended to follow up on this recommendation.

Elections Canada explained that Office of the Chief Electoral Officer staff would continue to be subject to the Treasury Board of Canada Secretariat’s Policy on Official Languages and that this policy is now available on the institution’s intranet site. In addition, Elections Canada stated that a working group composed of organization staff, returning officers and field liaison officers was created to develop an official languages policy for field staff, to be accompanied by two directives. The Commissioner is unable to comment on these

documents; even though the institution sent a draft copy of the documents to the Office of the Commissioner, they are still in the approval process.

It is worth mentioning that the Commissioner questions whether Elections Canada is consistent in applying the Treasury Board's Policy on Official Languages. For example, the policy stipulates that institution deputy heads are responsible for ensuring that performance agreements include objectives related to the implementation of parts IV, V, VI and VII (section 41) of the Act. However, in the "Review on Official Languages 2017–18 – Office of the Chief Electoral Officer" prepared by Elections Canada, the institution states that the current performance agreements do not include such objectives. The Commissioner encourages Elections Canada to review its existing processes in keeping with the Treasury Board's Policy on Official Languages and associated directives to ensure that all necessary measures have been taken to comply with the policy and directives.

In light of the foregoing, Elections Canada has partially implemented Recommendation 3.

Recommendation 4

The Commissioner of Official Languages recommends that Elections Canada develop and implement a plan for recruiting bilingual returning officers and bilingual field liaison officers. This plan must:

- a) *include measures to revise the work descriptions and statements of work of returning officers and field liaison officers in order to include mandatory language skills;*
- b) *include a provision to remind returning officers that they must designate election officer positions, particularly the position of central poll supervisor, at mobile polling stations and polling places, including advance and central polling places, in order to ensure that they can provide service of equal quality in English and French to electors at all times.*

In response to the audit, Elections Canada did not agree with the wording of this recommendation. The institution considered that it was neither practicable nor necessary to require that all returning officer and field liaison officer positions be bilingual. The then Commissioner was not satisfied with this response.

Although the recruitment campaign for returning officers for the 2015 general election had already taken place when the audit report was released, Elections Canada took a few measures with respect to official languages, including sending memos to returning officers during the election campaign regarding their obligations under the Act. These communications requested that they promote the recruitment of bilingual election officers and workers and establish contact with official language minority communities to obtain their support during this process. The communications also provided the protocol to be followed when an elector wishes to be served in the other official language. The institution also asked applicants to voluntarily state whether they were bilingual or

unilingual. This information is recorded in the Recruitment Management System, in which returning officers can search for bilingual candidates.

Elections Canada stated that it will continue to consider bilingualism as an asset when appointing most returning officers and field liaison officers for future elections. Bilingualism will still not be mandatory. The work description for returning officers states that bilingualism may be taken into account when selecting candidates for an interview. In electoral districts where at least 5% of the population speaks the minority official language, the process for appointing a new returning officer requires a bilingual candidate to be hired over a unilingual candidate. According to Elections Canada, the weight given to bilingualism in the assessment of candidates almost always ensures the appointment of a bilingual returning officer. This process, however, is in place in only 71 of 338 electoral districts. Elsewhere, bilingualism is more of an asset. In this regard, Elections Canada has shown that, since 2017, one of the interview questions relates to official languages and additional points are awarded for having the ability to communicate in both official languages. It is important to note that this process relates to the recruitment of returning officers only and does not apply to election officers and workers.

With respect to assessing selected candidates' ability to communicate in both official languages, Elections Canada sent the Office of the Commissioner the new official languages assessment tools developed to help recruit returning officers and field liaison officers. At their discretion, returning officers may decide to use these assessment tools to confirm the language proficiency level of potential election officers and workers. This pilot project was launched in 2018 and includes an on-line assessment of the second-language reading comprehension and written expression skills of candidates who voluntarily self-identify as bilingual, as well as an oral proficiency assessment by telephone. The Commissioner has taken note of this progress, but cannot comment on the quality of these language assessment tools, as this is not within the scope of his expertise.

Elections Canada pointed out that in cases where a unilingual returning officer is hired, that officer will be responsible for developing and implementing a plan to recruit bilingual officers and workers for his or her office. Under section 22 of the Act, Elections Canada requires returning officers to have the ability to communicate in both official languages and provide services of equal quality in English and French:

- at all returning officers' and supplementary assistant returning officers' offices throughout Canada;
- at polling places, including advance polling places, in the National Capital Region and where there is significant demand for the minority official language.

With regard to field liaison officers, other than the previously mentioned assessment tool, the Commissioner noted that the work description has been modified. Bilingualism is now considered to be an asset, but is not an essential qualification as suggested in the recommendation. Elections Canada justified this position by explaining that the primary duties performed by field liaison officers are not aimed at electors. However, according to the Commissioner, the analysis of the work description available on the institution's website shows that incumbents of this position play a liaison role with external

organizations that may wish to communicate in the minority official language, such as school boards, media outlets and regional service providers. It should be noted that no other measures appear to have been taken to implement a plan to recruit bilingual field liaison officers. Without a detailed plan for recruiting field liaison officers, the Commissioner fears that it may be difficult for the institution to build adequate bilingual capacity.

As mentioned in the Office of the Commissioner's response to Elections Canada's action plan, requiring returning officers to develop a recruitment plan for election officials and workers that includes a section on official languages is a step in the right direction and partly fulfills the last component of the recommendation. However, although Elections Canada explained that returning officers' duties may be delegated, the Commissioner is of the opinion that returning officers and field liaison officers must be bilingual, as some of their responsibilities are more complex and require interaction in both official languages to ensure the provision of service of equal quality to both linguistic communities. The measures proposed by the institution do not take this element into account. Therefore, the Commissioner urges the institution to review its position and develop an official plan so that all returning officer positions are held by bilingual individuals and that work descriptions and statements of work are revised to include mandatory language skills.

In light of the foregoing, Elections Canada has partially implemented Recommendation 4.

Recommendation 5

The Commissioner of Official Languages recommends that Elections Canada consistently add the obligations set out in Part IV of the Official Languages Act to all training manuals and in-person and on-line training sessions for election officers and workers.

At the time of the audit, Elections Canada stated that it agreed with the recommendation and would use the current review of its on-line training programs and its training manuals and guides for election officers and workers as an opportunity to ensure consistent inclusion of the obligations set out in Part IV of the Act. The then Commissioner was satisfied with the proposed measures.

The training manual for returning officers now includes a description of their responsibilities under the Act, as well as requirements pertaining to bilingual capacity in the provision of services in an electoral district, procedures to be followed to provide bilingual service and language tools. The manual also states that returning officers must identify official languages requirements in their recruitment plan, give priority to hiring bilingual election workers and communicate with official language minority communities to gain their support in recruiting staff.⁶

⁶ It should be noted that the manual addresses Elections Canada's obligations under section 22 of the Act, which relates to the provision of services in both official languages in the National Capital Region and in areas where there is significant demand.

Further to an analysis of the other training manuals and guides (including those intended for central poll supervisors, deputy returning officers and poll clerks), the Office of the Commissioner noted that the obligations set out in Part IV of the Act are now addressed in a consistent manner, albeit briefly, as requested in the recommendation. A short section also mentions the active offer of service and the protocol for when an elector requests services in the minority official language. However, this protocol relies heavily on the use of bilingual greeting cards, which contain instructions on how to vote, and the toll-free Dedicated Linguistic Services Line, which provides interpretation services. In the Commissioner's opinion, these measures are insufficient to ensure the provision of services of equal quality in both official languages. Elections Canada agreed with the Commissioner and clarified that these measures were simply a last-resort option to be used only if there were no bilingual workers at the polling place. Returning officers are instructed to make every reasonable effort to ensure that at least one bilingual worker is on site at all times. Elections Canada committed to driving home the message that these measures must not become common, widespread practice. The Commissioner has taken note of this commitment and suggests that Elections Canada include this message in its various manuals and training guides, because although the returning officers' manual states that this measure is to be used only as a last resort, the other manuals and guides simply instruct staff to give the card to the elector if there is no bilingual capacity at the polling place.

Elections Canada also explained the reasons why the manuals and training guides make no distinction between areas where there is significant demand and areas not subject to obligations under the Act according to Elections Canada's interpretation. According to the institution, these concepts are relevant only to returning and training officers, as the instructions given to election workers in cases where an elector wishes to be served in the minority official language remain the same, regardless of whether or not there is significant demand. This situation may be problematic in the event that there is no bilingual capacity on site. It is important to note that the minutes of the returning officers' meeting, which Elections Canada provided in response to Recommendation 8, contain a comment referring to the fact that returning officers were unaware that their electoral district was designated as bilingual. This is concerning because the need for returning officers to understand the obligations set out in Part IV of the Act is central to Recommendation 4. The Commissioner encourages Elections Canada to take measures to ensure that returning officers are well informed and made aware of their electoral district's linguistic composition.

The Office of the Commissioner also noted that training videos are available on Elections Canada's website. Upon viewing them, it was noted that the obligations set out in Part IV of the Act did not appear to be mentioned (except in the video "Voting in Canada"). Also, the active offer is only mentioned in some of the videos. The videos emphasize the initial bilingual greeting ("Hello/Bonjour" / "Bonjour/Hello"), and they do not address the protocol for when an elector replies in the employee's second official language and the employee is unable to provide services in that language. The institution explained that it will consider the inclusion of the protocol into the videos when they are updated. Elections Canada pointed out that, given the institution's operational realities, the information given to election workers must be brief, clear and concise.

However, the Commissioner stresses once again the importance of official languages in the electoral process. He strongly encourages Elections Canada to include in upcoming videos, at least briefly and concisely, the steps to be taken beyond the initial greeting to ensure service of equal quality in both official languages. This is a good opportunity for the institution to demonstrate its commitment to advancing official languages while helping to reduce compliance issues, although the key issue here remains actual bilingual capacity.

In light of the foregoing, Elections Canada has partially implemented Recommendation 5.

Recommendation 6

The Commissioner of Official Languages recommends that Elections Canada establish an official process enabling it to effectively provide service in person of equal quality in English and in French at all times during electoral events. This process must:

- a) include the development and implementation of a service procedure that includes the active offer and delivery of services of equal quality in both official languages at all times at returning officers' and assistant returning officers' offices, mobile polling stations and polling places, including advance and central polling places where electors go to vote during federal by-elections, federal general elections and referendums;*
- b) be communicated to returning officers, assistant returning officers and field liaison officers, who will then communicate this new process to other election officers and workers;*
- c) be implemented before the 2015 general federal election.*

In its response to the audit, the institution expressed its disagreement with the wording of recommendations 6 and 7 (which received the same response), explaining that it could not guarantee the availability of service in person of equal quality in English and in French at all times at all polling places in Canada. However, the institution committed to taking certain measures, including conducting a demographic analysis to identify areas where there is significant demand. The then Commissioner was not satisfied with Elections Canada's response to these two recommendations.

Since then, Elections Canada has carried out a demographic analysis using the "first official language spoken" to identify areas where at least 5% of the population speaks the minority official language, in other words, areas where, according to the institution, there is significant demand and a commitment has been made to provide services in both official languages. In February 2019, Elections Canada confirmed that it was committed to serving electors in their preferred official language at returning officers' offices in each electoral district and, during the vote, in polling divisions and advance polling districts where at least 5% of the population speaks the minority official language. The Commissioner notes the positive change in this definition over the course of this follow-up. Under the previous definition, in a number of official language minority

communities in electoral districts where the majority language predominates, Elections Canada would not have recognized the right of electors to vote in the official language of their choice.

Even though a disagreement persists, the Commissioner nonetheless agrees that service needs in the minority language and opportunities to hire bilingual staff will be concentrated mainly in polling divisions where at least 5% of the population speaks the minority official language and that it is appropriate to make special efforts in those areas. However, the Commissioner notes, and Elections Canada agrees, that many documents, both governance-related and operational in nature, will need to be updated to reflect this approach. It should be noted that some documents also contain incorrect terminology with respect to official languages obligations. The Commissioner urges Elections Canada to act quickly to avoid any risk of confusion in the 2019 general election.

In keeping with the first point in the recommendation, Elections Canada established a service procedure that includes an active offer of service in both official languages throughout the country. However, it is important to remember that, although this procedure has been included in training manuals and guides and has been communicated to returning officers through internal communications, the training videos mention only the initial active offer and provide no details about the procedure to be followed to provide service in the second official language. In addition, the Commissioner questions the effectiveness of the service procedure currently used in cases where there is no bilingual capacity, especially since Elections Canada does not recognize the right to vote in the preferred official language in all polling divisions. An active offer without actual availability of service is merely a superficial measure.

Currently, once the bilingual greeting has been given, if the polling place does not have bilingual staff to assist the elector in the minority official language, the elector receives a bilingual greeting card with instructions to follow and the toll-free number for the Dedicated Linguistic Services. As previously mentioned, although Elections Canada explained that these measures are last-resort options only, the Commissioner stresses that these practices do not constitute service of equal quality. The Commissioner therefore encourages Elections Canada to review this approach and implement a procedure that goes beyond the initial greeting and maintains the continuum of service in the official language of choice. However, as will be discussed in the next section, above all, the institution needs to have bilingual capacity in all of its returning officers' and assistant returning officers' offices, mobile polling stations and polling places, including advance and central polling places.

In addition, at the time of the 2015 election, Elections Canada conducted an exercise with the 338 returning officers' offices to confirm the availability of bilingual services and ensure that telephone and in-person services were provided in both official languages. Memos outlining the results of this exercise, as well as the corrective measures to be taken to ensure bilingual service of equal quality, were sent to returning officers a few days before the general election. This exercise is a step in the right direction; nonetheless, it is possible that this process was conducted too close to election day to

actually permit returning officers to correct the issues identified, especially if their office had no bilingual capacity.

In light of the foregoing, Elections Canada has partially implemented Recommendation 6.

Recommendation 7

The Commissioner of Official Languages recommends that Elections Canada implement a process to staff election officer and worker positions that must be bilingual. This process must:

- a) identify the election officer positions that must be bilingual within its network to ensure the sufficient presence of bilingual election officers and workers on all shifts in returning officers' and assistant returning officers' offices, mobile polling stations and polling places, including advance and central polling places;*
- b) include specific measures to staff these positions to achieve concrete results in terms of bilingual service delivery to electors;*
- c) include specific measures to make returning officers accountable in this regard.*

Elections Canada stated that it will make returning officers responsible for identifying which election officer and worker positions must be bilingual and for implementing a recruitment plan to staff these positions at all returning officers' offices and at supplemental offices they set up, in polling places and advance polling places in the National Capital Region and in areas where there is significant demand. Returning officers must use the "Recruitment Plan for Poll Workers," which was modified after the 2015 election to include a section on obligations under the Act and state their responsibility for hiring staff capable of providing equal quality services in both official languages. However, it was noted that this requirement did not appear to be discussed at length in the document, the plan itself not including a specific category for identifying bilingual positions. It is therefore difficult to use the plan as a tool for identifying which election officer and worker positions must be bilingual. Furthermore, the institution did not provide any evidence that it had carried out the exercise to identify bilingual positions.

Elections Canada stated that returning officers must formalize their recruitment plan with their recruitment officer once the election or referendum has begun. For the 43rd general election, the institution plans to send out instructions in the spring of 2019 to ask returning officers to find and hire bilingual staff and to guide them in the preparation of their recruitment plan.

The Office of the Commissioner had a similar finding with respect to the "Recruitment Officer Reference Guide": one section mentions official languages, but they are not an integral part of the other sections. For example, it states that the key objectives of the

recruitment cycle are to select and appoint individuals who have the essential skills required to perform the work. None of the objectives refer to the ability to provide service in both official languages. The Guide also lists the tasks that a returning officer must perform after an election is called. Again, the list makes no mention of official languages. Neither the guide nor the recruitment plan make a distinction between areas where there is significant demand and areas where there is not, whereas Elections Canada (but not the Commissioner) considers that this distinction is key to the interpretation of returning officers and recruitment officers obligations.

Elections Canada pointed out the features and complexities of the election worker recruitment process, which differs from the returning officer recruitment process, given the obligations set out in the *Canada Elections Act*. It should also be pointed out that prior to the passage of Bill C-76 to amend the *Canada Elections Act* in December 2018, each field election worker had specific responsibilities that could not be delegated. This complicated the logistics of providing service in both official languages at polling places. However, the changes, which will take full effect after the next general election, will modify the existing categories of election officers and replace them with a more universal “election officer” role. These officers will now be able to perform various tasks at polling places. In addition, it will be possible to begin recruitment earlier in the electoral process. For electoral events following the 2019 general election, this new flexibility will allow returning officers to assign resources and employees more effectively.

As indicated in Recommendation 4, Elections Canada has also made a few changes to its recruitment process to promote the hiring of bilingual returning officers; the process has been used since 2017. The new language tools may be used for returning officers to assess the language proficiency of election workers. It should be noted that the institution did not demonstrate within the context of the follow-up that targeted employment announcements were made to recruit bilingual staff.

Among the other measures taken to follow up on this recommendation, Elections Canada explained that a new Targeted Outreach Program Repository was being developed and would facilitate strategic planning during the pre-election period. By May 10, 2019, returning officers will be required to identify local stakeholders for each target group, including official language minority communities. Screenshots sent to the Office of the Commissioner show how this information, once collected, will be entered into the Targeted Outreach Program Repository, along with areas where there is significant demand. According to Elections Canada, this tool will allow returning officers to prepare recruitment plans that are consistent with their electoral district’s linguistic profile. The Commissioner acknowledges this significant improvement in the area of computer-based tools, which will help returning officers be better equipped.

There is no doubt that the various measures taken by Elections Canada will be somewhat beneficial in promoting the recruitment of election officers and workers. However, Elections Canada has not shown that it has completed the identification of positions that must be bilingual. Not only is this process central to the recommendation, it is also a necessary step for the institution to understand its official languages needs and thus develop sufficient bilingual capacity. If it does not have a clear idea of the demand, Elections Canada cannot correct the situation. Elections Canada still has

several specific measures to take in order to staff bilingual positions and obtain concrete results in terms of service delivery in electors' official language of choice. The Commissioner is aware of the potential logistical challenges associated with hiring approximately 285,000 election workers for one day. However, he encourages Elections Canada to continue this work, as it lies at the core of all of the audit recommendations: without sufficient bilingual capacity at its returning officers' offices and at the various polling places, the other measures taken, along with the policies and action plans, will not lead to the ultimate goal, which is to provide services of equal quality in both official languages to Canadian electors.

In light of the foregoing, Recommendation 7 has been partially implemented.

Recommendation 8

The Commissioner of Official Languages recommends that Elections Canada develop an official mechanism for creating closer ties with official language minority communities to request their advice and support and to promote the recruitment of bilingual election officers and workers. This official mechanism must:

- a) include a procedure for communicating with official language minority communities at the national, provincial and regional levels;*
- b) include formal communications with official language minority communities during the planning and promotion stages of recruitment campaigns for bilingual election officers and workers.*

At the time of the audit, Elections Canada stated that it agreed with this recommendation and was committed to supporting returning officers in their efforts to recruit bilingual election officers and to asking them to communicate with organizations in their region to obtain advice and support in this process. The then Commissioner was satisfied with the proposed measures.

During the 2015 general election, Elections Canada sent memos to returning officers asking them to work with various organizations in their area to facilitate the recruitment of bilingual workers. Elections Canada also developed a list of organizations at the national level, by province and territory, and said that this list was sent to the 338 returning officers to support them in recruiting bilingual election workers. However, the memos sent during the 2015 election only mentioned two official language minority communities advocacy organizations as an initial point of contact. The list in question did not include organizations representing official language minority communities and omitted certain provinces and areas of Canada.

Elections Canada submitted a copy of the instructions returning officers have to follow to identify Francophone groups within their electoral district and establish initial contact with them. This document gives a list of items that must be raised in discussions with organization representatives. It was unclear how these instructions are given to returning officers. The Commissioner hopes that this approach will make it possible to prepare a more detailed list of organizations that includes groups representing official language

minority communities in electoral districts and will help returning officers identify resource persons to contact for advice and support in recruiting bilingual election workers. In addition, as explained in Recommendation 7, the Targeted Outreach Program Repository will give returning officers access to this list of local organizations. It is important to note that no documents were submitted to the Office of the Commissioner to show that these same instructions are given to identify Anglophone organizations in Quebec.

Elections Canada stated that it posted notices on the websites of the Quebec Community Groups Network and the Fédération des communautés francophones et acadienne du Canada for the purposes of the 2015 election to encourage their members to apply for election worker positions. Although this measure is a positive step, the Commissioner encourages the institution to also work with sectoral, provincial and local organizations to disseminate the information on staff recruitment, given their direct contact with local communities in various electoral districts.

In addition, Elections Canada stated that the GeoExplore interactive mapping tool was modified prior to the 2015 election to include a new category showing linguistic designations according to the first official language of advance polling electoral districts, since Elections Canada had no data available for voting day. This tool now also includes a map showing (ordinary) polling divisions where there is significant demand. The Commissioner takes note of this tool, which will help returning officers better understand the linguistic makeup of their electoral district.

Lastly, the 2019 election will be the first time that Elections Canada advises its returning officers to appoint a community relations officer – official languages / ethnocultural to establish ties with official language minority communities in their electoral district. The key duties of this new position will include conducting outreach activities during the pre-election period in order to work with official language minority communities and gain their support in recruiting bilingual staff. If a returning officer decides not to hire a community relations officer – official languages / ethnocultural, he or she will be responsible for reaching out to official language minority communities. He or she will also have to explain this decision to the Office of the Chief Electoral Officer. The Commissioner took note of this new option but still wonders why this measure remains optional while the hiring of other community relations officers is mandatory. He also wonders whether returning officers are prepared and aware enough to identify the official language minority organizations in their region.

In light of the foregoing, Elections Canada has partially implemented Recommendation 8.

Recommendation 9

The Commissioner of Official Languages recommends that Elections Canada:

- a) establish a structured monitoring mechanism to ensure the availability and quality of services provided in person in English and French at all of its points of service;*
- b) use the information gathered during its monitoring activities, including information obtained over the telephone, to correct any shortcomings observed and, in doing so, improve the bilingual service provided during future electoral events.*

At the time of the audit, Elections Canada stated that it would establish an ongoing monitoring mechanism after the 2015 federal general election, and that monitoring principles and governance mechanisms would be defined in official languages policies, while the official languages accountability framework would provide specific information. The then Commissioner was partially satisfied with the measures proposed in response to this recommendation.

Elections Canada stated that it took certain monitoring measures in preparation for the 2015 general election. First, calls were made before the 2015 election to 338 electoral districts to ensure that services being provided by telephone were available in both English and French at returning officers' offices and to verify whether these offices had the bilingual capacity necessary to deliver services in person in both official languages. As supporting documentation, the institution provided a copy of the memo sent to returning officers by the senior director, Field Readiness and Event Management, which included the results of the phone calls and the corrective action to be taken.

Second, the institution sent an official languages survey to returning officers' offices leading up to the 2015 general election to verify whether these offices, additional assistant returning officers' offices, and advance and ordinary polling places throughout the country had bilingual capacity.

Lastly, the Returning Officers' Report of Proceedings, a questionnaire designed to gather data on returning officers' experiences during the election and compliance with rules and procedures, includes two questions on official languages. Further to analysis, the Commissioner encourages the institution to add questions regarding difficulties that the returning officers may have experienced during the recruitment campaign and the hiring of bilingual staff, and the type of support that would facilitate this task for them. The institution could thus focus its efforts and develop tools that meet the needs identified by regional staff.

The various measures taken by Elections Canada during the 2015 general election are a step forward in ensuring the availability of equal quality services in both official languages. Nevertheless, Elections Canada has still not established official mechanisms to monitor the bilingual services provided in person at returning officers' and assistant returning officers' offices and at mobile polling stations and polling places, including advance and central polling places. This issue was pointed out during the audit, and the

situation remains unchanged. The Commissioner hopes that this important element will be included in the official structured monitoring and reporting mechanisms.

The institution has not yet defined these mechanisms for the 2019 election. This situation is of concern for the Commissioner because with only months remaining before the next general election, Elections Canada has not yet established a formal monitoring mechanism to be included in official languages policies and the accountability framework—even though the institution committed to doing so—nor has it formalized these documents.

In light of the foregoing, Elections Canada has partially implemented Recommendation 9.

Conclusions

Audit follow-ups are as important as the audits themselves because they help to assess the extent to which the audited institution has made the changes recommended in the audit reports or confirm its commitment to doing so. Ultimately, the nine recommendations made by the Commissioner in 2015 have been only partially implemented. In a number of cases, considerable work must still be done to ensure service of equal quality, even in areas where there is significant demand.

Over the course of the follow-up, Elections Canada expressed pride in how far it has come in terms of official languages. The Commissioner indeed notes positive developments with respect to Elections Canada's interpretation of its obligations, and it is true that Part IV of the Act is particularly demanding of Elections Canada. The tools made available to election officers to identify the communities and stakeholders in question have also greatly improved, and Elections Canada is in the process of preparing governance tools for returning officers. The Commissioner would also like to highlight Elections Canada's collaboration during this follow-up, as well as the institution's apparent willingness to continue to move forward in a positive direction.

However, the follow-up also found that some significant shortcomings remain regarding Canadians' ability to exercise their right to vote at the federal level in the official language of their choice. These shortcomings will be entirely offset only when the institution fully accepts both the spirit and the letter of the Act and intensifies its efforts in this regard. In 2015, in response to the recommendations, Elections Canada committed to adopting a number of core governance documents, which, four years later, are still not ready. In addition, as stated in recommendations 4, 6 and 7, there are significant shortcomings with respect to the hiring and recruitment process of bilingual returning officers, as well as bilingual election officers and workers. An individual's right to vote in the official language of their choice is not an option or a service to be implemented where resources permit. Beyond Elections Canada's bilingual capacity, the absence of a formal monitoring mechanism for in-person services remains a significant shortcoming that deprives the institution of information that is essential to improving its procedures relating to service to the public. Finally, the Commissioner presses Elections Canada to continue its efforts to work with official language minority communities to identify potential pools of bilingual candidates.

In February 2019, before the Standing Committee on Procedure and House Affairs, the Chief Electoral Officer of Canada stated that preparations for the 2019 general election were on track. However, focusing specifically on the status of preparations relating to official languages, this audit follow-up found that the institution still appears to be in the general preparation phase. Again, a number of key governance documents are still not ready. Elections Canada must act quickly because, nearly four years after the audit, the institution's progress and the concrete measures it has implemented for the next elections are unsatisfactory. It is now time for Elections Canada to shift from talk to action and to meet its language obligations. Official languages must be central to the electoral process, and all related measures must be planned from the outset in light of Elections Canada's unique structure.

The Commissioner has the utmost respect for the expertise and professionalism of the Office of the Chief Electoral Officer, election officers and their teams when it comes to organizing free and transparent democratic elections in the world's second largest country by area. However, voting is one of the most important ways that citizens can influence a government's decision-making process. As a symbol of Canadian democracy, Elections Canada must do better to respect the constitutional right of electors to vote in their preferred official language. Therefore, the Commissioner expects the institution to continue tackling its shortcomings head-on. Canadians cannot wait four more years for progress to be made. Therefore, the Commissioner intends to pursue his work with Elections Canada in order to achieve the ultimate goal: for Canadian citizens to be able to exercise their right to vote in the official language of their choice, wherever they are in Canada.