

**Protocol on complaints made to the French Language Services Commissioner (Ontario)
with respect to the provision of French language services by The Law Society of Upper
Canada**

BETWEEN:

THE FRENCH LANGUAGE SERVICES COMMISSIONER OF ONTARIO

AND

THE LAW SOCIETY OF UPPER CANADA

HEREINAFTER “THE PARTIES”

WHEREAS the official languages of the courts of Ontario are English and French;

WHEREAS in carrying out its functions, duties and powers under the Law Society Act, The Law Society of Upper Canada (the “Law Society”) has a duty to maintain and advance the cause of justice and the rule of law, to act so as to facilitate access to justice for the people of Ontario, to protect the public interest and to act in a timely, open and efficient manner;

WHEREAS the Law Society has acknowledged that persons have the right to communicate in French with, and to receive in French available services from, the Law Society in designated core areas of its mandate and the Law Society endeavours, subject to limits that are reasonable and necessary in the circumstances of any particular situation, to deliver French language services having regard to the substantive principles of language rights, including the active offer principle, the principle of services of equal quality, the principle of substantive (as opposed to formal) equality and the principle of advancement or progress in the equality of status and use of English and French;

WHEREAS pursuant to section 5 of the French Language Services Act (the “Act”), a person has the right in accordance with the Act to communicate in French with, and to receive available services in French from, a government agency or institution of the Legislature;

WHEREAS pursuant to section 12.2 of the Act, the French Language Services Commissioner of Ontario (the “Commissioner”) is mandated to encourage compliance with the Act by investigating complaints made to him relating to French language services;

WHEREAS the Law Society takes the position that it is not a government agency or an institution of the Legislature, is not subject to the Act and is not subject to the mandate or jurisdiction of the Commissioner;

WHEREAS the Commissioner takes the position that the Act applies to the Law Society and that he is therefore mandated to investigate complaints made to him relating to the French language services of the Law Society; and

WHEREAS to avoid a legal debate, the Law Society and the Commissioner have agreed, without prejudice to their respective positions as to the scope of the Commissioner’s mandate and jurisdiction, on the following terms and conditions governing the investigation of complaints made to the Commissioner relating to the French language services of the Law Society.

THE PARTIES HAVE AGREED ON THE FOLLOWING TERMS AND CONDITIONS:

1. The Commissioner may refer to the Law Society for investigation any complaint made to the Commissioner relating to the French language services of the Law Society.
2. A complaint that the Commissioner elects to refer to the Law Society for investigation will be sent to the Director, Equity Initiatives of the Law Society, will be in writing and will include sufficient information to enable the Law Society to investigate the complaint.
3. When a complaint is received by the Law Society from the Commissioner, the Law Society will acknowledge to the Commissioner receipt of the complaint. The acknowledgement will be in writing.
4. The Law Society will investigate every complaint received from the Commissioner. The Law Society alone will determine the procedure to be followed by it in investigating a complaint. Notwithstanding the foregoing, the Law Society will investigate every complaint received from the Commissioner in a timely, efficient and fair manner.
5. At any stage in its investigation of a complaint, the Law Society may contact the Commissioner for further information about the complaint. The Commissioner may provide the requested information. The Commissioner and the Law Society recognize that without sufficient information, the Law Society may be unable to conclude its investigation of a complaint.
6. The Law Society will attempt to conclude every investigation of every complaint received from the Commissioner. The Law Society alone will determine if it is able to conclude an investigation of a complaint.
7. If at the conclusion of an investigation of a complaint, the complaint is substantiated, the Law Society will attempt to resolve or address the complaint in a timely, efficient and fair manner. In determining whether a complaint is substantiated, the Law Society will have regard to Part V of

By-Law 2 made under the *Law Society Act* (as amended from time to time) and to the substantive principles of language rights, including the active offer principle, the principle of services of equal quality, the principle of substantive (as opposed to formal) equality and the principle of advancement or progress in the equality of status and use of English and French.

8. The Law Society alone will determine what action is appropriate to resolve or address a substantiated complaint having regard to Part V of By-Law 2 made under the Law Society Act (as amended from time to time) and to the substantive principles of language rights, including the active offer principle, the principle of services of equal quality, the principle of substantive (as opposed to formal) equality and the principle of advancement or progress in the equality of status and use of English and French. Once that action is taken, the complaint will be considered closed.

9. If at the conclusion of an investigation of a complaint, the complaint is unsubstantiated, the Law Society will close the complaint.

10. The Law Society will communicate to the Commissioner the outcome of its investigation of a complaint received from the Commissioner, including any action taken by the Law Society to resolve or address the complaint.

11. All action taken by the Law Society under this agreement, including the investigation of a complaint received from the Commissioner and any attempt or action taken to resolve or address a complaint, is taken by the Law Society acting on its own behalf.

12. Beginning in the first calendar year following execution of this protocol and so long as the protocol remains in effect, the Law Society and the Commissioner will meet at least once each calendar year to discuss the complaints referred to and handled by the Law Society under this protocol to the date of the meeting as well as the protocol going forward.

13. This protocol will cease to have effect as between the Law Society and the Commissioner if the Law Society and the Commissioner have not met as required under paragraph 12 for two calendar years.

IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED IN SUDBURY, ONTARIO THIS 4 OCTOBER, 2014.

Janet Minor, Treasurer, The Law Society of Upper Canada

Robert Lapper, Chief Executive Officer, The Law Society of Upper Canada

François Boileau, French Language Services Commissioner of Ontario