



**2017**

## **Annual Performance Report**

for

**The Appeal Board of the  
Professional Fish Harvesters  
Certification Board**

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## **Message from the Chairperson**

On behalf of the Appeal Board of the Professional Fish Harvesters Certification Board (Appeal Board), I am pleased to present our Annual Performance Report for 2017, the first reporting year of our 2017-2019 planning cycle. This document has been prepared in consultation with the other Appeal Board members, and I accept accountability for the results reported and for ensuring that the information in this report is accurate and thorough.

The Appeal Board is recognized as a category three public entity by the Government of Newfoundland and Labrador, with all three members appointed by the Minister of Fisheries and Land Resources. Therefore, we are submitting this report in fulfillment of our reporting obligations under the provincial **Transparency and Accountability Act**. We are privileged to serve the professional fish harvesters of this province in our capacity as the current Appeal Board appointees, and we take pride in meeting the objective of the Appeal Board, as outlined in our 2017-2019 Activity Plan.

Though the Appeal Board is a relatively small public body, it continues to make an essential contribution to the Professional Fish Harvesters Certification Board and the commercial fish harvesters of Newfoundland and Labrador. The structure, purpose, and operations of the Appeal Board are established in the **Professional Fish Harvesters Act** (the Act), and we confirm that during this reporting period all activities of the Appeal Board were conducted accordingly.

Finally, as chairperson of the Appeal Board, I take this opportunity to thank the staff of the Professional Fish Harvesters Certification Board for their assistance and support in 2017.

Sincerely,



Brendan Condon  
Chairperson, PFHCB Appeal Board

## **1.0 Overview**

The Professional Fish Harvesters Certification Board (PFHCB) became operational in 1997 following proclamation of the **Professional Fish Harvesters Act** by the Newfoundland and Labrador House of Assembly. This legislation allows for the establishment of an Appeal Board, and an independent appeal process. The Minister established the Appeal Board in 1997, in accordance with the Act, and it has been operational each year since that time.

Any professional fish harvester whose certification is refused by the PFHCB, or who is dissatisfied with the certification status he or she is given, may appeal to the Appeal Board. The decision of the Appeal Board is final and binding on the PFHCB and the appellant.

### **1.1 Mandate and Legislative Objectives**

The mandate and legislative objectives of the Appeal Board are outlined in sections 14-18 of the Act, as follows:

#### **Appeal to appeal board**

- 14.**
  - (1) A person whose certification is refused by the board or who is dissatisfied with the certification that he or she is given may appeal to the appeal board appointed under section 15.
  - (2) A person who wishes to appeal a decision of the board with respect to his or her certificate shall file a notice of appeal with the executive director stating the ground for the appeal.
  - (3) The executive director shall forward the notice of appeal to the appeal board and shall inform the appellant of the date, time and place at which the appeal board will hear the appeal.

#### **Appeal board**

- 15.**
  - (1) The appeal board shall consist of 3 members appointed by the minister.
  - (2) Two of the members shall be professional fish harvesters who are not members of the board chosen from a list provided by fish harvesters organizations.
  - (3) The third member of the appeal board shall not be a professional fish harvester and shall serve as the chairperson.
  - (4) The members of the appeal board shall be appointed for a term of up to 3 years and are eligible for reappointment.
  - (5) Where the term of a member of the appeal board expires, he or she continues to be a member until reappointed or replaced.

#### **Date of appeal board**

- 16.** The appeal board shall review all the relevant information associated with an appellant's application to the board for certification and shall provide the appellant an opportunity to appear before the appeal board in person or through a representative.

#### **Decision of appeal board**

- 17.** The appeal board may confirm the decision of the board or may substitute the decision which it considers fair and just.

#### **Decision final**

- 18.** The decision of the appeal board is final and binding on the board and the appellant.

## **1.2 Current Appeal Board Members and Support Staff**

The Appeal Board consists of three members appointed by the Minister of Fisheries and Land Resources (the Minister). The Appeal Board members as of December 31, 2017 were:

Brendan Condon – Chairperson  
Roy Stone – Fish Harvester Representative  
Doug Howlett – Fish Harvester Representative

At the request of the Appeal Board Chairperson, the PFHCB staff members provide administrative support for the Appeal Board.

## **1.3 Primary Line of Business**

The Appeal Board has a single line of business: the provision of an independent appeal process for any person who files a notice of appeal with the Executive Director of the PFHCB. All business is conducted in accordance with sections 14-18 of the Act.

The Appeal Board convenes at least once per year to hear appeals throughout the province in as many locations as possible, based on the location of appellants. Appeals are normally conducted as close to the start of the fishing season as possible, in an effort to ensure that appeal outcomes are received prior to the start of the season. However, while the Appeal Board is committed to convening a minimum of once per year, the number of appeal requests in recent years has resulted in the Appeal Board convening at least twice per year in four of the past five years (2013-2017). Each time the Appeal Board convenes all fish harvesters who have requested an appeal are offered an appeal hearing during that round of appeals.

Appeal results are approved and signed by the Appeal Board members and presented to the PFHCB Executive Director, and appellants are notified of their appeal outcome in writing within two weeks of the appeal hearing.

## **1.4 Values**

The Appeal Board's ability to provide an effective independent appeals process requires that both the PFHCB and the fish harvesters it certifies have a high level of confidence in the Appeal Board members and the service they provide. To this end, the Appeal Board adopts and promotes three key values: Respect, Confidentiality and Impartiality, as described in section 7.0 of the Appeal Board's 2017-2019 Activity Plan.

## **1.5 Vision**

Members of the Appeal Board adopt the vision of the PFHCB. The PFHCB and the Appeal Board's vision is a viable Newfoundland and Labrador commercial fishery, sustained by independent professional fish harvesters committed to demonstrating appropriate knowledge, skills and commitment to safely and successfully meet the human resources needs of their industry, from which they can maintain their livelihood with respect and dignity.

The PFHCB Appeal Board supports and contributes to this vision by ensuring, through the appeals process, that each appellant receives a thorough independent assessment of all information pertinent to PFHCB certification, and is subsequently awarded a certification level that is fair, equitable, and consistent with PFHCB certification criteria and the Act.

## **1.6 Location and Contact Information**

The Appeal Board itself has no fixed location. As per Section 14(2) of the Act, notices of appeal should be filed with the PFHCB Executive Director, using the following contact information:

PFHCB Executive Director  
368 Hamilton Avenue  
P.O. Box 8541  
St. John's, NL A1B 3P2  
709-722-8170 (phone)  
709-722-8201 (fax)  
[pfh@pfhcb.com](mailto:pfh@pfhcb.com)  
[www.pfhcb.com](http://www.pfhcb.com)

General inquiries about the Appeal Board or appeals process can be directed to the PFHCB office using the contact information provided above. Copies of this report are available in alternate format.

## **1.7 Finances**

The expenditures associated with the PFHCB Appeal Board, and independent appeals process, are covered by the annual operating budget of the PFHCB. Those expenditures include travel costs of Appeal Board members, administrative costs associated with the delivery of appeals, and the per diem remunerations for Appeal Board members. There are no fees charged to fish harvesters for appealing their certification status but appellants are responsible for any/all travel costs associated with attending their appeal.

Every effort is made by Appeal Board members and support staff to conduct the appeals process in a thorough, yet expeditious and cost-effective manner.

Annual Appeal Board expenditures are audited, and included in the audited financial statements of the PFHCB. Total Appeal Board expenditures for 2017 were \$22,021.00, as outlined below:

Appeal Board member Per Diems: \$11,550

Travel Expenditures: \$6,479

Meeting Rooms: \$1,900

Administration: \$2,092

## 2.0 Highlights and Partnerships

The PFHCB Appeal Board convened three times in 2017, conducting a total of 35 appeals. Eleven appeals were held between February 27 and March 1, and another 23 appeals were held between December 4 and December 8. One high priority appeal was heard on May 4. In order to accommodate all appellants, and minimize their driving time to and from their appeal hearing, the Appeal Board conducted appeals in four different locations throughout the province in 2017 – St. John’s, Clarenville, Gander, and Corner Brook. One appellant requested to have their appeal heard by teleconference. The following is a summary of all appeal hearings conducted in 2017.

### February 27-May 4, 2017 (12 appeals in total)

Date of Appeal Request	Date of Appeal	Home Community	Appeal Location
October 20, 2016	February 27, 2017	Trout River	Corner Brook
February 5, 2017	February 27, 2017	Burnt Islands	Corner Brook
February 8, 2017	February 27, 2017	Lourdes	Corner Brook
January 16, 2017	February 28, 2017	Twillingate	Gander
*September 6, 2016	February 28, 2017	Coombs Cove	Gander
February 20, 2017	February 28, 2017	Harbour Breton	Gander
*October 3, 2016	March 1, 2017	Mt. Pearl	St. John’s
January 30, 2017	March 1, 2017	Port De Grave	St. John’s
*April 18, 2016	March 1, 2017	Patricks Cove	St. John’s
January 27, 2017	March 1, 2017	Long Harbour	St. John’s
*August 8, 2016	March 1, 2017	Petty Harbour	St. John’s
April 3, 2017	May 4, 2017	St. John’s	St. John’s

\*These appeals were previously scheduled for November 2016, but were deferred at the request of the appellant.

**December 4-8, 2017 (23 in total)**

Date of Appeal Request	Date of Appeal	Home Community	Appeal Location
March 21, 2017	December 4, 2017	River of Ponds	Corner Brook
August 3, 2017	December 4, 2017	Lourdes	Corner Brook
April 10, 2017	December 4, 2017	Trout River	Corner Brook
November 8, 2017	December 5, 2017	Newtown	Gander
September 14, 2017	December 5, 2017	Pools Island	Gander
March 29, 2017	December 5, 2017	St. Lewis	Teleconference
November 20, 2017	December 5, 2017	Durrell	Gander
October 2, 2017	December 6, 2017	Clarenville	Clarenville
October 11, 2017	December 6, 2017	Clarenville	Clarenville
May 11, 2017	December 6, 2017	Newmans Cove	Clarenville
May 23, 2017	December 6, 2017	Fortune	Clarenville
May 15, 2017	December 6, 2017	Summerville	Clarenville
December 1, 2017	December 7, 2017	Harbour Main	St. John's
June 12, 2017	December 7, 2017	Upper Island Cove	St. John's
November 6, 2017	December 7, 2017	Paradise	St. John's
August 28, 2017	December 7, 2017	Maddox Cove	St. John's
March 22, 2017	December 7, 2017	Brigus South	St. John's
October 11, 2017	December 7, 2017	Old Perlican	St. John's
March 17, 2017	December 8, 2017	Newbridge	St. John's
August 24, 2017	December 8, 2017	Petty Harbour	St. John's
September 6, 2017	December 8, 2017	Point Lance	St. John's
October 11, 2017	December 8, 2017	Seal Cove	St. John's
December 6, 2017	December 8, 2017	Ferryland	St. John's

35 appellants had appeal hearings in 2017. At the time of the appeals, 22 were registered as Apprentice fish harvesters, and 13 were registered as Level I fish harvesters. Of the 35 appellants, 71 per cent (25 of 35) received no change in their certification status as a result of their appeal. The outcomes of the 35 appeals are as follows:

16 appeals – Apprentice - No change in status  
9 appeals – Level I - No change in status  
4 appeals – Apprentice upgraded to Level I  
2 appeals – Level II status reinstated  
4 appeals – Level I upgraded to Level II

A full description and explanation of the three levels of PFHCB certification (Apprentice, Level I, and Level II), as well as related certification criteria, can be found on the PFHCB website at [www.pfhcb.com](http://www.pfhcb.com).

## 3.0 Report on Performance

### 3.1 Outcome of 2017 Objective

In the Appeal Board's 2017-2019 Activity Plan, a single strategic issue was identified, relating to the Appeal Board's ability to maintain a timely delivery of appeal hearings in regional proximity to appellants. An objective for 2017, accompanied by indicators was included, as follows:

**Objective #1:** By December 31, 2017, the PFHCB Appeal Board will have conducted appeals, in a timely manner, in all regions of the province where appellants are located.

**Indicators:** Appellants were offered a timely face-to-face appeal in their own region of the province.

All appeals were heard, all information considered, and appeal results were provided to appellants in a timely manner.

The Appeal Board, with the assistance of PFHCB support staff, succeeded in meeting this stated objective for 2017. The Appeal Board convened three times in 2017. Appeals were held February 27-March 1 and December 4-8. Also, as it does from time to time when deemed necessary, the Appeal Board also convened to hear a high priority case on May 4.

The 35 appellants were each offered a face-to-face appeal hearing in a timely matter, with the average wait time for an appeal being less than four months, and the maximum being less than eight months. Four appeals deferred from November 2016 at the request of the appellant were also conducted in 2017.

Of the 35 appellants, one requested to have their appeal heard via teleconference, and one appellant requested to have their appeal heard at a location outside their own region. For the 33 remaining appeals, the Appeal Board was successful in meeting its objective as it relates to regional proximity to appellants. In all these cases, the maximum drive time to the appeal venue, for any appellant, was no more than three hours. An hour was allocated for all appeal hearings, and appeal board members were provided with a copy of all information contained in the appellant's PFHCB file for review in advance of the appeal hearing. Appeal results were mailed to appellants within two weeks of their appeal hearing.

## **3.2 Objectives for 2018**

As outlined in the Appeal Board's 2017-2019 Activity Plan, a single issue is presented for 2018. Our objective is limited to logistics of appeal delivery, as it would not be appropriate to deal with the specifics of individual appeal hearings and/or their respective outcomes.

### **Issue #1 – The Timely Delivery of Appeals in Regional Proximity to Appellants**

Each year since its inception in 1997, the PFHCB Appeal Board has conducted appeals throughout Newfoundland and Labrador. Until 2010, appeals were scheduled twice per year - spring and fall - in all areas of the province where appellants were located. However, in 2010, due to an unprecedented low number of appeal requests (three), appeals were only conducted once in 2010.

During the most recent planning period (2014-16), the number of appeal hearings varied significantly from year to year, from a low of 15 in 2014, to a high of 58 in 2016. As a result, planning and budgeting for Appeal Board activity is challenging. In some years the number of appeal requests may not necessitate two rounds of appeal hearings per year. In this planning period the Appeal Board will continue to offer appeal hearings within 12 months of receiving an appeal request. This will assist the Appeal Board in meeting its stated objectives, in an efficient and cost effective manner, for this planning period.

**Objective #2:** By December 31, 2018, the PFHCB Appeal Board will have conducted appeals, in a timely manner, in all regions of the province where appellants are located.

**Indicators:** Appellants were offered a timely face-to-face appeal in their own region of the province.

All appeals were heard, all information considered, and appeal results were provided to appellants in a timely manner.

## **4.0 Opportunities and Challenges Ahead**

The PFHCB Appeal Board continues to provide an essential service to over 9,000 certified fish harvesters registered with the PFHCB. For the second consecutive year, in 2017 the number of appeal requests required the appeal board to convene twice in the calendar year (35 in 2017 and 58 in 2016). This followed several years with a lower annual appeal numbers (26 in 2015 and 15 in 2014). This continued uncertainty and annual variation in the number of appeals being requested poses ongoing challenges for the Appeal Board and PFHCB support staff in meeting the stated objectives in an efficient and cost-effective manner, and creates challenges for budgeting and planning.

Notwithstanding this challenge, the Appeal Board remains committed to: providing every certified fish harvester the opportunity of an independent appeal process, meeting the

objectives stated in our current 2017-2019 Activity Plan, and meeting the planning and reporting obligations of the **Transparency and Accountability Act**.

## **5.0 Additional Information**

Inquiries or comments on the contents of this report should be directed to:

Chairperson, PFHCB Appeal Board  
C/O Professional Fish Harvesters Certification Board  
368 Hamilton Avenue  
P.O. Box 8541  
St. John's, NL A1B 3P2  
709-722-8201 (fax)  
[pfh@pfhcb.com](mailto:pfh@pfhcb.com) (email)