



# **Annual Performance Report 2020**

for

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

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## 1.0 Message from the Chairperson

On behalf of the Appeal Board of the Professional Fish Harvesters Certification Board (PFHCB), I am pleased to present our Annual Performance Report for 2020, the first year of our 2020-22 planning cycle. As chairperson, I accept accountability for the results reported and for ensuring that the information is accurate and thorough. This document has been prepared in consultation with the other Appeal Board members.

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, Forestry and Agriculture (FFA), in accordance with the **Professional Fish Harvesters Act** (the Act). This report is submitted as part of our reporting obligations under the provincial **Transparency and Accountability Act**. The Appeal Board serves the professional fish harvesters of this province, and in our capacity as the current Appeal Board appointees, we take pride in performing our duties and meeting the objective of the Appeal Board, as outlined in the 2020-22 Activity Plan.

Though the Appeal Board is a relatively small public body, it continues to make an essential contribution to the PFHCB and the commercial fish harvesters of Newfoundland and Labrador. The structure, purpose, and operations of the Appeal Board are established in the Act, and despite the onset of the COVID-19 pandemic in early 2020, we confirm that the Appeal Board was successful in meeting its 2020 objectives, and carrying out its mandate as per the Act.

With the assistance of PFHCB staff, all necessary recommended COVID-19 Public Health measures were followed in order to ensure the safety of Appeal Board members and appellants during 2020 activities. More details on the impact of COVID-19 on 2020 Appeal Board activities are highlighted in the report.

Finally, as chairperson of the Appeal Board, I take this opportunity to thank the staff of the PFHCB for their assistance and support throughout this challenging year.

Sincerely,



Brendan Condon  
Chairperson, PFHCB Appeal Board

## **2.0 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.

## **2.1 Mandate**

The mandate and legislative objectives for the Appeal Board of the PFHCB are outlined in sections 14-18 of the Act, available at:

<https://www.assembly.nl.ca/Legislation/sr/statutes/p26-1.htm>

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

The Appeal Board consists of three members appointed by the Minister of Fisheries, Forestry and Agriculture (the Minister). The Appeal Board members as of December 31, 2020 were:

Brendan Condon – Chairperson

Gilbert Penney – Fish Harvester Representative

Jarvis Walsh – Fish Harvester Representative

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

## **2.3 Primary Clients**

The primary clients of the PFHCB Appeal Board are all professional fish harvesters certified with the PFHCB. More specifically, the Appeal Board serves any fish harvester whose certification is refused by the PFHCB, or who is dissatisfied with the certification he or she is given, and who files a notice of appeal with the PFHCB.

## **2.4 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 sometimes warrant the Appeal Board convening more than once per year. In four of the previous seven years, (2013-2019) two rounds of appeals have been conducted; in 2020, the Appeal Board convened once. 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 under normal circumstances appellants are notified of their appeal outcome in writing within two weeks of the appeal hearing.

## **2.5 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 2020-22 Activity Plan.

## **2.6 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 subsequently awarded a certification level that is fair, equitable, and consistent with PFHCB certification criteria and the Act.

## **2.7 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 regarding the Appeal Board or appeals process should be directed to the PFHCB office using the contact information provided above. Copies of this report are available in alternate format.

## **2.8 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 hearing.

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 2020 were \$12,063, as outlined below:

Appeal Board member Per Diems: \$5,250  
Travel Expenditures: \$4,700  
Meeting Rooms: \$574  
Administration: \$1,539

## **3.0 Highlights and Partnerships**

The PFHCB Appeal Board convened one time in 2020, conducting a total of 15 appeals. All appeals were heard between October 26 and October 29. Fourteen of these appeals were new requests received in 2020, and one was deferred by the appellant from 2019.

Normally, appeal hearings are heard as close to the start of the fishing season as possible. However, the COVID-19 public health restrictions that were in place from March until June, would have made it difficult, if not impossible, to deliver spring appeals safely and in accordance with public health recommendations. However, it is worth noting that the PFHCB had only four new appeal requests as of April 1, 2020. Therefore, the low number of appeal requests was the main factor in deferring 2020 appeals to the fall.

In consultation with Appeal Board members, PFHCB staff, and FFA staff, a decision was made on October 1 to conduct appeals during the last week of October. On this date the province was in Alert Level 2, with a total of three cases of COVID-19 in the province. When appeals concluded on October 29, case numbers remained low, with only four total cases in the province.

In order to accommodate all appellants, and minimize travel time to and from their appeal hearing, the Appeal Board normally conducts appeals in all regions of the province where appellants are located. However, in adherence of public health guidance and recommendations, the decision was made to limit the number of appeal locations in an effort to reduce COVID-19 contact points. Locations were strategically selected in an effort to reduce appellant drive times as much as possible. The sites selected include: Deer Lake, Gander, Clarenville and St. John's.

It is important to note that all activities of the Appeal Board in 2020 were conducted under strict adherence to COVID-19 Public Health guidelines and recommended best practices. Support staff ensured that meeting rooms were adequate to provide space for social distancing between Appeal Board members, and between the Appeal Board members and appellants. Hand sanitizer was provided to Appeal Board members and appellants, and non-medical face masks were available, if required. Non-medical face masks were worn by all parties at all times during appeal proceedings.

As outlined in section 3.1, despite the challenges associated with the COVID-19 pandemic, the Appeal Board was able to meet its stated objectives for this reporting period. The following is a summary of all appeal hearings conducted in 2020.

**October 26, 2020, – October 29, 2020 (15 appeals in total)**

<u>Date of Appeal Request</u>	<u>Date of Appeal</u>	<u>Home Community</u>	<u>Appeal Location</u>
April 17, 2020	October 26, 2020	York Harbour	Deer Lake
June 1, 2020	October 26, 2020	Port au Port	Deer Lake
September 16, 2020	October 26, 2020	Hawkes Bay	Deer Lake
February 14, 2020	October 26, 2020	Port Saunders	Deer Lake
June 19, 2020	October 26, 2020	North Boat Harbour	Deer Lake

<u>Date of Appeal Request</u>	<u>Date of Appeal</u>	<u>Home Community</u>	<u>Appeal Location</u>
January 30, 2019*	October 26, 2020	Green Island Cove	Deer Lake
May 11, 2020	October 27, 2020	Lumsden	Gander
January 8, 2020	October 27, 2020	Gander	Gander
June 15, 2020	October 28, 2020	Grand Bank	Clareville
September 21, 2020	October 29, 2020	Goulds	St. John's
January 27, 2020	October 29, 2020	Pouch Cove	St. John's
May 26, 2020	October 29, 2020	Renews	St. John's
July 23, 2020	October 29, 2020	Upper Island Cove	St. John's
July 3, 2020	October 29, 2020	Ferryland	St. John's
September 30, 2020	October 29, 2020	Placentia	St. John's

\*Appeal was previously scheduled in November 2019, but deferred at appellant's request.

As summarized above, 15 appellants had appeal hearings in 2020. At the time of the appeals, nine were registered as Apprentice fish harvesters, and six were registered as Level I fish harvesters. Of the 15 appellants, 80 per cent (12 of 15) received no change in their certification status, as a result of their appeal. The outcomes of the 15 appeals are as follows:

- Eight appeals – Apprentice - No change in status;
- Four appeals – Level I - No change in status;
- One appeal – Apprentice upgraded to Level I; and
- Two 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).

## **4.0 Report on Performance**

In the Appeal Board's 2020-22 Activity Plan, one strategic issue was identified relating to the Appeal Board's ability to maintain a timely delivery of appeal hearings in regional proximity to appellants. As the focus of the PFHCB Appeal Board will remain the same for all three years of this planning cycle, the Appeal Board will report on the same objectives and indicators in all three years.

### **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. Based on the number of appeal requests,



appeals are scheduled either once or twice per year, and are conducted in all areas of the province where appellants were located.

**Objective #1:** By December 31, 2020, the PFHCB Appeal Board will have conducted appeals, in a timely manner, in all regions of the province where appellants are located.

**Indicators:** Offered face-to-face appeals to appellants in their own region of the province no more than 12 months from the date the appeal request was received.

Provided appeal results to appellants within three weeks of the date of the appeal hearing.

The Appeal Board, with the assistance of PFHCB support staff, succeeded in meeting this stated objective for 2020. All 15 appellants were offered an appeal hearing within a year of their appeal request. Fourteen appellants requested appeals in 2020, and each was offered a face-to-face appeal hearing within a year of their request, with the average wait time for an appeal being approximately four months, and the maximum being approximately nine months. One appeal, deferred from 2019 at the request of the appellant, was also conducted in 2020.

Despite the COVID-19 pandemic, and related Public Health guidelines, the Appeal Board was successful in meeting its objective as it relates to regional proximity to appellants. As previously stated, four appeal locations were strategically selected to reduce potential COVID-19 contact points. Deer Lake was selected as the location for West Coast and Northern Peninsula appellants. As a result, drive times were longest for appellants on the Northern Peninsula, with maximum drive time for any appellant to the appeal venue being approximately four hours, with the average being approximately two hours.

One 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 all appellants on November 5, 2020, within 11 days of the first appeal hearing on October 26, 2020.

## **5.0 Opportunities and Challenges**

The Appeal Board continues to provide an essential service to approximately 9,000 certified fish harvesters registered with the PFHCB. For the third time in five years, the number of appeal requests in 2020 did not necessitate the appeal board convening more than one time in the calendar year. The number of appeal hearings per year during that five-year period ranged from a high of 58 in 2016, to a low of 15 in 2020. 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 objective in an efficient and cost-effective manner. It also creates ongoing challenges for budgeting and planning.

The COVID-19 pandemic, and resulting Public Health measures and restrictions will remain with us into 2021. As a result, the activities of the Appeal Board for the foreseeable future will continue to be impacted by COVID-19, which may represent significant challenges for the Appeal Board members and appellants. Decisions related to convening the Appeal Board, the selections of location and timing of appeals, and protocols for appeal hearings, will all have to be made with COVID-19 Public Health measures in mind.

Notwithstanding these challenges, 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 Activity Plan; and meeting the planning and reporting obligations of the **Transparency and Accountability Act**.

## **6.0 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)