



2021

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 (PFHCB), I am pleased to present our Annual Performance Report for 2021, the second year of our 2020-2022 planning cycle. As Chairperson, I accept accountability for the results reported and for ensuring that the information in this report is accurate and thorough. This document has been prepared in consultation with the other Appeal Board of the PFHCB (the Appeal Board) members.

The Appeal Board is classified 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 **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 2020-2022 Activity Plan.

Although 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 continuation of the COVID-19 pandemic throughout 2021, the Appeal Board was successful in meeting its 2021 objective and carrying out its mandate as per the Act.

Again in 2021, 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 2021 activities. More details on the impact of COVID-19 on 2021 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 continued assistance and support.

Sincerely,



Brendan Condon
Chairperson, Appeal Board of the PFHCB

1.0 Overview

The PFHCB became operational in 1997 following proclamation of the 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 of FFA (the Minister) established the Appeal Board in 1997, in accordance with the Act and it has been operational each year since.

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

1.1 Mandate

The mandate and legislative objectives for the Appeal Board are outlined in sections 14-18 of the Act, available at: <https://www.assembly.nl.ca/Legislation/sr/statutes/p26-1.htm>.

1.2 Current Appeal Board Members and Support Staff

The Appeal Board consists of three members appointed by the Minister. The Appeal Board members as of December 31, 2021 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 to the Appeal Board.

1.3 Primary Clients

The primary clients of the PFHCB Appeal Board are 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 their certification status, and who files a notice of appeal with the PFHCB.

1.4 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 to 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 warrants the Appeal Board convening more than once per year. In four of the previous eight years (2013-2020) two rounds of appeals were conducted; in 2021 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 typically, appellants are notified of their appeal outcome in writing within two weeks of the appeal hearing.

1.5 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 2020-2022 Activity Plan. For more information and to review a copy of the Appeal Board's 2020-22 plan, please see: <https://www.assembly.nl.ca/business/electronicdocuments/APPEALBOARDOPFHCBActivityPlan2020-2022.pdf>.

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

1.7 Location and Contact Information

The Appeal Board has no fixed location. As per subsection 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
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.

1.8 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 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 expenditures of the Appeal Board are audited and included in the audited financial statements of the PFHCB. Total Appeal Board expenditures for 2021 were \$16,125, as outlined below:

Appeal Board member Per Diems: \$6,700
Travel Expenditures: \$6,181
Meeting Rooms: \$825
Administration: \$2,419

2.0 Highlights and Partnerships

The Appeal Board convened once in 2021, conducting a total of 14 appeals. All appeals were heard between September 20 and September 24. All appeals were new requests received after the previous round of appeals, which concluded on October 29, 2020.

As per the Appeal Board's 2020-2022 Activity Plan, appeal hearings are normally heard as close to the start of the fishing season as possible. However, due to rising COVID-19 case counts, the province entered a lockdown on February 12, 2021, and did not return to Alert Level 2 until March 27, 2021. At that time the PFHCB had only received three appeal requests. For these reasons, the decision was made to defer the 2021 appeals until fall.

In consultation with Appeal Board members, PFHCB staff and FFA staff, a decision was made on September 1, 2021, to conduct appeals during the week of September 20th to 24th. On that date, with the COVID-19 situation in the province improving, it was

determined that appeals could be conducted safely and in accordance with the current public health guidelines.

In order to accommodate all appellants, and minimize travel time to and from their appeal hearing, the Appeal Board conducted appeals in all regions of the province where appellants were located. Locations were selected strategically in an effort to reduce appellant drive times as much as possible. The sites selected were Hawkes Bay, Corner Brook, Gander and St. John's.

It is important to note that all activities of the Appeal Board in 2021 were conducted in 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 face masks were available, if required. Face masks were worn by all parties at all times during appeal proceedings.

As outlined in section 3.1 below, despite the challenges associated with the COVID-19 pandemic, the Appeal Board was able to meet its stated objective for this reporting period. The following is a summary of all appeal hearings conducted in 2021.

September 20 – September 24, 2021 (14 total appeals)

<u>Appeal Request Date</u>	<u>Date of Appeal</u>	<u>Home Community</u>	<u>Appeal Location</u>
April 27, 2021	September 20, 2021	Hawkes Bay	Hawkes Bay
July 13, 2021	September 20, 2021	Parsons Pond	Hawkes Bay
July 7, 2021	September 20, 2021	Savage Cove	Hawkes Bay
May 5, 2021	September 21, 2021	York Harbour	Corner Brook
April 16, 2021	September 21, 2021	Woody Point	Corner Brook
March 4, 2021	September 21, 2021	Mainland	Corner Brook
July 23, 2021	September 21, 2021	Frenchmans Cove	Corner Brook
September 13, 2021	September 22, 2021	Carters Cove	Gander
February 16, 2021	September 22, 2021	Fogo	Clareville
April 7, 2021	September 22, 2021	Durrell	St. John's
March 26, 2021	September 24, 2021	Paradise	St. John's
April 13, 2021	September 24, 2021	Greens Harbour	St. John's
April 19, 2021	September 24, 2021	Point Lance	St. John's
August 30, 2021	September 24, 2021	St. Brides	St. John's

As summarized above, 14 appellants had appeal hearings in 2021. At the time of the appeals, 11 were registered as apprentice fish harvesters, two were registered as Level I fish harvesters and one was registered as an Apprentice Licence Holder. Of the 14 appellants, 71 per cent (10 of 14) received no change in their certification status as a result of their appeal. The outcomes of the 14 appeals were as follows:

- 9 appeals – Apprentice - No change in status
- 1 appeal – Level I - No change in status
- 3 appeal – Apprentice - Upgraded to Level I
- 1 appeal – Level II - Status reinstated

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.

3.0 Report on Performance

In the Appeal Board's 2020-2022 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. 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 objective 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, 2021, 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 2021. All 14 appellants requested their appeals in 2021 and each was offered a face-to-face appeal hearing within a year of their request. The maximum wait time was less than eight months and the average wait time was approximately four months.

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 regional appeal locations (Northern Peninsula, West Coast, Central and Avalon) were strategically selected to reduce potential COVID-19 contact points and minimize driving times for appellants. The maximum drive time for any appellant to the appeal venue was approximately three hours, with the average being less than two 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. Appeal results were mailed to all appellants on September 28, 2021, within seven business days of the first appeal hearing on September 20.

4.0 Opportunities and Challenges

The Appeal Board continues to provide an essential service to the more than 9,000 certified fish harvesters registered with the PFHCB. For the fourth time in six years, the number of appeal requests in 2021 did not necessitate the appeal board convening more than once 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 14 in 2021. 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 challenges for accurate budgeting and planning.

The continuation of the COVID-19 pandemic and resulting public health measures, guidelines and recommendations will likely remain with us in some form into 2022. As a result, it is anticipated that the activities of the Appeal Board for the foreseeable future will continue to be impacted by COVID-19. Therefore, this will result in ongoing challenges for the Appeal Board members and appellants. Decisions related to convening the Appeal Board, the selection of location and timing of appeals and protocols for appeal hearings will each have to be made with the applicable 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**.

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 (email)