



**2019**

**Annual Performance Report**

for

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

# Table of Contents

1.0	Message from the Chairperson .....	1
2.0	Overview .....	2
2.1	Mandate.....	2
2.2	Current Appeal Board Members and Support Staff .....	2
2.3	Primary Line of Business .....	2
2.4	Values .....	3
2.5	Vision .....	3
2.6	Location and Contact Information .....	3
2.7	Finances .....	4
3.0	Highlights and Partnerships .....	4
3.1	Outcome of Objective .....	6
4.0	Opportunities and Challenges .....	7
5.0	Additional Information .....	7

## 1.0 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 2019, the third and final reporting year of our 2017-2019 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 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 (formerly known as Fisheries and Land Resources) 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 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 Act, and we confirm that during each reporting period of the 2017-2019 planning cycle 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 throughout this planning cycle.

Sincerely,

A handwritten signature in black ink that reads "Brendan J. Condon". The signature is written in a cursive style with a large initial 'B' and 'C'.

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 of 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>

## **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, 2019 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 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 past

seven years (2013-2019), two rounds of appeals have been conducted. In 2019, 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.

## **2.4 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.

## **2.5 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.

## **2.6 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.

## **2.7 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 2019 were \$12,259.31, as outlined below:

Appeal Board member Per Diems: \$5,250.00  
 Travel Expenditures: \$4,931.84  
 Meeting Rooms: \$696.78  
 Administration: \$1,380.69

## **3.0 Highlights and Partnerships**

The PFHCB Appeal Board convened one time in 2019, conducting a total of 18 appeals. All appeals were heard between November 25 and November 29. Sixteen of those appeals were new requests received in 2019, and two were deferred by the appellants from 2018. In order to accommodate all appellants, and minimize their driving time to and from their appeal hearing, the Appeal Board conducted appeals in six different locations throughout the province in 2019 – St. John’s, Clarenville, Gander, Grand Falls, Corner Brook and Hawke’s Bay. One appellant requested to have their appeal heard by teleconference as they were working outside the province. The following is a summary of all appeal hearings conducted in 2019.

### **November 25 – November 29, 2019 (18 appeals in total)**

<u>Date of Appeal Request</u>	<u>Date of Appeal</u>	<u>Home Community</u>	<u>Appeal Location</u>
September 5, 2019	November 25, 2019	Mount Carmel	St. John’s
July 4, 2019	November 25, 2019	St. Brides	St. John’s

<u>Date of Appeal Request</u>	<u>Date of Appeal</u>	<u>Home Community</u>	<u>Appeal Location</u>
November 12, 2019	November 25, 2019	Mount Pearl	St. John's
November 13, 2019	November 26, 2019	Summerville	Clareville
June 9, 2018*	November 26, 2019	Grand Le Pierre	Clareville
November 21, 2019	November 26, 2019	Bonavista	Clareville
April 8, 2019	November 26, 2019	Lumsden	Gander
March 19, 2019	November 26, 2019	Newtown	Gander
October 28, 2019	November 26, 2019	Stoneville	Gander
October 18, 2019	November 27, 2019	Durrell	Grand Falls
September 10, 2019	November 27, 2019	Belleoram	Grand Falls
October 8, 2019	November 27, 2019	Jean De Baie	Teleconference

\*Appeal was previously scheduled in November 2018, but deferred at appellant's request.

**November 26 – November 30, 2018 (continued)**

<u>Date of Appeal Request</u>	<u>Date of Appeal</u>	<u>Home Community</u>	<u>Appeal Location</u>
August 29, 2018*	November 28, 2019	Deer Lake	Corner Brook
October 3, 2019	November 28, 2019	Highlands	Corner Brook
July 19, 2019	November 28, 2019	Lourdes	Corner Brook
November 15, 2019	November 28, 2019	Rocky Harbour	Corner Brook
September 24, 2019	November 29, 2019	Hawkes Bay	Hawkes Bay
March 21, 2019	November 29, 2019	Port Saunders	Hawkes Bay

\* Appeal was previously scheduled in November 2018, but deferred at appellant's request.

As summarized above, 18 appellants had appeal hearings in 2019. At the time of the appeals, 12 were registered as Apprentice fish harvesters, and 6 were registered as Level I fish harvesters. Of the 18 appellants, 78 per cent (14 of 18) received no change in their certification status as a result of their appeal. The outcomes of the 18 appeals are as follows:

- 11 appeals – Apprentice - No change in status
- 3 appeals – Level I - No change in status
- 1 appeal – Apprentice reinstated to Level II
- 3 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).

### **3.1 Outcome of 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 2019, accompanied by indicators was included, as follows:

**Objective #3:** By December 31, 2019, 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 2019. All 18 appeals were held within a year from being requested, from November 25 – 29. The 18 appellants were each offered a face-to-face appeal hearing within a year, with the average wait time for an appeal being approximately two months, and the maximum being approximately eight months. Two appeals deferred from November 2018 at the request of the appellant were also conducted in 2019.

Of the 18 appellants, one requested to have their appeal heard via teleconference. For the 17 remaining appeals, the Appeal Board was successful in meeting its objective as it relates to regional proximity to appellants. The maximum drive time for any appellant to the appeal venue was three hours, with the average being approximately 1.5 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 all appellants within two weeks of their appeal hearing.

As previously stated, 2019 is the final year of the 2017-2019 reporting period. The Appeal Board was successful in meeting its stated objective for each of the three years in this planning period, 2017, 2018 and 2019. In total, 76 appeals were conducted (35 in 2017, 23 in 2018, and 18 in 2019). In fulfillment of the objective to conduct appeals in a timely manner and in all regions of the province where appellants are located, all 76 appellants during this planning cycle were offered an appeal hearing within 12 months of the appeal request date, and all appellants were offered a face-to-face appeal within three hours drive of their permanent residence.



<u>Year</u>	<u># of appeals requested</u>	<u># of appeals conducted*</u>	<u>Rounds of Appeals</u>	<u>Appeals deferred by appellant</u>	<u># of PFHCB decisions upheld</u>	<u>% PFHCB decisions upheld</u>	<u>Expenditures</u>	<u>Appeals by conference call</u>
2017	34	35	2	3	25	71%	\$22,021.00	1
2018	22	23	1	2	12	52%	\$12,216.28	3
2019	16	18	1	0	14	78%	\$12,259.31	1
<b>Total</b>	72	76	4	5	51	67%	\$46,496.59	5

\*# appeals conducted includes appeals requested/deferred from the previous year.

#### **4.0 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 second time in four years, the number of appeal requests in 2019 did not necessitate the appeal board convening more than one time in the calendar year. The number of appeal hearings per year during that four-year period ranged from a high of 58 in 2016, to a low of 18 in 2019. 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. It also creates ongoing challenges for budgeting and planning.

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](mailto:pfh@pfhcb.com) (email)