



**2018**

**Annual Performance Report**

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 (Appeal Board), I am pleased to present our Annual Performance Report for 2018, the second 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 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 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 2018.

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 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.

## **2.2 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, 2018 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.

## **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 six years (2013-2018) two rounds of appeals have been conducted, however in 2018 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 2018 were \$12,216.28, as outlined below:

Appeal Board member Per Diems: \$5,975.00  
 Travel Expenditures: \$4,275.94  
 Meeting Rooms: \$834.34  
 Administration: \$1,131.00

### **3.0 Highlights and Partnerships**

The PFHCB Appeal Board convened one time in 2018, conducting a total of 23 appeals. All appeals were heard between November 26 and November 30. Twenty of those appeals were new requests received in 2018, and three were deferred by the appellants from 2017. 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 2018 – St. John’s, Clarenville, Gander, Grand Falls, Deer Lake and Stephenville. Three appellants requested to have their appeal heard by teleconference. The following is a summary of all appeal hearings conducted in 2018.

#### **November 26 – November 30, 2018 (23 appeals in total)**

<u>Date of Appeal Request</u>	<u>Date of Appeal</u>	<u>Home Community</u>	<u>Appeal Location</u>
September 2, 2018	November 26, 2018	Mainland	Stephenville
May 15, 2018	November 26, 2018	Burnt Islands	Stephenville
November 14, 2018	November 26, 2018	Trout River	Teleconference
January 31, 2018	November 26, 2018	St. Georges	Stephenville
May 8, 2018	November 26, 2018	Smiths Harbour	Deer Lake
May 11, 2018	November 26, 2018	Plum Point	Deer Lake
February 24, 2018	November 27, 2018	Harbour Breton	Grand Falls
*November 29, 2017	November 27, 2018	Harbour Breton	Grand Falls
April 5, 2018	November 28, 2018	Fogo	Gander
August 9, 2018	November 28, 2018	Tilting	Gander
September 25, 2018	November 28, 2018	Ladle Cove	Gander
*December 8, 2017	November 28, 2018	Frenchmans Cove	Clarenville

\*This appeal was previously scheduled for December 2017, but was deferred at the request of the appellant.

**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>
May 17, 2018	November 28, 2018	Port Union	Clareville
September 10, 2018	November 28, 2018	Hickmans Hr.	Clareville
*November 27, 2017	November 29, 2018	Clareville	Clareville
October 26, 2018	November 29, 2018	Burgeo	Teleconference
July 20, 2018	November 30, 2018	Petty Harbour	St. John's
October 25, 2018	November 30, 2018	C.B.S	St. John's
October 26, 2018	November 30, 2018	Ferryland	St. John's
October 29, 2018	November 30, 2018	Point Lance	St. John's
November 28, 2018	November 30, 2018	Riverhead	St. John's
November 8, 2018	November 30, 2018	Brownsdale	Teleconference
October 10, 2018	November 30, 2018	St. John's	St. John's

\*This appeal was previously scheduled for December 2017, but was deferred at the request of the appellant.

As summarized above, 23 appellants had appeal hearings in 2018. At the time of the appeals, 12 were registered as Apprentice fish harvesters, and 11 were registered as Level I fish harvesters. Of the 23 appellants, 52 per cent (12 of 23) received no change in their certification status as a result of their appeal. The outcomes of the 23 appeals are as follows:

- 9 appeals – Apprentice - No change in status
- 3 appeals – Level I - No change in status
- 3 appeals – Apprentice upgraded to Level I
- 8 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 2018 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 2018, accompanied by indicators was included, as follows:



**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.

The Appeal Board, with the assistance of PFHCB support staff, succeeded in meeting this stated objective for 2018. All 23 appeals were held from November 26 – November 30. The 23 appellants were each offered a face-to-face appeal hearing in a timely matter, with the average wait time for an appeal being approximately three months, and the maximum being approximately ten months. Three appeals deferred from December 2017 at the request of the appellant were also conducted in 2018.

Of the 23 appellants, three requested to have their appeal heard via teleconference. For the 20 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.

### **3.2 Objectives for 2019**

As outlined in the Appeal Board's 2017-2019 Activity Plan, a single issue is presented for 2019. The 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 #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.

#### **4.0 Opportunities and Challenges**

The PFHCB Appeal Board continues to provide an essential service to over 9,000 certified fish harvesters registered with the PFHCB. For the first time in three years, the number of appeal requests in 2018 did not necessitate the appeal board convening more than one time in the calendar year. This continued uncertainty and annual variation in the number of appeal 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 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)