



NL-FHSA

**FISH HARVESTING
SAFETY ASSOCIATION**

**A Response by the
Newfoundland and Labrador Fish Harvesting Safety Association (NL-FHSA)
to the
2019 Statutory Review – Workers’ Compensation System
DISCUSSION PAPER**

September 24, 2020

Introduction

The Newfoundland and Labrador Fish Harvesting Safety Association (NL-FHSA) is pleased to provide input to the Statutory Review Committee (SRC) in their review of Newfoundland and Labrador's workers' compensation system. In keeping with the SRC's primary focus for this consultative process, the NL-FHSA's response has been prepared in accordance with the Discussion Paper's proposed outline identifying three thematic areas (efficiencies in the review processes, balance in the provision of benefits, and financial sustainability). A brief overview of safety sector councils and the NL-FHSA will also be provided as the starting point for this response.

Safety Sector Councils

The NL-FHSA is one of four Safety Sector Councils operating in Newfoundland and Labrador. The Newfoundland and Labrador Construction Safety Association (NLCSA), Forestry Safety Association of Newfoundland and Labrador (FSANL), and the Manufacturing and Processing Safety Sector Council (MPSSC) make up the remaining three sector councils. The sector council model began with the establishment of the NLCSA in 1998. FSANL was established in 2009, followed by the NL-FHSA in 2012 and the MPSSC in 2019.

Sector Advisors from the Newfoundland and Labrador Federation of Labour (NLFL) and the Newfoundland and Labrador Employers' Council (NLEC) are critical to sector council development, which is their primary role. For existing councils, the Sector Advisors are best positioned to facilitate regular collaboration between existing councils with a more focused approach such as quarterly and annual meetings.

- 1. Recommendation: Explore and enhance the role of Sector Advisors for existing sector councils.***

The SRCs of 1996, 2000, 2005, and 2012, all recognized the importance of safety sector councils in taking a leadership role in improving injury prevention and the development of safety standards and practices in industry. This self-directed approach has enabled sector councils to determine what is appropriate to ensure that the best interests of their relevant industries is maintained.

2. Recommendation: Continue to explore the approach of establishing safety sector council in high-risk industries.

The NL-FHSA

The NL-FHSA was established in 2012 and became operational in 2013 to address workplace injuries, illnesses, and fatalities in the world's most dangerous occupation – commercial fishing. It is an industry-driven, not-for-profit organization leading the promotion of safety education and awareness initiatives in the fish harvesting industry in Newfoundland and Labrador. The overall goal of the NL-FHSA is to improve the health and safety of fish harvesters and to save lives at sea. There is nothing more important to fish harvesters than returning home safely to their loved ones when fishing is done.

To help reach the goal of reducing the human and financial costs of workplace injuries and accidents in the fish harvesting industry, the NL-FHSA has a mandate to:

- Lead the fish harvesting sector in the promotion and development of a positive industry-wide safety culture;
- Create added value for harvesters through the identification and coordination of timely, accessible, affordable, and relevant safety education and resources;
- Promote best practices for safety on-board fishing vessels through education and awareness initiatives;
- Support and promote research on fishing industry safety; and
- Provide advice to the provincial and federal levels of government on health and safety issues in the fishing industry.

There are no simple, 'cookie-cutter' solutions to complex problems that workers encounter in the commercial fishing industry. Improving safety for those who labour on a moving platform in the North Atlantic is an extreme challenge and demands a fervent, industry-driven effort. The NL-FHSA represents a tremendous co-operative effort from the fish harvesting sector and aims to have a

genuinely positive impact on the safety of the men and women who fish for a living in Newfoundland and Labrador.

The governance structure of the NL-FHSA is critical to the success of the organization in its ability to influence change and transfer knowledge. It is based on a governance model that is transparent and highly inclusive with strong industry representation, providing the opportunity for diverse viewpoints and comprehensive insight into the respective safety concerns of the industry. The Board of Directors is made up of fish harvesters (both owners/operators and crew members) from all three fleet sectors, the fish processing sector, Aboriginal/First Nation/Metis peoples, Fish, Food and Allied Workers (FFAW/Unifor union), Professional Fish Harvester's Certification Board (PFHCB), Department of Fisheries and Land Resources, WorkplaceNL, as well as the Sector Advisors from the NLFL and the NLEC.

In addition to the Board of Directors, the NL-FHSA is supported by an Advisory Committee of industry organizations with an expressed interest and expertise in fishing-related safety. The following organizations are represented by their appointed representatives: FFAW/Unifor, PFHCB, OHS Division, ServiceNL, Transport Canada (TC), Canadian Coast Guard (CCG), SafetyNet Memorial University of Newfoundland (MUN), Marine Institute MUN, Department of Fisheries and Oceans (DFO), Department of Fisheries and Land Resources, WorkplaceNL, NLFL, and the NLEC.

The NL-FHSA is funded primarily by WorkplaceNL. However, in-kind funding is also provided by the FFAW/Unifor and the PFHCB. The NL-FHSA is located in the Richard Cashin Building in St. John's which is the administrative center for fish harvesters in the province housing the offices of the FFAW/Unifor, PFHCB, and the Fisheries Resource Centre.

The NL-FHSA is committed to the delivery of clear, well-invested evidence-based plans and best practice programming designed to take fishing vessel safety in this province to another level. By regularly engaging with all fish harvesters – both owners/operators and crew members and other key industry stakeholders, the NL-FHSA promotes best practices for safety onboard fishing vessels, supports and promotes research on fishing industry safety, and participates in discussion with both

Federal and Provincial agencies on regulatory matters.

Meaningful and sustained benefits of improved safety performance requires an industry-led and industry-driven approach by those who have the knowledge and expertise to understand the issues, close existing gaps, and enhance health and safety. A recent, practical illustration of how this works occurred in March 2020 when the COVID-19 pandemic was declared. By the end of March, 152 people in the province had become infected with the virus, nine were hospitalized and one person had died. Newfoundland and Labrador had the second highest-incidence of COVID-19 in Canada. At a time when the province was starting to shut down, plans were underway to open the crab fishery, mobilizing in excess of 10,000 people across the province as part of the essential foodservice supply chain. These were trying times, people were fearful and the big question on everyone's mind was 'can you fish during a pandemic'? The NL-FHSA's strong governance model supporting industry leaders working in a participatory, collaborative approach enabled this issue to be addressed in a respectful and timely manner. In the midst of COVID-19, the collaboration culminated in the development of a comprehensive Safe Work Practice for Fish Harvesters and the fishery proceeded in May following a short delay. This is but one example, but there are numerous examples over the past seven years, where the NL-FHSA has demonstrated how health and safety resources from within the sector council can best serve the fish harvesting industry.

In summary, the NL-FHSA is an effective, credible prevention model that has the support of industry experts having the required depth of knowledge and the experience in all aspects of the fish harvesting industry to improve safety and save lives at sea. As subject matter experts, these individuals are in the position to best understand the hazards in the fish harvesting industry and the design processes, systems, and training necessary to control risk. Furthermore, WorkplaceNL recognizes that industry stakeholders positively influence health and safety cultures, as well as attitudes on early and safe return-to-work practices. The NL-FHSA is committed to maintaining an open and transparent relationship with WorkplaceNL in its business operations and strategic deliverables and providing much-needed prevention services to the fish harvesting industry. Continued long-term core funding of the NL-FHSA provided by WorkplaceNL therefore is the best investment from a cost/benefit perspective to ensure fish harvesters have access to timely and

effective industry-specific prevention initiatives.

- 3. Recommendation: WorkplaceNL continues to provide long-term core funding to the NL-FHSA as an industry safety sector council.**

Provision of Benefits and Efficiencies in the Review Processes

Worker's compensation is a complex system of insurance, injury prevention, regulation, policies, and finance. Decision-making is constant, and as injury claims progress, they tend to become more complex leading to increased costs and duration. Over the years, many improvements have been made in the worker's compensation system in terms of injury management and claims administration including staff training and access to information technology. However, the need for enhancements in the system is a continuous process and more needs to be done.

Advanced knowledge of worker's compensation is required to navigate efficiently through the claims process and corresponding policies. This is generally acquired by worker's compensation staff, human resource professionals, shop stewards, and worker advocates. The workers' compensation system, however is foreign to most workers. Consequently, injured workers who are already struggling with varying degrees of physical and mental impairment, are unprepared as to how to pursue worker's compensation claim benefits.

Workers in unionized workplaces tend to fare better in their navigation through the complexities of the worker's compensation process as they are assisted by shop stewards who are trained to provide advice and guidance in these areas. However, workers in non-unionized workplaces generally are not aware of and do not have the same access to the assistance, anticipatory guidance, and expertise necessary to guide their journey through the complexities and pathways of the workers' compensation system.

Appeals further complicate the claims process as it can take more than a year for appeals to move through the internal and external review process. This is very hard on injured workers who are dependent on treatments from health care providers to continue working or are experiencing wage

loss situations while awaiting decisions on their appeals. These burdensome wait times are unacceptable and to do more of the same will not correct these inadequacies.

New processes must be explored that will enhance the existing supports provided to injured workers, enabling them to have immediate access to expertise and guidance as they journey through the claims process. In this regard, consideration should be given to enhancing the role of worker advocates (external to WorkplaceNL) to intervene early when a worker becomes injured and provide advice and anticipatory guidance about claims management and the requirements for claims adjudication. The cost/benefit of worker advocates in an expanded 'navigator' role will need further analysis however potential benefits include reducing fragmentation, mitigating barriers, and improving claims management and decision-making while at the same time purging the need for appeals at the internal review level.

- 4. Recommendation: Consider enhancing the role of external worker advocates to assist injured workers as they navigate through the complexities of the worker's compensation system.***

Financial Sustainability

The financial stability of the worker's compensation system in Newfoundland and Labrador is dependent on the prevention of workplace injuries, fatalities, and occupational disease, as well as early intervention, treatment and management of injuries, and early and safe return to work. Many enhancements have been made to-date by WorkplaceNL as well as employers, workers, labour unions, government agencies, researchers, and academic institutions but we must continue to do better.

Since its incorporation seven years ago, the NL-FHSA continues to progress, drawing upon the vast experiences of fish harvesters and participating industry stakeholders to address health and safety issues and concerns in the fish harvesting sector. This was the NL-FHSA's commitment to Government in 2012 and it continues to be the Association's obligation; to ensure adequate capacity to provide fish harvesters with the necessary tools and program resources they need to work safely. The fish harvesting industry is full of complexities, bringing with it both challenges and

opportunities. What is clear is that the leaders in the industry are motivated and committed to changing the culture by enhancing health and safety through best practices and compliance to regulation. There is a transformation happening but there is much to be done.

PRIME

In 2005, Workplace NL introduced the Prevention and Return-to-Work Insurance Management for Employers/Employees (PRIME) Program. Fish Harvesters were excluded from the PRIME Program (and this continues today) given the worker's compensation method for collecting assessments, in place since the 1980s, is based on the landed value of catch and paid by fish processors/buyers. In 2005, processors requested a change to the current method of assessing and collecting assessments for fish harvesters however, the fish harvesters recommended maintaining the existing method of assessment and collection remain unchanged. The 2005 SRC also recommended no change to the collection of assessments. In 2018, in response to a review of WorkplaceNL's PRIME Program, the NLEC recommended that the size of fishing vessels required to remit worker's compensation premiums directly to WorkplaceNL should be lowered from the current 64'11" vessel to include large fishing vessels over 45' for both the inshore and offshore fleet and be eligible to participate in PRIME. It has been made known to WorkplaceNL that this recommendation by the NLEC is unacceptable to fish harvesters and stakeholders representing their interests. Since then, WorkplaceNL has made interim recommendations to make changes to PRIME recommending extensive consultation with the fish harvesting industry is needed to identify options that provide incentives to harvesters. This extensive consultation with fish harvesters by WorkplaceNL to explore incentives is viewed by the NL-FHSA as an acceptable approach.

- 5. Recommendation: Extensive consultation by WorkplaceNL with the fish harvesting industry is required to identify options that provide incentives to improve the health and safety of fish harvesters.***

Conclusion

The Statutory Review of the Workers' Compensation System provides a valuable opportunity to give input on workers' compensation matters with the intent of improving the overall system for

workers and employers. Thank you for the opportunity to contribute.