

Annual Performance Report 2023-24



**Workers' Compensation
Independent Review Board**



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This document is available in alternate formats, upon request.

Message from the Chief Review Commissioner

In accordance with the reporting requirements of the **Transparency and Accountability Act** for a Category 3 Entity and the **Workplace Health, Safety and Compensation Act** (the **Act**), I am pleased to present the Workers' Compensation Independent Review Board's (WCIRB) Annual Performance Report for 2023-24. As Chief Review Commissioner of WCIRB, I am responsible for the preparation of this report and accountable for the results contained within.

2023-24 brought forward several significant changes to our organization. The new **Act** that came into force in September resulted in a name change for us to the Workers' Compensation Independent Review Board which is an accurate reflection of our role and mandate.

We also recruited two additional full-time Review Commissioners in June 2023 to bring our panel to a total of five including the Chief Review Commissioner role. This reflects and aligns with the overall change in the panel model from part-time to full-time Review Commissioners and we are beginning to realize a significant impact on our statistics, as outlined in this report.

I would like to thank both the administrative and adjudicative staff of WCIRB for their diligence and dedication to the delivery of client centered services to injured workers and employers.

We look forward to working with you in 2024-25 as we continue to strive to uphold the principles of natural justice, provide exceptional client service, and continue to realize statistical gains and improvements.

A handwritten signature in blue ink, reading "Suzanne Hollett". The signature is fluid and cursive, with the first name "Suzanne" and last name "Hollett" clearly distinguishable.

Suzanne Hollett

Chief Review Commissioner

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Overview

Introduction

The Workers' Compensation Independent Review Board (WCIRB) is the final level of review within the workers' compensation system in Newfoundland and Labrador. WCIRB is responsible for the review of decisions of WorkplaceNL. WCIRB may review such issues as:

- Compensation and medical aid benefits;
- Rehabilitation and return to work services and benefits; and,
- Employers' assessments and industry classifications.

Mandate

The mandate of the WCIRB is to review decisions of WorkplaceNL to ensure compliance with the Act and Regulations, as well as with the policies of WorkplaceNL. The WCIRB is also mandated to direct appropriate remedies where necessary.

Vision

The vision of the WCIRB is an environment where workers and employers participate in an independent, timely and fair review process anchored in a culture of exceptional client service.

Lines of Business

The WCIRB offers the following services to its clients:

- Review of decisions of WorkplaceNL. WCIRB processes review applications submitted by injured workers, their dependents and employers in the province, as well as coordinates a review process that includes a hearing before a Review Commissioner.
- Information Services. WCIRB provides information services to its clients by providing web-based distribution of its decisions, researching workers' compensation issues and collecting and maintaining statistical information relative to the review process.

Additional information on WCIRB can be found on its website at <http://www.gov.nl.ca/whscrd>.

Financial Information

Funding for the operations of WCIRB is reimbursed from the Injury Fund of WorkplaceNL pursuant to Section 36 of the **Workplace Health, Safety and Compensation Act**. In the 2023-24 fiscal year, WCIRB's budgetary allocations were administered by the financial administration division under the Minister Responsible for WorkplaceNL. Unaudited expenditures for WCIRB in 2023-24 were \$1,279,627 as provided by the Department of Finance. Please refer to page 15 for more detailed financial information.

Review Commissioners

WCIRB has a Chief Review Commissioner and a Panel of Review Commissioners. Up to seven Review Commissioners, including the Chief Review Commissioner, may be appointed. Review Commissioners historically conduct hearings in Mount Pearl, Gander, Grand Falls-Windsor, Corner Brook, Happy Valley-Goose Bay, and Labrador City, with teleconference and videoconference options also available.

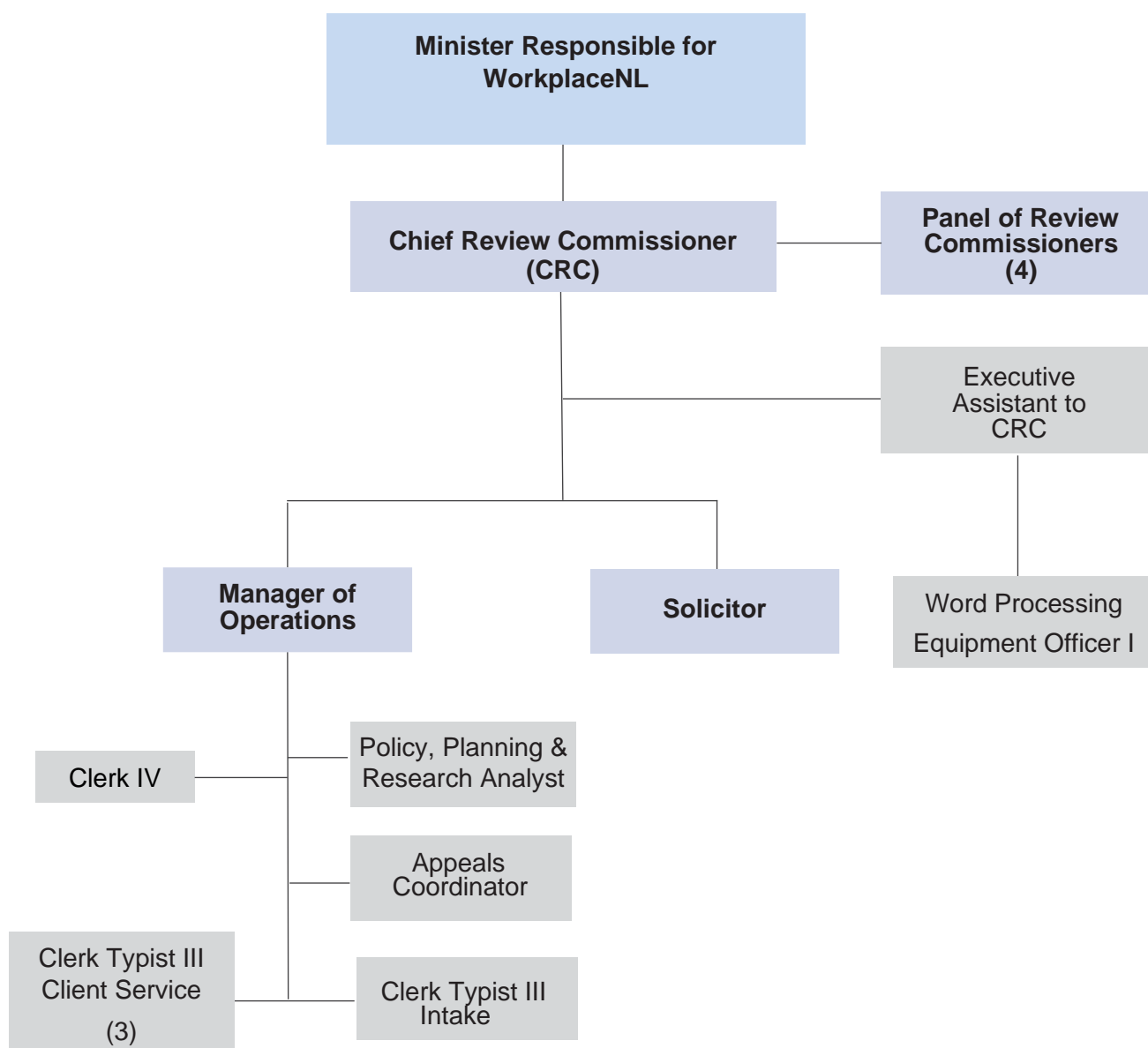
As of March 31, 2024, WCIRB's Panel of Review Commissioners consisted of a Chief Review Commissioner and four full-time Review Commissioners. Please refer to page 16 for the biographies of Review Commissioners that were active in 2023-24.

Overview continued

WCIRB Staff

During the 2023-24 fiscal year, WCIRB employed 15 staff in its office located in the Dorset Building, at 6 Mount Carson Avenue in Mount Pearl, Newfoundland and Labrador.

Organizational Chart



Highlights and Partnerships

Organizational Name Change

The 2013 statutory review committee proposed an amendment to **the Act** to change the name of the Workplace Health, Safety and Compensation Review Division (WHSCRD) to a name that more accurately reflects its position as a stand-alone entity, both external and independent of WorkplaceNL. The 2019 statutory review committee recommended this change proceed and effective September 2023, the former WHSCRD was renamed the Workers' Compensation Independent Review Board (WCIRB).

The majority of WCIRB's literature and website material has been updated to reflect the name change. The remaining name change updates are ongoing and will be completed throughout the 2024-25 fiscal year.

Joint Committee

As per recommendation 3.1 of the 2019 statutory review of the workers' compensation system in Newfoundland and Labrador, upon direction from the Minister, WCIRB and WorkplaceNL formed a joint committee of representatives who meet quarterly to review, analyze and formulate operational solutions to issues surrounding consideration of additional and/or new evidence that may come forward during the external review process. Initial priorities for the 2023-24 fiscal year included formalizing a triage process for new information; and introducing a "red-flag" system at WorkplaceNL as directed by the Minister from the 2020 Statutory Review Report. Progress to date is proving successful, with fewer cases placed on hold at any given point in time.

Report on Performance

Fiscal 2023-24 is the first year of the 2023-26 strategic planning cycle. The results of WCIRB's work to meet its stated objectives year are laid out below.

Issue 1: Review Application Processing

Review applications are processed through both administrative and adjudicative functions. WCIRB's administrative team receives and processes review applications to ensure all administrative requirements are met prior to scheduling a hearing for adjudication.

Cases are considered closed when a final decision has been issued; if the applicant withdraws their case; or if WCIRB determines it has to dismiss or reject an application due to an error.

WCIRB met its 2023-24 objective as outlined in the following section. It is worthy to note WCIRB closed a total of 268 cases, representing a 26 per cent increase over the previous year (213 cases closed).

Objective Results for 2023-24

Objective: By March 31 of 2024, WCIRB will have collected all information on the standing of its review applications for reporting to the public and all other relevant parties.

Indicators	Progress and Accomplishments
Number of review applications carried over from previous year.	233
Number of new review applications received.	246
Number of review applications closed.	268
Number of reconsideration applications received.	3

Report on Performance continued

Objective for 2024-25

Objective: By March 31 of 2025, WCIRB will have collected all information on the standing of its review applications for reporting to the public and all other relevant parties.

Indicators:

- Number of review applications carried over from previous year;
- Number of new review applications received;
- Number of review applications closed; and
- Number of reconsideration applications received.

Issue 2: Hearing Review Applications

With the cases compiled by the administrative team, Review Commissioners are able to conduct hearings of review applications in-person, by video and teleconference, or a documents only (paper) review. At times applicants may request rescheduling for extenuating circumstances. In such cases, WCIRB attempts to reschedule hearings in a timely manner.

WCIRB met its 2023-24 objective as outlined in the following section. It is worthy to note WCIRB held 214 hearings, representing the highest number in several years and more than a 25 per cent increase over 2022-23 (169 hearings).

Report on Performance continued

Objective Results for 2023-24

Objective: By March 31 of 2024, WCIRB will have collected all information on the standing of its hearings for reporting to the public and all other relevant parties.

Indicators	Progress and Accomplishments
Number of review applications scheduled to be heard.	214
Number of review applications waiting to be heard.	152
Number of review applications hearings rescheduled.	33
Number of review application hearings held by region.	<ul style="list-style-type: none"> • Avalon 155 • Central 28 • West 30 • Labrador 1

Objective for 2024-25

Objective: By March 31 of 2025, WCIRB will have collected all information on the standing of its hearings for reporting to the public and all other relevant parties.

Indicators:

- Number of review applications scheduled to be heard;
- Number of review applications waiting to be heard;
- Number of review application hearings rescheduled; and
- Number of review application hearings held by region.

Report on Performance continued

Issue 3: Decisions Rendered

WCIRB has the jurisdiction to review decisions of WorkplaceNL for correctness and error. This usually occurs through the hearing process. Upon completion of the hearing, Review Commissioners are responsible for conducting a thorough review and analysis of the issue(s) before them in order to render a timely decision according to the **Act**, based on the record of information, which includes the hearing.

Due to new, complex or emerging issues, WCIRB also selects several Noteworthy Decisions each year to highlight outcomes that articulate these emerging issues.

WCIRB met its 2023-24 objective as outlined in the following section. The number of decisions rendered this fiscal year, 214, is up 27 per cent when compared to fiscal 2022-23 (169) and is also the highest number of decisions rendered in any of the past seven years.

Objective Results for 2023-24

Objective: By March 31 of 2024, WCIRB will have collected all information on the standing of its decisions for reporting to the public and all other relevant parties.

Indicators	Progress and Accomplishments
Number of decisions rendered.	214
Decision outcomes.	<ul style="list-style-type: none"> • Allowed 49 • Denied 127 • Referred back to WorkplaceNL 27 • Allowed in part 11
Noteworthy decisions.	<p>WCIRB considers the decisions below to be noteworthy.</p> <p>Please visit our Decision Search System at the following link to read and/or download the noted decisions:</p> <p>https://www.gov.nl.ca/whscrd/search-decision-system/search-decisions/</p>

Report on Performance continued

Noteworthy Decisions

DECISION 2023052 (Worker Application) **Allowed**

Applicable legislation, regulation, policy or procedure:

ss.19(4), 43, 60, Policy EN-19, Policy EN-20, ss.55, 57, 60(1)

DECISION 2023061 (Worker Application) **Allowed**

Applicable legislation, regulation, policy or procedure:

ss.5, 19(4), 84, 85, Policy HC-11, Policy HC-13, s.60(1), Policy EN-20

DECISION 2023067 (Worker Application) **Allowed**

Applicable legislation, regulation, policy or procedure:

ss.43, 60, 61, Policy EN-19, ss.73, 74, s.60(1), Policy EN-20, ss.19(4)

DECISION 2023138 (Worker Application) **Allowed**

Applicable legislation, regulation, policy or procedure:

ss.43, 60, 61, Policy EN-19, s.60(1), Policy EN-20, ss.19(4)

DECISION 2023165 (Worker Application) **Allowed**

Applicable legislation, regulation, policy or procedure:

s.75

DECISION 2024009 (Worker Application) **Denied**

Applicable legislation, regulation, policy or procedure:

ss.5, 19(4), 84, 85, Policy HC-11, Policy HC-13, ss.60(1), Policy EN-20

Report on Performance continued

Objective for 2024-25

Objective: By March 31 of 2025, WCIRB will have collected all information on the standing of its decisions for reporting to the public and all other relevant parties.

Indicators:

- Number of decisions rendered;
- Decision outcomes; and
- Noteworthy Decisions.

Opportunities and Challenges

Caseload

The number of applications and total caseload for WCIRB continues on a gradual rise, which can present challenges in progressing the caseload in a timely manner. 2023-24 saw a total caseload of 479 cases. However, with the appointment of additional full-time Review Commissioners during this past fiscal year, we also had, and will continue to have, an opportunity to make significant gains moving forward. These gains are anticipated to have an impact on the time waiting for a hearing and the time from hearing to decision, both of which are realizing steady reductions.

WCIRB will continue to monitor the number of applications through the 2024-25 fiscal year and respond according to the demand and make any necessary recommendations to the Minister Responsible for WorkplaceNL.

2023-24 Additional Caseload Activity

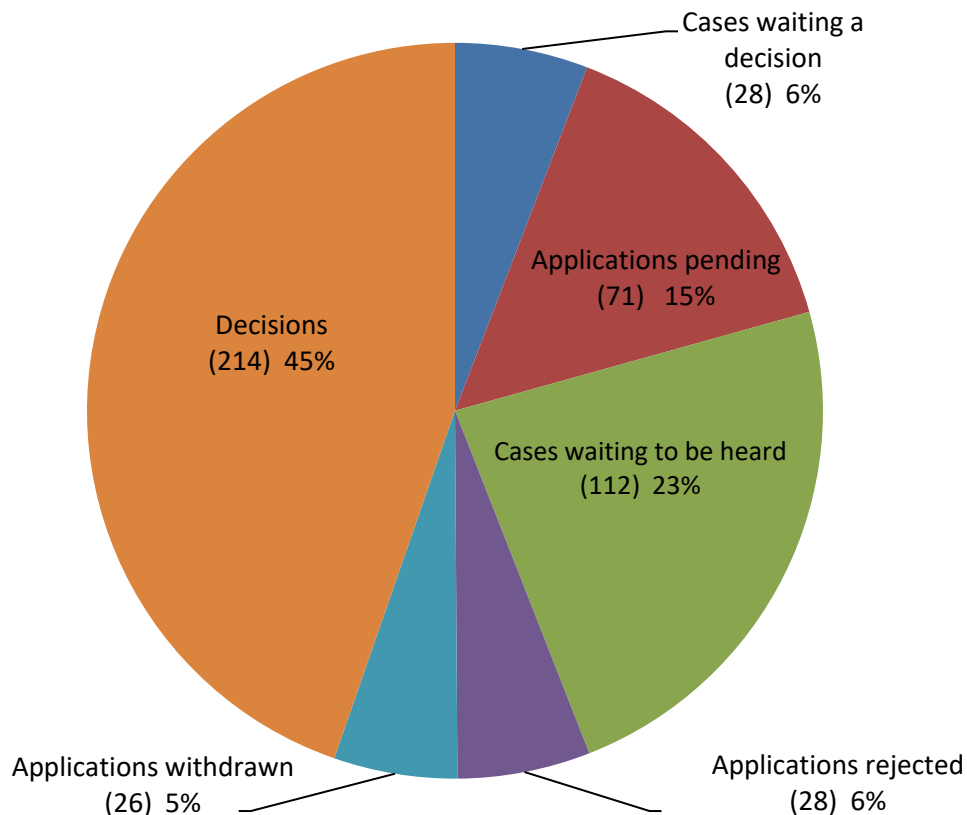
- WCIRB's overall annual caseload consisted of 479 cases (Table 1-page 13).
- Workers and their dependents filed 231 Requests for Review representing 94 per cent of the applications filed in 2023-24. Employers filed 15 Request for Review applications, or 6 per cent.
- The bulk of hearings are held in the Mount Pearl office as 80 per cent of clients are located in the Avalon region. Also, since the Covid-19 pandemic and the associated reliance on alternate technology, many clients will now opt for a teleconference or videoconference if it means an expedited hearing date vs. waiting for sufficient demand and scheduled hearings in their region.
- The top three issues under review were: Claim Denied, Extended Earnings Loss Benefits, and Permanent Functional Impairment rating (Table 2-page 14).
- The number of decisions rendered in fiscal 2023-24 (214) is also the highest in seven years and up 27 per cent compared to fiscal 2022-23 (169).
- Decisions are rendered an average of 66 days after the hearing, but 84 per cent of decisions are rendered under 60 days.
- The total number of closed cases in fiscal 2023-24 is 268, representing a 20 per cent increase over the previous fiscal year.
- Cases are typically scheduled in order of application date. However, WCIRB attempts to assess and triage issues having the most impact on an applicant's financial situation (i.e. wage loss situation) to expedite those cases where possible.

2023-24 Statistical Overview

Table 1 - Annual Caseload

Caseload Breakdown	2023-24
Appeals Carried Forward April 1 st	233
New Applications	246
Annual Caseload	479
Closed Cases:	
Decisions Rendered	214
Cases Withdrawn	26
Applications Rejected/Dismissed	28
Total Finalized/Closed Cases:	268
Caseload as of March 31st, 2024	211

Figure 1 – Year End Caseload by Disposition



Statistical Overview continued

Table 2 – Issues Reviewed by Decision

Issues	Outcome			
	Objections	Allowed	Denied	Referred Back to WorkplaceNL
Worker/Dependent Appeals				
Aggravation of Pre-existing Condition	9	2	5	2
Claim Denied	46	13	27	6
Compensation Rate	3	1	2	0
Dependency Benefits	3	1	2	0
Early & Safe Return to Work	4	2	1	1
Extended Earnings Loss Benefits	33	8	21	4
Health Care Services	21	7	11	3
Industrial Hearing Loss	12	1	9	2
Internal Review Denied	5	2	3	0
Overpayment	1	1	0	0
Pension Replacement Benefit	1	1	0	0
Permanent Functional Impairment	22	6	13	3
Proportionment	3	2	0	1
Re-employment Obligation	1	0	1	0
Recurrence	7	2	5	0
Reopening	15	6	7	2
Wage Loss Benefits	17	7	7	3
Totals	203	62 (31%)	114 (56%)	27 (13%)
Employer Appeals	Objections	Allowed	Denied	Referred to WorkplaceNL
Assessment Rate	1	0	0	1
Cost Relief	1	0	1	0
Early & Safe Return to Work	1	0	1	0
Labour Market Re-entry	1	1	0	0
Objection to a Worker's Claim	15	2	10	3
Wage Loss Benefits	2	0	2	0
Totals	21	3 (14%)	14 (67%)	4 (19%)
OVERALL TOTALS	224	65 (29%)	128 (57%)	31 (14%)

Note: Review applications may raise more than one issue/decision for review; therefore, the above numbers may not correlate with the number of Review applications filed or Decisions rendered. Due to rounding the total percentages may not equal 100 per cent.

Financial Statement

Expenditures included in this document are unaudited and based on public information provided in the Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for the Year Ended March 31, 2024. WCIRB is not required to provide a separate audited financial statement.

Statement of Expenditures and Related Revenue UNAUDITED For Fiscal Year Ending March 31, 2024

	2023-24		
	Actual \$	Amended \$	Original \$
Workers' Compensation Independent Review Board			
01. Salaries	1,223,830	1,253,300	1,253,300
Operating Accounts:			
Employee Benefits	16,380	14,500	14,500
Transportation and Communication	20,675	62,200	62,200
Supplies	15,906	16,100	16,100
Professional Services	4,944	75,100	75,100
Purchased Services	11,239	40,300	40,300
Property, Furnishings and Equipment	9,044	4,000	4,000
	<u>\$78,188</u>	<u>\$212,200</u>	<u>\$212,200</u>
02. Revenue - Provincial	<u>(\$1,279,627)</u>	<u>(\$1,465,500)</u>	<u>(\$1,465,500)</u>
Total:	\$22,397	-	-

Source: Department of Finance (unaudited)

Active Review Commissioners 2023-24

Suzanne Hollett, Chief Review Commissioner (Appointed December 2021)

Suzanne Hollett graduated from the University of New Brunswick with a Bachelor of Laws in 2003. Having worked as both a lawyer and an analyst responsible for legislation pertaining to protection of privacy, access to information and personal health information, she has a broad range of experience in legal analysis, interpretation and dispute resolution.

Shane Hickey, Review Commissioner (Appointed January 2019, reappointed December 2023)

Shane Hickey graduated from the Dalhousie Faculty of Law in 2011 and was called to the bar in 2012. He has extensive experience in administrative decision making at the adjudication level as well as the review and appeals levels. Most recently, Mr. Hickey was employed as the Director of Employment Standards and Residential Tenancies in the Yukon.

Janet O'Reilly, Review Commissioner (Appointed August 2021)

Janet O'Reilly obtained her LL.B. from Dalhousie University in 1999 and was called to the Bar of Newfoundland and Labrador in 2000. Since that time Ms. O'Reilly has practiced law with Patterson Palmer; clerked at the Court of Appeal; worked as a Corporate Examiner with Johnson Insurance; and most recently, was an Access and Privacy Analyst with the Office of the Information and Privacy Commissioner. Ms. O'Reilly is also a director and actor in the local theatre community.

Stacey Pratt, Review Commissioner (Appointed June 2023)

Stacey Pratt graduated from the University of New Brunswick, Faculty of Law in 2005 and was called to the bar in Newfoundland and Labrador in 2006. She practiced law with McInnes Cooper for a number of years, following which she spent over a decade specializing in legislative analysis and interpretation in the areas of access to information, protection of privacy and personal health information with the Office of the Information and Privacy Commissioner and the Newfoundland and Labrador Centre for Health Information. Following that time Ms. Pratt served as the Legislative Officer/City Clerk with the City of Mount Pearl.

John Goodland, Review Commissioner (Appointed June 2023)

John Goodland graduated from the University of New Brunswick with a Bachelor of Laws in 1999 and was called to the Newfoundland and Labrador Bar in 2000. After ten years in private law practice with various sized law firms in the Province, in 2010 Mr. Goodland joined the Office of the Public Trustee, Department of Justice and Public Safety. Before accepting the position as Review Commissioner, Mr. Goodland served as the Public Trustee for the Province of Newfoundland and Labrador for nearly eight years.

Contact Information

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