

Time to Train Policy and Procedure

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REQUESTING TIME TO TRAIN POLICY AND PROCEDURE

Please note that this Guidance is based closely on Local Government Employers guidance. Please also note that Trade Union Representatives, Learning Representatives and Health and Safety Representatives have a separate, pre-existing right to time to train.

1. POLICY OVERVIEW

- 1.1 Ravenswood School henceforward known here as 'the School' recognises the value of the knowledge, experience and skills of all its staff and the contribution which enabling time to train or study can make in helping the school retain valued staff.
- 1.2 The School understands that individuals may wish to have time to train in areas that are relevant to their work. Enabling such training can enhance employee effectiveness. The School is committed to exploring with staff a range of options for training according to this procedure which is in line with the Apprenticeships, Skills, Children and Learning Act 2009 and the relevant new provisions in the Employment Rights Act 1996 (ERA).

2. INTRODUCTION

- 2.1 From 6 April 2010, employees in organisations with 250 or more employees in England and Wales have the statutory right to request time off for training. This right was to be extended to all organisations on 6 April 2011 but the government has now postponed this extension pending an assessment of its impact.
- 2.2 Employers are required to consider any requests within a set timeframe but they can refuse requests where there is a good business reason to do so. The statutory processes of managing the right to request time to train are similar to those in the statutory right to request flexible working.

2.3 Legislative Background

- 2.4 The Apprenticeships, Skills, Children and Learning Act 2009 adds a new provision to the Employment Rights Act 1996 (ERA) for time off for study and training and new provisions on unlawful detriment and unfair dismissal in relation to an application for time off for training.

3. SCOPE (ELIGIBILITY)

- 3.1 Under the new right, employees who have been continuously employed for 26 weeks (on the date that they make their request) can request unpaid time off to train or study on a topic that will increase their effectiveness in their job or is relevant to their employer's business.
- 3.2 This policy applies to 'employees' only. It does not apply to individuals engaged to undertake work where no employment relationship exists, for example agency workers, volunteers, work experience placements. Agency Workers do not qualify to request time off for training from the local authority as the end user and the Agency Workers Regulations 2010 do not include proposals to extend this statutory right to these workers.

3.3 Only 26 weeks' continuous service with the current employer (e.g. North Somerset Council) will count towards eligibility for this right. Employees cannot use the statutory provisions of the Modification Order to apply to the statutory right to request time off for training.

4. EMPLOYEE RIGHTS

4.1 Employees can request to undertake accredited programmes leading to a qualification or for unaccredited training to help them to develop specific skills relevant to their job or to their employer. The right is to request the time off to study or train only; it is not a right to have the time off.

4.2 There is no limit on the amount of time, or study or training that the employee can request but the employee can make only one request in any 12-month period.

4.3 The employer is not obliged by law to pay for any time off granted for study or training under this right. The employer can choose to pay the employee for the time they are absent or for the cost of the training or qualification. The School Policy with regards to paying employees for time off in training is based on a case-by-case basis and at the discretion of the Governors.

4.4 The school can accept the request either in full or in part.

5. PROCEDURE

5.1 This procedure should be followed if a member of staff request time to train or study. A summary of this procedure is outlined in the attached flowchart, **Appendix 1**.

5.2 Making a Request

5.3 If an employee wishes to request time to train or study, they must make the Headteacher aware of this intention in the first instance. The Headteacher will then give the employee a copy of this procedure and the attached forms.

5.4 The employee must then write to the Governing Body, setting out their request for time to train (see the Model Application Form, **Appendix 2**). The request should be in writing (e-mails and faxes are acceptable) and should provide the school with the following information:

- that they are applying under section 63D of the Employment Rights Act 1996
- the proposed training or study
- where and when the proposed training or study would happen
- who would provide it or supervise it
- what qualification it would lead to (if any)
- how the proposed training or study would improve their effectiveness in the organisation and the performance of the organisation
- details of any previous applications (if any) submitted

- 5.3 The governing body should then acknowledge receipt of the application (there is a tear off slip on the model application form).
- 5.4 **Meeting to Consider the Request**
- 5.5 Unless the Governors wish to accept the request without meeting with the employee, in which case they must do so **in writing within 28 days of receiving the written request** for time to train or study, a panel of governors (sensibly the committee responsible for staffing matters) should meet the member of staff to discuss the application **within 28 days of receiving the written request for time to train or study**. The Headteacher should ideally attend in order to explain the implications for the school if the request is accepted. The employee has the right to be supported by a work companion (this can either be a work colleague or a local trade union representative). If their chosen companion is unable to attend the meeting, the employee can ask for the meeting to be rearranged on one occasion. If the panel has reservations about a particular aspect of the request it should consider a part acceptance of the request.
- 5.6 The companion can address the meeting and talk with the employee during the meeting but should not answer questions independently of the employee. The meeting will count as working time and the employee and their companion have the right to be paid while attending the meeting.
- 5.7 The School is entitled to ask the employee to provide additional information in support of their request. If the employee refuses to provide this information, the school reserves the right to consider the request to be withdrawn. In this event, the school will inform the employee of this in writing.
- 5.8 If the employee fails to attend a meeting scheduled to discuss their request, irrespective of the reason, the school should attempt to rearrange the meeting. However, if the employee fails to attend the rescheduled meeting without good cause, the school will treat the request as withdrawn and will write to the employee to confirm this.
- 5.9 **Responding to the Request**
- 5.10 **Within 14 days of the date of the meeting** the governing body must notify the employee in writing of its decision (see model acceptance and decline of request forms **Appendix 3 and 4**).
- 5.11 If the request is accepted, the written notification must provide the employee with the following details:
- whether the request has been accepted in full or in part
 - the subject of the study or training
 - the duration (including the date on which the time to train is to begin and end or the period within which time is to be granted and the day or days of the week on which the time to train is to be given and whether these are to be full or part days) and location of the training
 - who will provide or supervise the training
 - what qualification (if any) the training will lead to

- whether the time off for training will be paid or unpaid, or flexible working arrangements to allow the training to happen
- how the costs of the training will be met

5.12 Accepting the request in part: if the request in its original form is not practicable, governors must consider whether any alternative is possible (for example a reduced period of time, number of days; in-house as opposed to day release training) and put this to the employee at the meeting or as soon as possible thereafter as a 'part acceptance'. If the request is only accepted in part, and the employee agrees to this part acceptance, the acceptance form should be used. If the request is only accepted in part and the employee decides they cannot agree to the counter proposal, the decline of request form should be used.

5.13 If the school agrees to the employee's request in part, it will make it clear to the employee in writing which part is agreed and which part is refused. Where the school is partly refusing the employee's request, the school will specify which one of the business grounds for refusal applies to the refusal of that part of the request and provide the employee with the right of appeal against this decision should the employee not accept it.

5.14 The school will consider all requests seriously. If the request is refused, it will do so only where one of the following 'business' reasons applies:

- it would not improve the employee's effectiveness in the organisation
- it would not improve the performance of the organisation
- the burden of additional costs
- detrimental effect on ability to meet service-user demand
- inability to re-organise work among existing staff
- inability to recruit additional staff
- detrimental impact on quality
- detrimental impact on performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes

5.15 The notification must state the business grounds for refusing the application and how that business reason applies or reasons apply to the employee's circumstances and provide details of the employee's right to appeal. The decision should be dated.

5.16 Right of appeal

5.17 **Within 14 days of the notification of the governing body's decision**, the employee may lodge a written appeal to the appeal panel. The appeal panel should comprise different governors

5.18 **Within 14 days of receiving an appeal**, the appeal panel should hold a meeting with the employee to discuss the appeal.

5.19 At the appeal meeting, the employee has the right to be accompanied by a companion and, if the companion is a work colleague, both employees have the right to receive pay as normal while attending the meeting.

5.20 **Within 14 days of the appeal panel meeting**, the appeal panel should write to the employee to advise them of the outcome of the appeal.

5.21 If the decision is to accept the appeal, then the process is the same as accepting the original request. If the decision is to reject the appeal, the school must write to the employee to confirm the business reason for the decision and how this applies to the employee's circumstances.

5.22 Extensions to the above time limits

There are two circumstances where the above time limits can be extended:

- Through agreement by the governing body and employee – this can be used in exceptional circumstances only, for example, when more time is needed to explore an alternative working pattern; and
- If relevant members of the governing body who would normally consider requests are absent from normal duties.

5.23 If the employee fails to attend their appeal meeting, irrespective of the reason, the school should attempt to rearrange the meeting. However, if the employee fails to attend the rescheduled meeting without good cause, the school will treat the request as withdrawn and will write to the employee to confirm this.

5.24 The School reserves the right to anticipate certain circumstances where they would wish to withdraw an agreement to allow time off for study and training. In this event, these will be made clear in the initial agreement with the employee. (For example, the school may wish to reserve the right to withdraw agreement if there is a restructure that affects the employee.)

5.26 *(Indicative paragraph to be inserted at schools discretion)* If the school agrees to pay for the training, wholly or in part, and the employee leaves within 2 years of the request being granted, the School reserves the right to reclaim the payment.

5.26 **Factors for the Governors Panel to consider**

5.27 In considering a request for time to train, governors should firstly consider whether a precedent exists in the school. A similar arrangement already in place operating successfully would imply that there is no valid reason for refusing the request (although governors may be within their rights to refuse a request if the number of arrangements in place was such that the situation becomes unmanageable).

5.28 It will then be necessary to look at the potential difficulties for the school, together with the possible advantages to the school, of the proposed arrangement.

5.29 The benefits of granting time to train may include – retention of valued employees; reduction in staff turnover, reduction in recruitment and training costs; increased staff morale and motivation; greater staff loyalty and commitment; enhanced reputation as a good employer;

and greater flexibility to deal with change. Governors, therefore, need to consider whether there are any circumstances relating to the school, or to the particular job in question, which would prevent the arrangements working successfully.

- 5.30 The panel meetings should be minuted in the usual way. The written submissions and papers, the decisions and the reasons for them should be retained. These papers form essential records should an employee decide to raise a grievance or challenge the governors' decision at Employment Tribunal. The employee may complain to an employment tribunal on the following points:
- that the decision to reject the request was based on incorrect facts
 - that the employer did not follow the correct procedure

The employee cannot complain to a tribunal simply because they disagree with the business grounds for refusal.

6. EQUAL OPPORTUNITIES

- 6.1 Governors and managers must not discriminate on the grounds of race, age, gender, disability, sexual orientation, religion or belief, gender reassignment, marriage and civil partnership, pregnancy and maternity, or other grounds when dealing with any matters under this Policy. This applies both when deciding whether to accept a request and when deciding whether payment should be received while the employee has their time to train. For example, if the school attaches conditions to this payment, for example, that only certain types of jobs will qualify for paid time off for agreed study or training, these conditions should be assessed for potential discriminatory impacts on particular groups of employees, for example, part-time employees.

7.0 CONFIDENTIALITY AND RECORDS

- 7.1 All individuals involved in the time to train application process have a responsibility to maintain the confidentiality of personal information in their possession.
- 7.2 All records will be kept confidential, used and retained in accordance with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

8. OTHER RELEVANT POLICIES/DOCUMENTS

Appraisal Policy
Flexible Working Policy and Procedure

All our policies and guidance can be found at

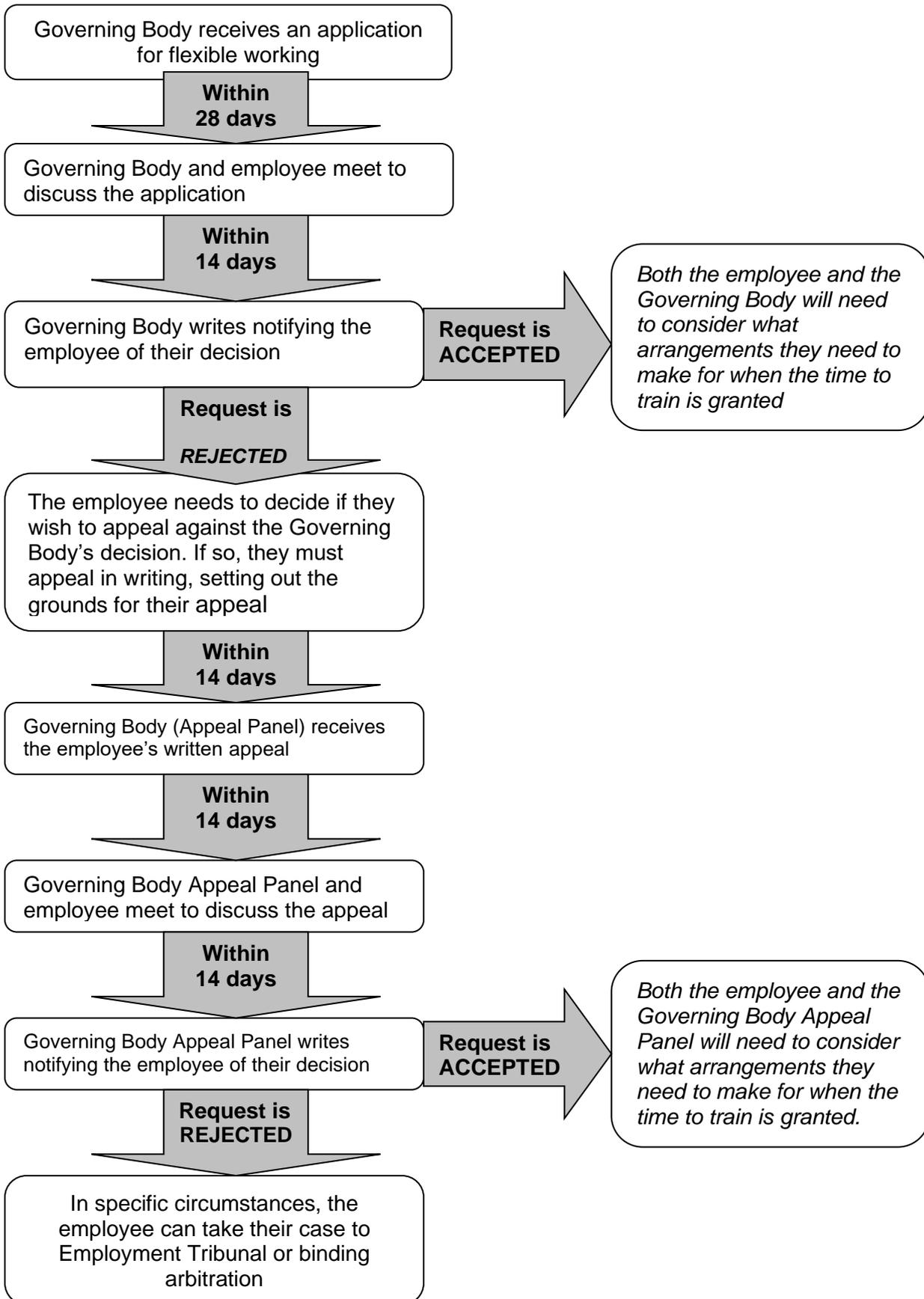
www.supportservicesforeducaton.co.ukwww.supportservicesforeducaton.co.uk

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APPENDICES



APPENDIX 1 – Summary Flow Chart



APPENDIX 2

Time to Train Application Form

Note to the applicant

You should use this form to make an application for time to train under the right provided in law to eligible employees. If you have any queries about completing this form, please approach your Headteacher or Line Manager in the first instance. Alternatively, you might want to read the guidance on the Directgov website.

You should note that given the time it takes to agree a request and that it may take a number of weeks before a request, if agreed, can be implemented you should ensure that you submit your application to the governing body as soon as possible and well in advance of the date you wish the request to take effect.

It will help the school's governing body to consider your request if you provide as much information as you can about your request and the training you wish to undertake. It is important that you complete all the questions, as otherwise your application may not be valid. The School is entitled to ask you to provide additional information in support of their request. If you refuse to provide this information, the school reserves the right to consider the request to be withdrawn. In this event, the school will inform you of this in writing.

Once you have completed the form, you should immediately forward it to your governing body (please send a copy to your Headteacher – you may also want to keep a copy for your own records). Your governing body will then have 28 days after the day the application is received in which to arrange a meeting with you to discuss your request.

If the request is accepted, it can either be in whole or in part (see the *Requesting Time to Train Policy and Procedure* for further details.)

Privacy Statement

The School is registered with the Information Commissioner's Office for the purposes of processing personal data.

The information you provide will be held and used in accordance with the requirements of UK and European data protection law. The information provided will form part of your personnel file, which, in accordance with Section 2 of the Limitation Act 1980, will be stored securely until six years after the termination of your employment period.

The processing of this information is lawful as it is in our legitimate interest to process it (GDPR Article 6 (1)(f)). It is in our legitimate interest because we need the information in

order to implement a legitimate school policy and specifically in order to assess your application to have time off for training.

If you have any questions or concerns about the way we process your personal data, please contact our Data Protection Officer through the School.

Note to the governing body

You have 28 days after the day you received this application in which to either agree to the request or arrange a meeting with the employee to discuss their request. You should confirm receipt of this application using the attached acknowledgement slip and should also provide the applicant with a copy of the procedure and relevant forms. Please refer to the School's *Requesting Time to Train Policy and Procedure* or the Schools' Human Resources Advisory Service on 01275 884072 for further information.

1. Personal Details

Name:

Job Title:

Line Manager:

Eligibility requirements

To make an application for time to train under the statutory right in legislation, you must meet the following criteria:

- Be an employee not working on a supply, casual or agency basis;
- have 26 weeks continuous service with the school at the time they make their request;
- have not made an application for time to train within the last 12 months;

Employees can request to undertake accredited programmes leading to a qualification or for unaccredited training to help them to develop specific skills relevant to their job or their employer. The right is to request time off to study or to train only; it is not a right to have time off.

I meet the eligibility requirements to apply for time to train in law and am therefore applying under section 63D of the Employment Rights Act 1996 **YES/NO**
(please delete as appropriate)

2a. Describe the proposed training or study (including i) where and when the proposed training or study would happen, ii) who would provide or supervise it and iii) what qualification it would lead to (if any):

2b. State the time you would like off to train (including the number of days or part days a week, for how long and when (i.e. during academic terms) and whether you would like to receive payment and if so, for what (the time, the cost of training or qualification) and if the latter, what the cost of these are anticipated to be: ***[delete payment element if not applicable – i.e. if the school does not offer payment]***

(you may continue on a separate sheet if necessary)

2c. I would like the arrangement to commence from: Date:

3. Explain how the proposed training or study would improve your effectiveness in the school and the performance of the school. Please also explain how any impact of the request can be dealt with

4. Give details of any previous applications (if any) submitted

I consent to the processing of the data I have disclosed on this form.

Name:

Date:

NOW PASS THIS APPLICATION TO YOUR GOVERNING BODY.



Cut this slip off and return it to the applicant in order to confirm your receipt of their application.

Governing Body's Confirmation of Receipt (to be completed and returned to applicant).

Dear:

We confirm that we received your request for time to train on: Date:

We shall be arranging a meeting to discuss your application within 28 days following this date. You are welcome to bring a work colleague or Trade Union Representative to accompany you at the meeting.

Name:

Position:

APPENDIX 3

Time to Train Application Acceptance Form

Note to the governing body

You must write to the applicant within 14 days following the meeting with your decision. This form can be completed by the governing body when accepting an application for time to train. If you cannot accommodate the requested time to train you may still wish to explore alternatives to find one suitable to you both. Please refer to the School's *Requesting Time to Train Policy and Procedure* for more details.

Dear:

Following receipt of your application and our meeting on: Date:

We have considered your request for time to train.

We are pleased to confirm that we can accommodate your application.

We are unable to accommodate your original request. However, we are able to offer the alternative arrangement, which we have discussed and you agreed would be suitable to you.

The details of your agreed training and your time to undertake it are as follows (please see para 5.12 of the *Requesting Time to Train Policy and Procedure*):

Your new working arrangements will begin from: Date:

And are due to end: Date:

Note to the applicant

The School anticipates the following circumstances where we reserve the right to withdraw this agreement to allow time off for study and training: ***[delete if not applicable]***

If you have any questions about the information provided on this form please contact your Headteacher to discuss them as soon as possible.

Name: Date:

Position:

NOW RETURN THIS FORM TO THE APPLICANT

APPENDIX 4

Time to Train Application Decline of Request Form

Note to the governing body

You must write to the applicant within 14 days following the meeting with your decision. This form can be completed by you when declining an application. Before completing this form you must ensure that full consideration has been given to the application. You must state the business grounds as to why you are unable to agree to the request for time to train and the reasons why the grounds apply in the circumstances. The ground(s) chosen must be one of those specified in the legislation. Please refer to the School's *Requesting Time to Train Policy and Procedure* for further guidance.

Dear:

Following receipt of your application and our meeting on: Date:

We have considered your request for time to train.

We are sorry but we are unable to accommodate your request for the following business grounds:

The grounds apply in the circumstances because:

(You should explain why any alternatives to the original request you may have discussed at the meeting are also inappropriate. Please continue on a blank sheet if necessary).

If you are unhappy with the decision you may appeal against it. Details of the appeal procedure are set out below.

Name:	<input type="text"/>	Date:	<input type="text"/>
Position:	<input type="text"/>		

The Appeal Process

To the applicant

If your governing body turns down your request for time to train, you have the right to appeal against the decision. If you wish to appeal, you must write to your governing body, setting out the grounds for your appeal, within 14 days after receiving written notice of their decision.

To the governing body

If you reject the applicant's request for time to train, he/she has the right to appeal against your decision.

If the applicant appeals against your decision to refuse a request for time to train, you must arrange a meeting with them to discuss the appeal within 14 days of receiving the appeal letter. This should be with an appeal panel comprising different governors than those who considered the original request.

After the appeal meeting has been held, you must write to the appellant within 14 days to notify them of the outcome of the appeal.

NOW RETURN THIS FORM TO THE APPLICANT.