

**Complaint references:**  
13 010 555

**Complaints against:**  
Warwickshire County Council

## **The Ombudsman's decision**

Summary: The Council was not at fault because it could not add Mr Z's son to the waiting lists of all his preferred schools pending the admission authority's decision to withdraw the offer of a place. The Council was at fault in providing wrong information about the admission criteria for Mr Z's first preference school. But, the Ombudsman cannot conclude that if this had not happened, Mr Z would have obtained a place at his first preference school without having to move into the catchment area.

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## **The complaint**

1. Mr Z complained that the Council provided wrong information on its website about the admission criteria for School B, a voluntary aided grammar school in its area. This meant Mr Z might have been obliged to move to the town in which the school was situated when there was no need for him to do so. The Council also delayed in placing his son on waiting lists for other grammar schools in its area.

## **The Ombudsman's role and powers**

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. If there has been fault, the Ombudsman considers whether it has caused an injustice and, if it has, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)

## **How I considered this complaint**

3. I have considered:
  - what Mr Z told me;
  - the Council's response to my enquiries; and
  - the information available from the Council's website.

Both Mr Z and the Council have had the opportunity to comment on my provisional findings.

## **What I found**

### **The Council's remit**

4. School B is a voluntary aided school. The governing body is the admission authority and is responsible for determining admission arrangements, and decisions on which students are offered places. The Council offers places on

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behalf of the governing body of School B as part of its duty under the system of co-ordinated admissions. It also operates the 11+ test on behalf of all selective/grammar schools in the county.

### **The admissions criteria**

5. The admissions criteria for School B provide that after places have been allocated to looked after children:
  - the first 50% of the remaining places will be allocated to children living in the priority circle around the town who meet the qualifying standard for the school;
  - the residual 50% of places will be allocated to children living in the Eastern Area of Warwickshire who meet the qualifying standard for the school;
  - children living in the priority circle who are considered by the admission authority's Committee of Reference and placed as "exceptions";
  - other children who meet the qualifying standard for the school; and
  - other children who are considered by the admission authority's Committee of Reference as borderline candidates, and placed in ranking order as "exceptions".
6. Within all criteria first priority is given to those achieving the highest score in the 11+ test. Children living outside the priority area and late registrations and late applications will be offered places in the first round only if there are insufficient children of the required level of ability living within the priority area.

### **What happened**

#### **November 2012**

7. Late in November the Council's Admissions Service received Mr Z's application for a place at School B for his son A. Mr Z said this was his first preference. A's 11+ results qualified him for a place and his brother already attended the school. Mr Z also said he intended to move to town D, so the family lived closer to the school.

#### **December 2012**

8. Early in December the Council's 11+ Officer emailed Mr Z saying:
  - he would need to provide evidence in February that he owned property in town D to move into, or that he would complete the purchase of this before the end of August;
  - he would need to provide evidence his family had moved into the property by the end of August, otherwise the admission authority would have to consider withdrawing the offer of a place; but
  - this would only happen if a place would not have been offered on the basis of the child's existing address in Coventry; and
  - as long as there was evidence of the family living at the address in town D at the start of the Autumn term, there was no further restriction on how long they had to continue living there.

#### **February 2013**

9. At the beginning of February Mr Z confirmed that School B was his first preference. He added six other preferences, including schools in Walsall and Birmingham. At the end of the month the Council's Admissions Service wrote to Mr Z at his address in town D offering his son a place at the school on behalf of the admission authority. As the place offered was at the first preference school, A

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was not placed on the waiting lists of any other schools Mr Z had expressed a preference for.

### **March 2013**

10. On 1 March Mr Z emailed officers asking:
  - about the possibility of placing A at another grammar school (School E) from the waiting list. He wished to do this because his elder son was being bullied at School B. He said the other school had told him his elder son could also transfer if a place was offered to A. There would be no point in moving to town D, if he decided to remove his elder son from School B. (However he was clear he was not refusing the place for A at present.); and
  - whether it was true out of area children had been offered places at School B on offer day, If so, A should have been offered a place without the family having to move to town D. This was contrary to what the Council's website said.
11. Officers responded:
  - A could be added to the waiting list for School E. But, if Mr Z wished to do this, he should change his preferences to make the School E his first choice; and
  - the admission arrangements for School B did allow late and out of area applicants to be offered places in the first round of offers, if there were not enough applicants of the required ability who had applied on time and lived within the relevant priority area. They would arrange for the information on the Council's website to be amended accordingly.
12. Following further questions from Mr Z, officers said in mid-March:
  - A had been offered a place at School B on the basis of his test scores and the address in Town D;
  - they could add A to the waiting list for School E. Waiting lists took account of distance from home to school, but not addresses;
  - Mr Z could either amend his preferences to make School E his first choice, and keep the School B offer for now on the basis of the address in town D; or
  - if he decided not to move to town D, School B would withdraw its offer, and place A on its waiting list on the basis of his Coventry address. At present A would be first on the waiting list.

Mr Z responded saying he would keep School B as his first preference, and the other school as his second, if School B would withdraw its offer, and remake this on the basis of the Coventry address. The 11+ Officer approached the headteacher of School B explaining Mr Z's situation and what he wanted without identifying him.

### **April 2013**

13. The 11+ Officer emailed Mr Z early in April saying she was still awaiting School B's decision. She confirmed A still had a place there. So he was not on the waiting list. He was currently first on School E's waiting list. But, she was not yet offering places there to A as they became available because Mr Z had said he wanted to await the decision from School B. Mr Z replied asking where A would be on School B's waiting list if he was placed on it. The 11+ Officer responded he would be first on the waiting list at present.

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## July 2013

14. The 11+ Officer wrote to Mr Z in mid-July. She repeated that A was on School E's waiting list. But, he was not actively being offered places as they became available because Mr Z had accepted the offer of a place at School B, which he had chosen to keep as his first preference. If he wanted A's place on School E's waiting list to become active, he should confirm straightway that he wished to make this his first choice.
15. Following the Governors withdrawal of A's place on 17 July, Mr Z emailed officers questioning whether A could receive an offer from School E if his place on the waiting list was not active. He asked if this meant he had to reverse his preferences for School B and School E, in which case he would lose School B.
16. The Lead Officer replied saying A was now on the waiting list for School E, (as School B had withdrawn its offer, A had no longer been offered a place at a higher preference school). Officers were still awaiting further clarification from the Governors of School B about how they wished to treat his application. On 25 July the Council's Senior Solicitor acting on behalf of the Governors wrote to inform Mr Z of the outcome of their fresh consideration of his application. They had decided to reject this. So, Mr Z would not have an opportunity to appeal.
17. On the following day there was an exchange of emails between Mr Z and officers about why Coventry City Council (Mr Z's home admission authority) was now involved in processing his application for a school place for A when he had provided evidence he would be moving to town D. Mr Z also queried whether A was on the waiting lists of schools he had expressed a preference for and where on each of these he was.
18. Towards the end of July the Council processed the application it received from Coventry City Council's Admission Service. As School B had withdrawn the offer made originally, the Council sent the application to Mr Z's preferred schools (where appropriate), or looked to see if it was possible to offer a place (where it carried out this function on behalf of the school(s) concerned).

## The Council's comments

### Wrong information on the Council's website

19. In response to my enquiries, the Council said:
  - its website wrongly stated out of area applicants would not be offered a grammar school place on 1 March 2013;
  - this was historic information; and
  - extra places available for 2013, and a smaller cohort meant that based on the grammar schools' own individual admission arrangements, out of area applicants did receive offers of places on 1 March 2013.
20. The Council agreed it was unfortunate that this wrong information was displayed on its website. It apologised for this fact, and said the wrong information was removed as soon as it was brought to officers' attention. However, the Council also said information on other parts of the website; the booklet issued to parents explaining the application process; and the 11+ results letter, all provided the correct information.

### Waiting lists

21. The Council commented as follows on the waiting list issues Mr Z raised:

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- as Mr Z did not list any schools as higher preferences than School B, A was not automatically placed on the waiting lists of those schools in accordance with the Council's normal policy;
  - while Mr Z indicated an interest in a place at School E, he never specifically changed his preferences so that the other school was listed as a higher preference than School B;
  - it was not normally possible to be on the waiting list of a school which is a lower preference than one at which a place has been offered. But, to reflect Mr Z's interest in a place at School E, A's record was amended in April 2013 so that he was technically placed on the other school's waiting list;
  - also Mr Z had always made it clear he wished to resolve the situation at the School B. So, a place at the other school was not offered; and
  - once School B withdrew its offer, this effectively left A without a school place. By default he was then added to the waiting lists of all the other preferences listed on Mr Z's original application.
22. The Council told me that following School B's withdrawal of its offer, Mr Z contacted Coventry City Council, which believed he was making a fresh application. Coventry forwarded the application to the Council which sent it through to the relevant admissions authorities for consideration. After they had considered the application, a place was offered at Mr Z's highest preference school where a place was available.
23. The Council was careful not to offer places to other applicants at any other of Mr Z's preferred schools in the period following School B's withdrawal of the place offered to A and Mr Z's contact with Coventry Admissions. This was to ensure that A was not disadvantaged by the withdrawal of the place originally offered.
24. If it had not been possible to offer a place at any of Mr Z's listed preferences, the Council would have made an unplaced offer in line with its published admission arrangements. The formal refusal to offer a place would then have triggered the statutory right of appeal.

### **Mr Z's comments**

25. Mr Z also told me in summary that:
- the 11plus results letter he received also included wrong information about whether School B could offer places to put of area applicants. Although he did not provide a copy of the letter, he told me this said: "Please note that on 1 March grammar school places will only normally be offered to on time applicants who live within the relevant grammar school circle ...";
  - the large quantity of statistical information he also provided showed beyond doubt that he would have applied for School B from his Coventry address had the Council not misled him;
  - that the Council was at fault in telling him that his son was on the waiting list for School E when he still retained his place at school B; and
  - that the Council had delayed in updating his preferences for other schools after his son's place at School B was withdrawn.

### **Was there fault and, if so, did this cause injustice requiring a remedy?**

26. It was unfortunate the information on the Council's website was incorrect. But, I do not consider this error materially affected matters. I further note what Mr Z has

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said about the wording of the 11 plus results letter. But, even if Mr Z had been aware that places could be offered to out of area applicants in the first round, I cannot conclude that he would have taken the calculated risk of applying for a place at School B from his Coventry address; and, that if he had done so, School B would have been able to offer his son a place.

27. I am also mindful of the use of the word “normally” in the 11 plus results letter. This does not entirely rule out the possibility of places being available to out of area applicants. It merely makes it unlikely that they would be. So, I consider Mr Z might reasonably have been expected to check this point if it meant he need not go to the trouble and expense of moving his family to another town.
28. The Council was at fault in placing Mr Z’s son on the waiting list for School E while he still retained the offer of a place at his higher preference place at School B. But, officers were also clear they that could not offer places to A from the waiting lists for Mr Z’s lower preference schools in these circumstances. So, I do not consider that Mr Z and his son suffered injustice through this fault.
29. I have not seen evidence that the Council delayed unreasonably in updating Mr Z’s preferences after School B withdrew its offer of a place. I do not criticise the Council on this point.

## **Decision**

30. For the reasons I have explained above, I have decided to complete my investigation and to close the complaint.

## **Investigator’s decision on behalf of the Ombudsman**