

Ref: 15-0639-N



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For Addressee Only**



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24 November 2014

Dear [REDACTED]

**SCHOOL ADMISSION APPEAL - [REDACTED]
LAWRENCE SHERIFF SCHOOL**

I am writing to inform you of the decision of the Independent Appeal Panel which met at The Arnold House, Rugby on 14 November 2014; the Panel decided that your appeal should be allowed and that your child should be offered a place at Lawrence Sheriff School. Please accept my apologies for the late production of this letter, but this was due to illness.

Please refer to the details at the end of this letter for information on accepting the place offered.

You attended the hearing and were represented by Mr Ian Jones of Counsel. The School was represented by Mr John Galbraith, solicitor, and Mr Mike Hickling was in attendance. Miss Amy Taylor attended the hearing on behalf of Warwickshire County Council. At the start of the hearing the Panel's Chair and Clerk confirmed the procedure that would be followed during the hearing and that, after the Panel had heard from all parties it would review the evidence provided in order to reach a decision. The Panel confirmed that they had read in full the bundles submitted prior to the hearing. It was accepted by Mr Jones, on your behalf, that your challenges to the admission procedure in this appeal did not relate to anything prior to [REDACTED] initially being offered a place at the school. I do not therefore propose to go into detail in this letter about the admission arrangements concerning the testing procedure and allocation of places at the school.

It was agreed by all parties that the Panel could only uphold the appeal if the child's abilities were demonstrably of grammar school standard; and

- (a) the School's admission arrangements did not comply with admissions law or had not been correctly and impartially applied and [REDACTED] would have been offered a place, if the arrangements had complied or had been correctly and impartially applied; or
- (b) admitting the child would not cause the School prejudice, ie harm the School's ability to efficiently use its resources or to educate its students in an efficient manner, or the harm that would be caused to the child by not attending this



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particular school outweighed the prejudice that will be caused to the School by admitting them.

The Panel therefore gave careful consideration to all of the evidence provided, including all of the written information presented in the case, as referred to in the course of the hearing.

The admission arrangements

The Panel noted that Lawrence Sheriff School is a voluntary aided boys' grammar school. Admissions are based on a process of selection having regard to students' academic ability. For admission in September 2013, Lawrence Sheriff School offered 120 selective places to boys in Year 7. The school's governing body is the Admission Authority, however in discharging these responsibilities in relation to Year 7, the governors adopted the County Council's procedure for selective admissions.

The local council therefore offers places on behalf of the governing body of the school 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.

There is no guarantee of a place being available, but places up to the planned admission number were allocated in accordance with published oversubscription criteria. At the time, the admission criteria provided 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" who meet the qualifying standard for the school;
- the residual 50% of places will be allocated to children living in the eastern area of the county 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 Committee of Reference as "borderline candidates" and placed in ranking order as "exceptions".

Your application

The Panel noted that you applied for a place for [REDACTED] in November 2012, for entry into Year 7 in September 2013. [REDACTED] sat the 11+ and achieved a qualifying score of [REDACTED]. Your original application was made on time, through Coventry Admissions Service, using your home address in Coventry. In January 2013 you provided proof to Warwickshire County Council (the council) that you also own a property in Rugby, which you informed the authority that you would move into in July 2013, after your tenants had vacated the property. [REDACTED] was therefore offered a place at the school on the basis that the family would be living in the Rugby area, as defined in the school admission arrangements, by the start of the academic year in September 2013. You were advised that confirmation of your residency would be required prior to the start of the academic year.

There was a series of correspondence between yourself and the council about your proposed move into the Rugby address, as detailed in the bundles. Miss Taylor wrote, on behalf of the council, to the school on 15 March 2013 to advise that "it has come to light that the family never intended to live in the Rugby property which they own". Miss Taylor stated "We have advised the parent on several occasions that this could be looked at as using misleading information on his application and that his offer could be withdrawn after discussion with the school, as the school are their own admission authority".

On 17 July 2013 the school wrote to you to advise that it had decided to withdraw the place for [REDACTED], as "It is the view of a panel of the Governors that the offer of a place was obtained by reason of a fraudulent or intentionally misleading application. Based upon all the evidence the panel did not believe you intend to move into the Rugby address you provided".

You dispute that your application with regard to your Rugby address was fraudulent or intentionally misleading, and you state that you had never said your son would not be moving into this address, but that if it was necessary for him to move, he would.

The letter of 17 July 2013 from the school went on to state that "In accordance with the Admissions Code a separate panel of Governors will meet to consider your application afresh on 19 July 2013." Paragraph 2.12 of the School Admissions Code 2012 states "*An admission authority must not withdraw an offer unless it has been offered in error, a parent has not responded within a reasonable period of time, or it is established that the offer was obtained through a fraudulent or intentionally misleading application....Where an offer is withdrawn on the basis of misleading information, the application must be considered afresh, and a right of appeal offered if an offer is refused.*" You were invited to confirm by return which address you would like that panel to take into consideration when they considered your application afresh.

The 19 July 2013 decision

The Panel noted that on 19 July 2013, a panel of governors met to consider your application afresh. The Panel read the redacted minutes of this meeting and it read the letter to yourself dated 25 July 2013, from Mr Galbraith, detailing the outcome of the meeting and the governor panel's decision. In this letter Mr Galbraith confirms that the governor panel considered the application afresh on the basis of the Rugby address, as they reached the conclusion that you had declined to tell them on which address they should consider the application. The governor panel found, "there being cogent and powerful evidence", as a fact, that, in making the application on the basis of the Rugby address, the application was fraudulent or intentionally misleading. The governor panel therefore decided to reject your application.

As a result of the application not being deemed by the school admission authority to be "refused", no right of appeal was offered and [REDACTED] was not therefore placed onto the waiting list. It is not in dispute that had [REDACTED] been placed on the waiting list, he would have been offered the next available place at the school because he scored so highly in the 11+ test.

School Appeals Panel on 14 November 2014

The issues raised on your behalf at the Appeal, were:

- (i) the school admission authority were wrong to find as a fact that your application had been fraudulent or intentionally misleading, and
- (ii) that in considering your application afresh, the governor panel should have used a different address than the Rugby address, to ensure that the application was considered afresh.
- (iii) to determine the meaning of "consider afresh", it was necessary to apply a purposive interpretation of the Admisson Code, and it was therefore illogical to reconsider the application using the Rugby address.
- (iv) [REDACTED] application should have therefore either been accepted, and the place re-offered, or refused, triggering the right of appeal, and allocation to the waiting list.

There is no option within the Admissions Code to "reject", rather than refuse an application.

- (v) The governor panel's decision to reject [REDACTED] application was motivated by racial discrimination.

The council and the School admission authority strongly refute all and any allegations of racial discrimination.

The Panel considered all of the evidence available to them, both written and verbal, together with the submissions that had been made by all parties at the hearing. The Panel noted the School's finding that the original offer was made on the basis of a fraudulent or intentionally misleading application. The Panel considered this finding but it was not able to reach the same conclusion on this issue. However, the issue that the Panel felt it relevant to determine, was whether the Admission Authority dealt with the issue of the address in a way that complied with mandatory requirements of the School Admissions Code 2012.

The Panel determined that to consider the matter "afresh", the governor panel should not have used the Rugby address, as they had made findings in respect of this address, that its use was fraudulent or intentionally misleading.

The Panel went on to consider whether the Code permitted the School Admission Authority to "reject" the application, rather than refuse it. The Panel considered themselves to be bound by the requirements of paragraph 4(c) of the School Admission Appeals Code 2012. Paragraph 4 goes on to state that admission appeal panels, amongst other bodies, "have a statutory duty to act in accordance with the relevant provisions of the Code". The Panel found unanimously that the Admissions Code does not permit an admission authority to do other than allow or refuse an application, and that to "reject" an application therefore does not comply with the mandatory requirements of the Code.

The Panel found that the admission arrangements were not therefore correctly and impartially applied in this case. The Panel found no evidence to support the allegation that the council or the school admission authority's decisions were racially motivated, noting that it was merely the validity of the address that was in issue.

The Panel concluded that if the second governing body panel had considered the application afresh, on the basis of the Coventry address, [REDACTED] would have been offered a place. In the alternative, had his application been refused, rather than rejected, he would have gone onto the waiting list, and because he had achieved such a high score in his 11+ exam, he would have been offered a place from the waiting list.

The Panel therefore upheld the appeal in accordance with paragraph 3.5(a) of the School Admission Appeals Code 2012 and in consequence a place will be made available for [REDACTED] at the school.

The Admissions Service and the School have been informed of the Panel's decision. If you intend for your child to take up this place, you must contact the Admissions Service to accept the offer. Please note it is expected that you confirm acceptance of the place within 14 days after the date of the hearing and to ensure that your child begins attending the school within 6 weeks of the hearing. Where a child fails to take up the place within 6 weeks the place may be withdrawn.

Please contact the Admissions Service on 01926 [REDACTED] to accept the place. Once you have accepted please contact the School to make arrangements for your child to start.

Yours sincerely,



[REDACTED]

Clerk to the Independent Appeal Panel