

## **London Borough of Ealing v Mrs N A Mohamed**

**Case Reference** 2030089622

**PCN** EA26388009

### **DECISION**

Mrs Mohamed has appealed stating that she was not the owner of this vehicle at the date of the contravention. She provided the local authority with the name and address of the purchaser.

The Council has not followed the correct procedure in dealing with her representations. They contacted the DVLA who gave them Mrs Mohamed's details as the registered keeper. They sent a Notice to Owner to Mrs Mohamed. She replied giving the name and address of the purchaser. So far, so good.

But, the Council wrote to Mrs Mohamed on 23/1/03 stating that they are willing to transfer liability to the named keeper but reserve the right to revert liability. They then sent a second Notice to Owner to Mr Sigh.

This policy is not in accordance with the Road Traffic Act 1991. Under Schedule 6 paragraphs 2(7), 3 and 4 the Council is under a duty to consider an appellant's representations and to serve a notice as to whether it accepts that the ground in question has been established. Where "the London authority concerned accept that the ground in question has been established they shall cancel the Notice to Owner." They may then serve a fresh notice to owner on another person. If they do not accept that a ground has been established they must serve a Notice of Rejection.

In other words there cannot be two Notices to Owner in existence at the same time. In this case having written to Mrs Mohamed that they were willing to transfer liability to Mr Sigh they should have cancelled the Notice to Owner to Mrs Mohamed immediately. That is now the only fair and proper course of action. The appeal is allowed.

#### **Adjudicator**

Miss Verity Jones

#### **Decision**

Allowed