

## Item 7                      **Vehicle Licence Condition – Spare Wheel**

Report of the Head of Legal & Democratic (Portfolio: Corporate)

### **Recommended:**

**That the current licence condition for hackney carriages and private hire vehicles requiring the carrying of a full size spare wheel be retained.**

#### SUMMARY:

- The current hackney carriage and private hire vehicle licence conditions prevent vehicles using space-saver wheels.
- The Council believes this condition is necessary for vehicle safety but has received a number of complaints suggesting that the condition is restrictive and should be relaxed.
- The Committee is therefore asked to review the appropriateness of the condition.

### **1 Introduction**

- 1.1 Hackney carriages and private hire vehicles licensed by the Council are bound by conditions (attached as Annex 1 to this report). The conditions are reviewed periodically and revised where appropriate. A number of changes were made in February 2008 including a change to the condition regarding spare wheels. The condition currently states that *“All vehicles must ... carry a spare wheel to the same specification as the road wheels. Space-saver tyres, tyre sealants and other puncture safety features are not permitted”*.
- 1.2 This condition was introduced as a result of concerns over vehicle (and thus driver and passenger) safety and in particular about inappropriate use of space-saver wheels. Officers believe that the condition is necessary and proportionate but a number of complaints have been received about the condition stating that it fails to take account of the fact that many modern cars now come equipped with only a space-saver wheel or in some cases just a tyre sealant device. The Head of Administration, who has delegated authority to issue hackney carriage and private hire vehicle licences, has recommended that the condition be reviewed by this Committee.

## **2 Background**

- 2.1 As mentioned above, the current condition was introduced in February 2008. After that date, when vehicles were presented for inspection the Council's Vehicle Inspector at the West Portway Depot would, where possible, advise owners of vehicles carrying a space saver wheel that a full size spare wheel should be obtained. As vehicles are inspected annually (or six monthly if more than six years old) this provided a period of time for owners to comply with the condition. When vehicles were next inspected in 2009 the condition was enforced and this has given rise to a small number of complaints.
- 2.2 It is acknowledged that more vehicles are coming onto the market fitted with space-saver spare wheels. Some vehicles do not now even carry a space-saver wheel but instead carry a can of tyre sealant or other device. In many cases there is little or no space for a full size wheel to be stored without compromising the amount of luggage area that is available or preventing the potential soiling of a passenger's luggage.
- 2.3 By law, all vehicles have to be "type approved" (including the spare wheel) before being legally allowed on the road. This has been given as an argument as to why the Council should accept space saver wheels. However, whilst the use of space-saver wheels may be acceptable for a vehicle whilst it is used for social or domestic purposes, use as a hackney carriage or private hire vehicle will involve the vehicle covering a significantly higher mileage and thus be exposed to a greater risk of accident or damage.
- 2.4 Usually in the case of a space saver wheel the owner's manual would state that the wheel is only suitable for 'get you home' purposes and will advise that the wheel should not be used beyond a certain distance or above a certain speed (typically 50mph). In addition manufacturers will often give an instruction that the vehicle is driven immediately to a place where repairs can be carried out, or a new tyre purchased. Space saver wheels will also have a weight restriction applied to them, compliance with which may be at odds with operational considerations (namely number of passengers and the amount of luggage carried).
- 2.5 Using a vehicle that has been fitted with a space saver wheel and hired as a hackney carriage/private hire vehicle could conflict with the terms of hire and put the operator/driver in conflict with the hirer. As an example, one can imagine a situation where a driver carrying a group of passengers to an airport late in the evening or early morning suffers a flat tyre. If a space saver wheel is fitted then the journey should continue only at a reduced speed which means that the passengers could potentially miss their flight.
- 2.6 Looking at the legalities of the subject, a vehicle submitted for its annual MOT test using a space saver wheel would fail the test, as would a vehicle fitted with different nominal wheel and tyre sizes or aspect ratios. A wheel carried in a vehicle as a spare is not an MOT testable item although it is included in the vehicle roadworthiness test conducted by the Council as part of its vehicle licensing procedure.

- 2.7 A roadside enforcement examination on a vehicle undertaken by a Department for Transport (VOSA) vehicle examiner or a police officer could result in a prohibition notice or fixed penalty notice being issued depending on the situation. Common sense would dictate that if it is obvious that at that time the driver is en route to a place of repair then no action would probably be taken. However, if it was clear that the vehicle had been used for any greater length of time then action would likely be taken against the driver. Officers have anecdotal evidence that licensed vehicles have used space saver wheels for periods longer than is necessary and this is another reason why officers believe retention of the condition is necessary. There is also a view amongst those concerned with vehicle safety that use of space saver wheels has a detrimental effect upon vehicle braking systems, traction control and steering.

### **3 Corporate Objectives and Priorities**

- 3.1 Aside from the Council's statutory responsibilities, the licensing of hackney carriages and private hire vehicles relates to the SCHEME priority of 'creating stronger and safer communities'. Licensing of vehicles reduces the potential for illegal plying for hire by unlicensed vehicles. It provides transport for the public who may not have any safe alternative means of transport available.

### **4 Consultations/Communications**

- 4.1 Three current and one prospective operator have complained about the restrictive nature of the current condition. In light of the complaints received officers sought the views of Test Valley Taxi Association. Their Chairman has advised that the Association supports the current condition.

### **5 Options and Option Appraisal**

- 5.1 The options are either to retain the existing condition or relax or remove it. As stated above, it is the view of officers that retention of the current condition is in the best interests of the travelling public. Removal or relaxation of the current condition would undoubtedly assist those vehicle owners whose vehicle does not ordinarily come provided with a full size spare wheel. If the condition were relaxed, then officers would need to consider what alternative provision should be made. It has been suggested that the Council follow the example from Eire whereby licensed vehicles with temporary use systems are recommended to have breakdown cover in force. However, it is the view of officers that this condition would be difficult to enforce and would not necessarily avoid all the problems associated with the use of space saver wheels.

## **6 Resource Implications**

- 6.1 There are no direct resource implications as a result of this recommendation. Some vehicle operators/drivers have complained that they have been required to purchase a full size spare wheel which has required a financial outlay on their part.

## **7 Legal Implications**

- 7.1 Sections 47 and 48 of the Local Government (Miscellaneous Provisions) Act 1976 allow the Borough Council to attach such conditions to hackney carriage and private hire vehicle licences as it “may consider reasonably necessary”. It is the view of officers that a condition prohibiting the use of space saver wheels is reasonable and necessary for the achievement of driver and passenger safety.

## **8 Equality Issues**

- 8.1 There are no direct equality issues arising from this report so no further Equalities Impact Assessment has been undertaken. It is worth noting that national studies show that taxis are used significantly by some of the more vulnerable and disadvantaged members of the community who do not have access to their own private transport and for whom taxis provide an essential safe form of transport.

## **9 Other Issues**

- 9.1 Community Safety – none direct but see paragraph 3.1 above.
- 9.2 Environmental Health/Sustainability Issues – the provision of hackney carriages may lead to slightly less reliance upon private motor vehicles, although the effects are more difficult to quantify.
- 9.3 Property Issues – none.
- 9.4 Wards/Communities Affected – none directly but indirectly the whole Borough.

## **10 Conclusion**

- 10.1 In addressing this matter there are a number of considerations, not least of which is the fact that VOSA maintain that a vehicle found using a space saver wheel may receive a prohibition notice and also such a vehicle would fail the annual MOT test. As licensing authority we cannot condone the use of a vehicle that may not be legal or at least, in the view of VOSA, be fit to be on the road. Whilst the points raised in the report have not been tested in the courts it would not be best practice to lower a standard that we have applied with the best interests of the travelling public in mind.

<u>Background Papers (Local Government Act 1972 Section 100D)</u> Correspondence held within the Licensing Section Hackney Carriage and Private Hire Licensing Conditions			
<u>Confidentiality</u> It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
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Author:	Michael White	Ext:	8013
File Ref:	MW/D.8/1		
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