

Regulatory Committee

10.00am, Thursday, 9 January 2020

Taxi and Private Hire Car Enforcement and Complaints Update

Executive/routine	
Wards	Citywide
Council Commitments	

1. Recommendations

- 1.1 It is recommended that the Regulatory Committee:
 - 1.1.1 Notes the contents of this report.

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Taxi and Private Hire Car Enforcement and Complaints Update

2. Executive Summary

- 2.1 This report provides details of the number and nature of complaints received by the Licensing Service in relation to both Taxi and Private Hire drivers and operators, and of current enforcement strategies.

3. Background

- 3.1 The Civic Government (Scotland) Act 1982 ('the 1982 Act') created a two-tier licensing regime, whereby a taxi may pick up passengers in a public place without a prior booking, and a Private Hire Car ('PHC') must be pre-booked. In general terms, whilst the fare paying passenger will see differences in method of hire, vehicle design, livery and booking conditions across the two services, each is fundamentally a contractual agreement between the customer and a suitably trained and regulated driver.
- 3.2 The role of the Licensing Authority is primarily to regulate licensable activity in the City of Edinburgh, and to administer a legally compliant service whilst providing excellent service to its customers. The Council has for many years operated an effective enforcement and complaints strategy in partnership with Police Scotland and its predecessors.
- 3.3 The approach and its functions are multi-faceted in respect of enforcement of regulations and licence conditions, and include:
- 3.3.1 The Taxi Examination Centre (TEC). There are currently eight vehicle examiners whose responsibility is testing and examining all taxi and PHC vehicles. Additionally, when resources permit, they also carry out on-street enforcement action with respect to vehicle roadworthiness and compliance with licence conditions.
- 3.3.2 The Council also has an officer whose remit covers taxi and PHC licensing complaints, breaches of licensing conditions and reports to committee. In support of this role, enforcement is spread across various teams within the Council whose objectives all support the enforcement of licence conditions and relevant legislation in relation to licensable activity.

- 3.3.3 The Council funds the role of the Cab Inspector, who oversees the checking of all applications submitted to the Council and two Police civilian staff who undertake vetting on applicants. The Cab Inspector also deals with breaches of legislation and has the very important function of co-ordinating on-street policing activity with local and roads policing officers.
- 3.4 The Licensing Service continues to keep under review and adapt the service's approach to reflect the demands of all of its customers, including the taxi and PHC trade.

4. Main report

- 4.1 This report provides the Regulatory Committee with an update on the current level of complaints and enforcement activity regarding taxi and PHC licensing. In addition, the report provides an overview of a recent Licensing Enforcement project on illegal plying for hire. The report was requested by the Convenor following meetings with Taxi trade representatives in September 2019.

Complaints Process

- 4.2 The Council administers a thorough complaints process. All complaints received against taxi or PHC drivers or operators are recorded individually, investigated, and appropriate action is taken in respect of the relevant licence holders. This can take many forms depending on the outcome of the complaint. There are a range of options available, including:
- 4.2.1 No further action required.
 - 4.2.2 Verbal warning issued.
 - 4.2.3 Written warning issued/Compliance Notice (S.45h of the 1982 Act).
 - 4.2.4 Matter referred to Police Scotland for criminal investigation.
 - 4.2.5 Report submitted to committee seeking suspension or revocation of a licence.
 - 4.2.6 Objection to the renewal of an existing licence.
- 4.3 Members should also be aware that it is likely that there will be a number of communications between passengers and licensed operators through the operators' own internal processes. Many of these matters are resolved at that level by the relevant operator. However, the Council expects operators to escalate complaints to the Council where appropriate to do so. At this time the Directorate has no concerns with respect to the complaints handling/escalating procedures of any licensed operator, and the process appears to be working well across both sectors. This is of course kept under review.
- 4.4 Complaints are regularly reviewed to identify the type received and any areas of concern, or where a particular issue requires additional attention. This provides an opportunity to intervene by engaging with licence holders and individual companies, where appropriate.

4.5 Implementing the above measures has strengthened future reporting capabilities and enables further monitoring streams for compliance. In addition to these additional measures, an overall upgrade to the Licensing Authority’s operating systems in 2014/2015 provided more detailed reporting functionality, delivering detailed complaint data from 2015 onwards.

Additional Vetting

4.6 In September 2016 the Regulatory Committee adopted a new Criminal Records Evidence policy implementing an enhanced level of background checks on all licensed drivers. This further supported the additional monitoring measures described above, and allowed the Council to strengthen its commitment to reduce risk to the public and increase passenger safety. The policy requires all applicants for a taxi or PHC driver licence (including current licence holders) who were not born in the UK to produce a criminal conviction check from their country of birth, or from any other country in which they have resided for six months or more.

Number of licences

4.7 There has been an increase in licensed drivers and licensed PHC vehicles in the past five years. This increase is mirrored across the UK and is not unique to Edinburgh. To provide context, the tables below outline the number of licensed taxi and PHC drivers and vehicles during this period.

VEHICLES	2015	2016	2017	2018	2019
Taxi	1316	1316	1316	1316	1316
PHC	1012	1471	1772	2165	2447
Total	2328	2787	3088	3481	3763

DRIVERS	2015	2016	2017	2018	2019*
Taxi	3099	3226	3166	3118	2934
PHC	1258	2114	2447	2878	3153
Total	4357	5340	5613	5996	6087

*correct at time of writing

4.8 The number of recorded complaints received between 2015 and 2019 is detailed below:

2015	2016	2017	2018	2019*
550	550	653	1061	1231

*January 2019 to November 2019

4.9 The increase in complaints over this five-year period is reflective of the change in approach to providing feedback. Members also may be aware that the Council

regularly receives multiple complaints in relation to one single incident. For example, a high-profile incident during the 'Taxi Outing' in June 2019 attracted significant media and social media attention. This resulted in the Council receiving 75 complaints in relation to this single incident. Similarly the Council receives a significant level of complaints in respect of activities of both taxis and PHCs at the airport, and this again is reflected in the figures.

- 4.10 Appendix 1 provides a detailed breakdown of complaints received from January to December 2018 and January to November 2019. There appears to be a pattern emerging in that whilst historically complaints received were typically from passengers and other members of the public, more recently an increased number of complaints about PHC drivers have been received from Taxi drivers. Overall there has been no increase in complaints from the public.
- 4.11 As part of any enforcement strategy, when analysing complaints an evidence-based assessment is necessary. Specifically, a distinction must be made between the number of complaints received, and the number of complaints upheld/allegations which have been proven or substantiated.
- 4.12 Of the 2,166 complaints received in the 21 month period between January 2018 and September 2019, 302 (less than 14%) were found to be substantiated with sufficient evidence and therefore requiring formal action.

Approach to Enforcement

- 4.13 Proactive enforcement takes many different forms, including:
 - 4.13.1 undertaking extensive criminal convictions checks with drivers and vehicle owners, conducting immigration and right to work interviews;
 - 4.13.2 examining vehicles and on-street compliance checks;
 - 4.13.3 providing licensed drivers and operators with advice and guidance on licence conditions and relevant regulations; and
 - 4.13.4 operating an effective complaints process.
- 4.14 Whilst the Licensing Service is responsible for regulating licensable activity in Edinburgh, the service works closely in partnership with Police Scotland to monitor illegal activity within the trade.
- 4.15 For many years the Council has made a significant investment in supporting a dedicated taxi team in Police Scotland, led by the Cab Inspector. The Cab Inspector is responsible for:
 - 4.15.1 overseeing enhanced vetting of all Taxi and PHC and driver's licence applications,
 - 4.15.2 investigating complaints of a serious nature against licence holders
 - 4.15.3 monitoring criminal activity involving licence holders; and
 - 4.15.4 reporting criminal matters to the Procurator Fiscal and Licensing Authority on behalf of the Chief Constable.

- 4.16 The Cab Inspector is responsible for making representations to the Licensing Sub-Committee on behalf of the Chief Constable, and on average submits 12 reports each month to the Licensing Sub-Committee requesting suspension hearings and objections to licence renewals. This role is key to ensuring that the most serious of incidents are dealt with in an appropriate manner, and that comprehensive information is made available to officers and committee members to enable them to make an informed recommendation or decision on the fitness of a licence holder.
- 4.17 Officers have requested additional information from Police Scotland to provide members with a comprehensive view of their enforcement approach to Taxi and PHC licensing. This will be made available to the committee when received.
- 4.18 The Council also operates regular joint enforcement strategies with colleagues in the Road Policing division and local Community Police Officers. These consist of officers being visible in prominent areas for taxi and PHC activity and spot-checking vehicles and drivers for vehicle roadworthiness and licence condition compliance.

Roadside Inspection of Vehicles

- 4.19 As a result of this strategy, officers have compiled a snapshot of data during the period between February 2019 and October 2019. During this eight month period a total of 681 vehicles were checked, with a total of 172 defects/faults being identified (a 75% compliance rate). These defects are addressed by issuing a rectification notice to the driver at the time of the road-side inspection, outlining the defect(s) and giving a deadline by which the vehicle must be presented for satisfactory examination at the Taxi Examination Centre. There were no instances of drivers or vehicle owners failing to take corrective action to address a defect.
- 4.20 Appendix 2 provides a breakdown of these figures. A series of further joint checks are planned for December 2019 and early January 2020. Further information will be made available to the committee when results are available.
- 4.21 In addition to the faults recorded by Council officers, officers from Police Scotland, whose remit extends beyond vehicle compliance checks, also addressed more than 75 separate issues, ranging from minor traffic offences to mobile phone use, and issues requiring the affixing of prohibition notices to vehicles. These were dealt with by the Police.
- 4.22 In some cases Police officers may report these issues to the Procurator Fiscal, or may alternatively refer the matter to the Cab Inspector to make a decision on appropriate action to be taken against the licence holder.
- 4.23 In addition to these specific joint enforcement strategies, Police Scotland provides an additional level of enforcement during the night-time economy, as part of general duties. The role of Cab Inspector has been vital to increasing the understanding and awareness of Taxi and PHC matters within Police Scotland divisional operations. This increase in awareness from Police officers during hours where specific Council enforcement strategies are not in operation has benefited the trade and the public by offering an additional level of attention to trade compliance.

- 4.24 This partnership continues to perform well and provides a vital link between Police information and operations, which has resulted in several matters being brought to the attention of the Council. It has also allowed the Licensing Sub-Committee to take appropriate action against licence holders who are charged or convicted of offences, where the Council would otherwise have been unaware of these until the licence was renewed.

Suspensions

- 4.25 A key outcome indicator for effective enforcement is requests for suspension of licences submitted by the Cab Inspector and Council officers. Since 2017, there have been a total of 128 suspension requests submitted for licensed drivers. The Directorate is working on a further report which will ensure that the terms of the motion agreed by full Council in October 2019 are addressed and will include this information within that report.

Licensing Enforcement - Illegal Plying for Hire

- 4.26 As a result of the development of app-based and web-based booking systems, the nature of the interaction between customers, taxis and PHCs has changed.
- 4.27 PHC drivers are under a duty to ensure that they only pick up customers who have 'pre-booked' them, and that they do not pick up on or in the vicinity of an authorised taxi stance. Given the dense location of popular premises which are likely to be frequented by those using Taxi and PHC services, there are likely to be instances where PHCs are seen in large numbers waiting for pre-booked hires.
- 4.28 When investigated by officers, the majority of allegations of illegal touting by PHC vehicles relate to PHC vehicles waiting in prominent public areas for pre-booked fares.
- 4.29 When investigating such allegations, officers obtain booking records for the respective vehicle from the operator to ascertain that a booking has in fact been made for the relevant journey. In some cases, these booking records can show the exact time when a booking was requested, and when the booking was accepted by the driver, thus giving a distinctive timeframe evidencing that the booking was made prior to the hire commencing. In the absence of such details, witnesses are sought, and statements taken in an attempt to corroborate the complaints. The committee is advised that the vast majority of these allegations do not lead to further action because a booking has been traced and verified by the investigation.
- 4.30 The challenge in investigating this type of complaint is that pre-bookings are becoming more fluid, in that app-based booking systems offer almost immediate hire. However, the Directorate continues to adapt enforcement strategies to react to the changes in technology and the impact that this has on how the licensed trade operates and interacts with customers.

5. Next Steps

- 5.1 The Licensing Authority will continue to operate its current enforcement strategies.
- 5.2 The Licensing Authority will commit to reviewing these strategies in a regular basis to ensure that they remain effective.
- 5.3 The Licensing Authority will report back to the committee at regular intervals on its enforcement actions and complaints.
- 5.4 It is acknowledged that the number of complaints received against taxi and PHC driver and operators have only been reported intermittently. It is proposed that this regular reporting will be re-introduced.
- 5.5 Communication is key in any complaints and enforcement strategy, and it is proposed to introduce an e-newsletter for the Taxi and PHC trade. Regular updates on a range of issues, including complaints and enforcement activity, current relevant items and good news stories, will provide an additional level of open communication. In addition, this will create a further opportunity to accurately inform the wider trade which is not well represented in current trade groups.

6. Financial impact

- 6.1 The costs of the enforcement are retained within current budgets. Where permissible the Council will continue to seek recovery of these costs through licence application fees.
- 6.2 Where officers identify an increase in enforcement activity, and potentially an increase in necessary resources, an increase in licensing fees is unavoidable and will be reported to Full Council as part of any future licensing fee structure review.

7. Stakeholder/Community Impact

- 7.1 Continued engagement with trade representatives and other interested parties such as Police Scotland.
- 7.2 Officers will continue to engage with representatives of the taxi and PHC trade through regular meetings with the Hire Car Trade Group

8. Background reading/external references

- 8.1 None.

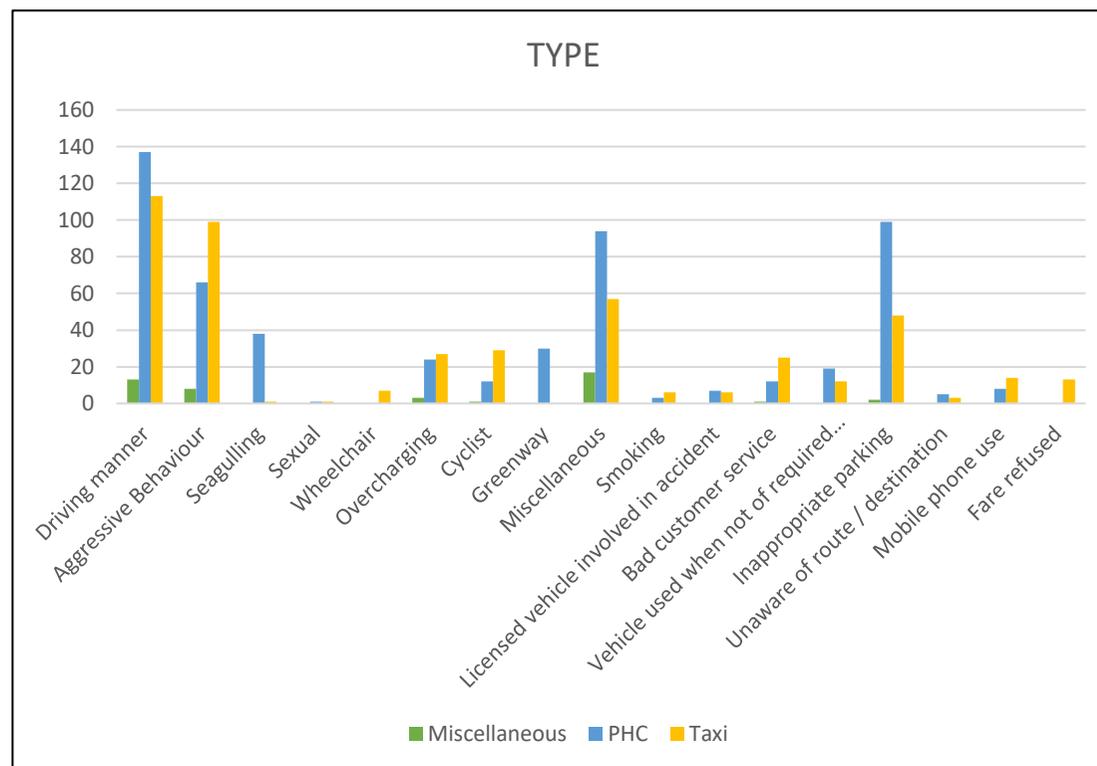
9. Appendices

- 9.1 Appendix 1 – Complaints Analysis and Breakdown
- 9.2 Appendix 2 – TEC and Police Scotland Enforcement Initiative Figures

Complaints Analysis and Breakdown

Category Breakdown - 2018

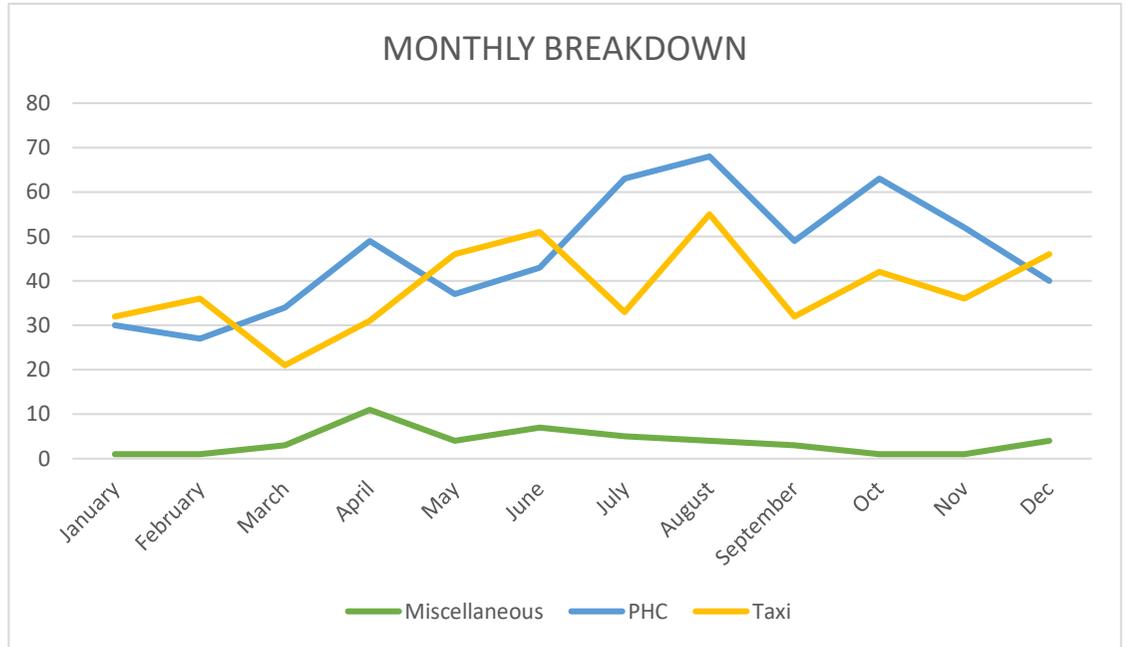
TYPE	PHC	Taxi	TOTAL
Driving manner	137	113	263
Aggressive Behaviour	66	99	173
Seagulling	38	1	39
Sexual	1	1	2
Wheelchair	0	7	7
Overcharging	24	27	54
Cyclist	12	29	42
Greenway	30	0	30
Miscellaneous	94	57	168
Smoking	3	6	9
Licensed vehicle involved in accident	7	6	13
Bad customer service	12	25	38
Vehicle used when not of required standard	19	12	31
Inappropriate parking	99	48	149
Unaware of route / destination	5	3	8
Mobile phone use	8	14	22
Fare refused	0	13	13
TOTAL	555	461	1061*



*there were 45 complaints received where the identity of the vehicle could not be obtained through the information provided.

Monthly Breakdown - 2018

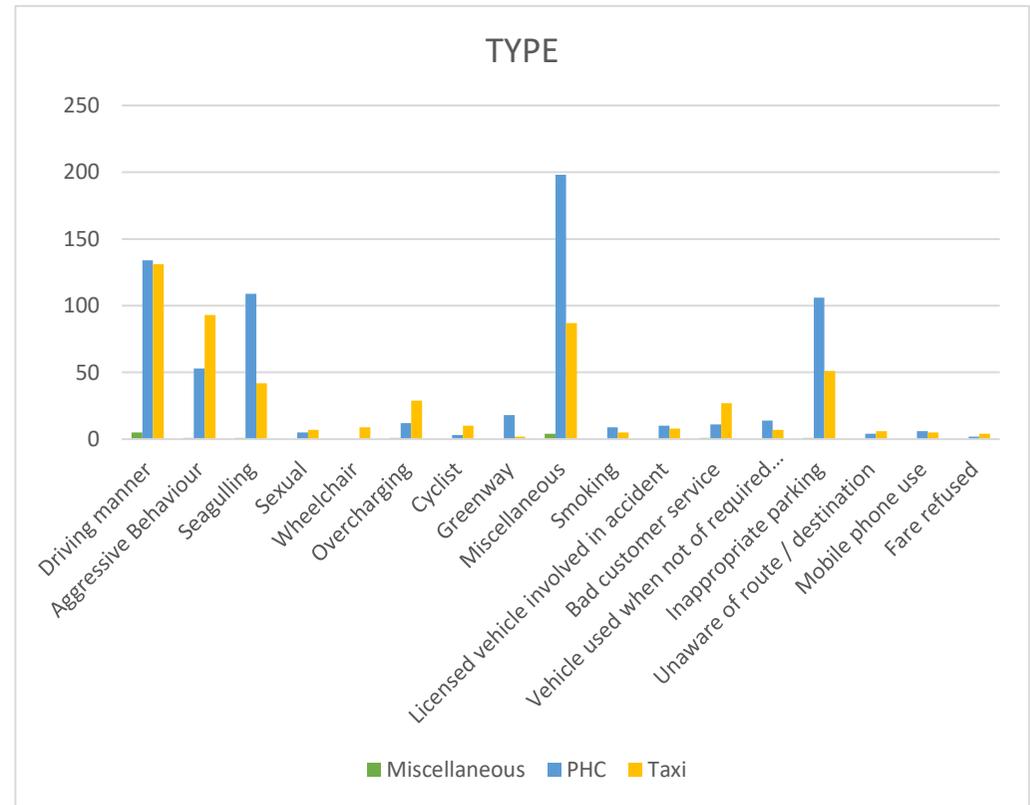
MONTH	PHC	Taxi	TOTAL
January	30	32	63
February	27	36	64
March	34	21	58
April	49	31	91
May	37	46	87
June	43	51	101
July	63	33	101
August	68	55	127
September	49	32	84
Oct	63	42	106
Nov	52	36	89
Dec	40	46	90
TOTAL	555	461	1061*



*there were 45 complaints received where the identity of the vehicle could not be obtained through the information provided.

Category Breakdown - 2019

TYPE	PHC	Taxi	TOTAL
Driving manner	134	131	270
Aggressive Behaviour	53	93	147
Seagulling	109	42	152
Sexual	5	7	12
Wheelchair	0	9	9
Overcharging	12	29	42
Cyclist	3	10	13
Greenway	18	2	20
Miscellaneous	198**	87	289
Smoking	9	5	14
Licensed vehicle involved in accident	10	8	18
Bad customer service	11	27	39
Vehicle used when not of required standard	14	7	21
Inappropriate parking	106	51	158
Unaware of route / destination	4	6	10
Mobile phone use	6	5	11
Fare refused	2	4	6
TOTAL	694	523	1231*

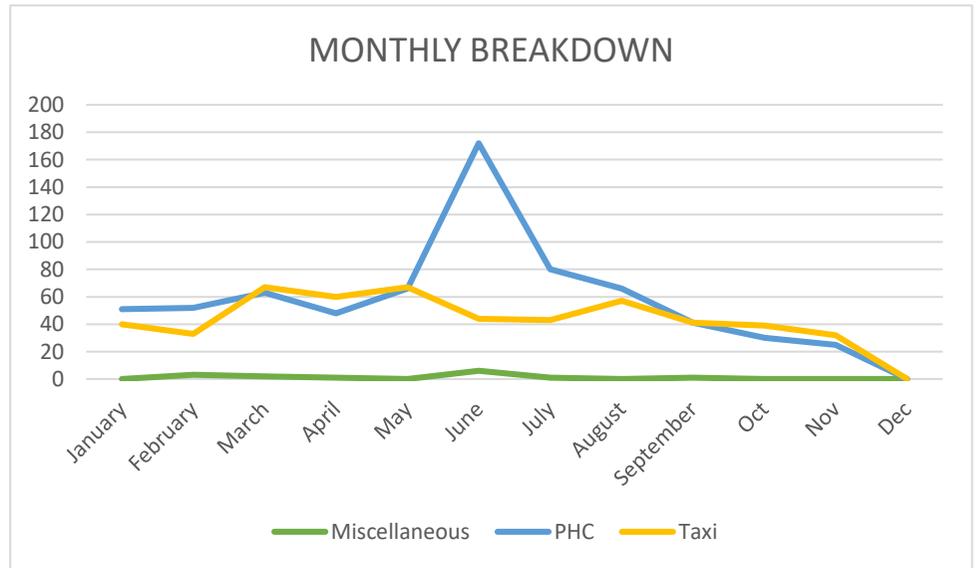


*there were 14 complaints received where the identity of the vehicle could not be obtained through the information provided.

**75 complaints were received in relation to a single incident.

Monthly Breakdown – 2019

MONTH	PHC	Taxi	TOTAL
January	51	40	91
February	52	33	88
March	63	67	132
April	48	60	109
May	66	67	133
June	172**	44	222
July	80	43	124
August	66	57	123
September	41	41	83
Oct	30	39	69
Nov	25	32	57
Dec	0	0	0
TOTAL	694	523	1231*



*there were 14 complaints received where the identity of the vehicle could not be obtained through the information provided.

**75 complaints were received in relation to a single incident.

TEC and Police Scotland Road-side Enforcement Initiative Figures 2019

Month	Number of Vehicles Checked			Number of Vehicles with Faults identified			Vehicle Fully Compliant at Time of Check (%)	
	Taxi	PHC	Total	Taxi	PHC	Total	Taxi	PHC
Jan	0	0	0	0	0	0	-	-
Feb	22	4	26	5	1	6	77%	75%
Mar	0	0	0	0	0	0	-	-
Apr	0	0	0	0	0	0	-	-
May	127	80	207	26	17	43	80%	79%
Jun	41	81	122	14	29	43	66%	64%
Jul	0	0	0	0	0	0	-	-
Aug	34	50	84	4	17	21	88%	66%
Sep	45	64	109	7	22	29	84%	66%
Oct	53	80	133	4	26	30	92%	68%
Nov	-	-	-	-	-	-	-	-
Dec	-	-	-	-	-	-	-	-
Total	322	359	681	60	112	172	81%	69%