

Transport and Environment Committee

10.00am, Tuesday, 13 January 2015

Public Utility Company Performance 2014/15 Quarter 2 (July, August and September 2014)

Item number	7.18
Report number	
Executive	
Wards	All

Executive summary

This report summarises the performance of Public Utility Companies (PUs) during the period July 2014 to September 2014 (Quarter 2), for the 2014/15 financial year.

The report comments on the performance and progress of the Roadwork Support Team (RST) including the additional Inspectors, employed on a temporary basis, to allow the Council to inspect 100% of PU reinstatements.

Coalition pledges	P28 and P33
Council outcomes	CO19 and CO26
Single Outcome Agreement	SO4

Public Utility Company Performance 2014/15 Quarter 2 (July, August and September 2014)

Recommendations

- 1.1 It is recommended that the Transport and Environment Committee notes the report and performance information shown in Appendix A, including the arrangements for securing an improved level of performance from all Public Utilities.

Background

- 2.1 The New Roads and Street Works Act 1991, as amended by the Transport (Scotland) Act 2005, gives statutory undertakers or Public Utilities (companies and private utility providers) responsibility for signing, lighting and guarding road works. The legislation also requires the road to be reinstated to prescribed standards upon completion of works.
- 2.2 The Transport and Environment Committee, at its meeting on 15 January 2013, agreed to receive quarterly Public Utility (PU) Performance Reports and instructed the Head of Transport to enhance the scrutiny and monitoring of all road works. The Committee also agreed to instruct the Head of Transport to take the lead in developing a revived Edinburgh Road Works Ahead Agreement (ERWAA).
- 2.3 This report provides an update on developments that have occurred during the period from July 2014 to September 2014.

Main report

Performance

- 3.1 The performance of each PU is monitored daily by the Roadworks Support Team (RST), with reports compiled on a monthly and quarterly basis. The result of this monitoring is discussed at bi-monthly liaison meetings held with each PU, on a one to one basis.

- 3.2 Where a PU fails to meet the specified performance standards, as defined in the appropriate Code of Practice, the following staged procedure should be used:
- The Roads Authority issues a Notice of Failure to Achieve Performance (NFAP).
 - The undertaker responds with a formal Improvement Plan – Stage 1.
- 3.3 In the event that the PU does not achieve the required level of improvement, then:
- the Roads Authority issues an Improvement Notice (IN); and
 - the PU responds with an Improvement Plan – Stage 2.
- 3.4 Within five days of receiving the NFAP, the PU must verify and analyse the defect data (gathered from inspections and performance information), to establish appropriate improvement objectives. It should then prepare an outline Improvement Plan designed to achieve the objectives and forward this to the roadworks authority.
- 3.5 Following implementation of the Improvement Plan, if it becomes clear after three months that no practical improvement is being achieved, other measures may need to be considered such as:
- escalation of the Improvement Plan monitoring to achieve a step change in performance;
 - involvement of a more senior level of management within both the PU and the Roads Authority;
 - following an appropriate grievance and dispute process, civil and/or criminal remedies; and
 - a report containing any relevant evidence of the undertaker's failure to comply with their duties under the Act, may be submitted to the Office of the Scottish Road Works Commissioner for information.
- 3.6 Where improvements are not achieved, an Improvement Notice/Stage 2 Improvement Plan shall be triggered.
- 3.7 As a result of the performance information gathered at the end of last year, and the first two quarters of this year, targets for improvement have been given to those PUs that have shown little or no improvement in their performance. NFAPs were issued in November 2014 to all PUs that had made no significant improvement by 30 September 2014. These PUs are Scottish Water, Scottish Power, SGN, Virgin Media and Openrech.

Inspections

- 3.8 The New Roads and Street Works Act 1991, as amended by the Transport (Scotland) Act 2005, makes PUs wholly responsible for the management of their road works. Councils, as Roads Authorities, are responsible for monitoring the performance of the PUs and are empowered to charge them for a number of sample inspections carried out to monitor their performance. The sample size that is currently chargeable is 30% of the total annual number of reinstatements. Other inspections, carried out routinely by the Roads Authority or in response to reports from the police or members of the public, may also be carried out. The cost of these inspections falls to the Council unless a defect is found.
- 3.9 The two areas that are inspected and monitored closely are PU reinstatements and PU defective apparatus (manholes, toby covers, valve and inspection/access covers).
- 3.10 Target inspections are all other inspections carried out (excluding Sample Inspections). They involve the Council investigating all other reinstatements, new reinstatements or those still within their two year guarantee period.

Sample Inspections

- 3.11 The total number of sample inspections carried out in Quarter 2 was 463. The breakdown between each inspection type is shown in Table 3.11A in Appendix A. The average failure rate for all PUs is shown in Table 3.11B in Appendix A.
- 3.12 The percentage pass rate for each PU, at the end of Quarter 2, is shown in Table 3.12 and Graph 3.12 in Appendix A and is compared with the percentage pass rate at the end of Quarter 4 (2013/14) for the previous four years. The target pass rate for all PUs is 90%.
- 3.13 There has been an improvement in sample A and B inspection types in Quarter 2 compared to Quarter 1. However, there has been an increase in category C failures (2.7%) this quarter compared to Quarter 1. Over all categories there has been a 0.9% reduction in failures in Quarter 2 compared to Quarter 1 as shown in Table 3.11B.

Target Inspections

- 3.14 The number of target inspections carried out in Quarter 2, in addition to the above sample inspections, was 1,231. The breakdown between each inspection type is shown in Table 3.11A in Appendix A. The average failure rate for all PUs is shown in Table 3.11B in Appendix A.
- 3.15 There has been an improvement in Category B and C target inspection types in Quarter 2 compared to Quarter 1. Overall there has been a 0.2% reduction in failures in Quarter 2 compared to Quarter 1 as shown in Table 3.11B in Appendix A.

- 3.16 The total number of all inspections carried out in Quarter 2 was 3,819, as shown in Table 3.11A. The numbers carried out in each month of Quarter 2 is shown in Graph 3.16B in Appendix A. The total number of inspections carried out, compared with the same period last year, is shown in Graph 3.16A in Appendix A. From analysing the 3,819 inspections carried out, the average failure rate for reinstatements inspected was 12.7%, against a target of 10% as shown in Table 3.11B. This is an improvement of 15% from 27.7% at the end of 2013/2014.
- 3.17 The number of inspections carried out in Quarter 2 shows a decrease from the number carried out in the same period the previous year and is shown in Table 3.16A and 3.16B in Appendix A. This is the result of losing three of the six Inspectors. A recruitment exercise, to fill these posts, is currently underway.

Utility Defective Apparatus

- 3.18 The total number of outstanding defective apparatus at the end of Quarter 2 was 709. A breakdown for each PU is shown in Table 3.18 in Appendix A. This represents an increase of 28.2% when compared to Quarter 4 (2013/14) and an increase of 8.9% when compared with Quarter 1.
- 3.19 The PU with the largest numbers of defective apparatus continues to be Scottish Water (SW), with 556 items. A request for an Improvement Plan was issued to SW in October 2014. A request for an Improvement Plan was also issued to Openreach. An improvement is required from both PUs by the end of Quarter 3 (December 2014). A comparison of the three months in Quarter 2 is shown in Graph 3.19 in Appendix A.

Utility Defective Reinstatements

- 3.20 Every PU has seen a decrease in the number of outstanding defective reinstatements in Quarter 2. A breakdown for each PU is shown in Table 3.20 and Graph 3.20 in Appendix A. At the end of Quarter 4 (2013/14), the total number of outstanding defective reinstatements in Edinburgh was 637. At the end of Quarter 2 this reduced to 377, an improvement of 40.0%. SW continues to have the largest number of defective reinstatements, however, it has reduced this number by 51 (41.1%) since Quarter 4 (2013/14).
- 3.21 The inspections, as discussed in paragraph 3.16, are responsible for identifying and reporting failures and have had a direct affect on reducing the number of failed reinstatements. Had the additional inspections not been carried out, there was a real possibility that these defects would have not been found and the responsibility for their repair would have fallen to the Council after the end of their guarantee period.

Process to address shortfall in numbers of Inspections

- 3.22 To address the drop in the number of inspections created by reduced staffing levels, a streamlined process was adopted, as follows:
- Sample Inspections (Categories A, B and C) were given priority to ensure the Council met its statutory obligations.
 - Target Category C Reinstatement Inspections were carried out to ensure reinstatements were inspected within three months of the end of their guarantee period to ensure the responsibility and cost of any defect did not fall to the Council.
 - Follow-Up Defective Reinstatement Inspections were carried out every 17 days to ensure identified issues continued to be monitored.
 - Target Category B Inspections were reduced as they can be inspected at a later date as a Target Category C Inspection.
 - Follow-Up Defective Apparatus Inspections were not undertaken.
- 3.23 On completion of a satisfactory recruitment process, the regime will revert to the increased level of inspections.

Registration and Fixed Penalty Notices (FPNs)

- 3.24 All road works on public roads must be registered on the Scottish Road Works Register (SRWR).
- 3.25 PUs are required to record all information relating to the works they wish to undertake and works that are underway. Roads Authorities are also required to record all information on works they wish to carry out. Developers, and others wishing to occupy or carry out works on public roads, must first obtain Road Occupation Permits (ROP) from Roads Authorities, and are responsible for the registration of these works.
- 3.26 The comparison of registration failures for the Council's own works is shown in Graph 3.26 in Appendix A.
- 3.27 Failure to secure a ROP is an offence. PUs and their sub-contractors, when they commit such an offence, can discharge their liability through the payment of a Fixed Penalty Notice (FPN). Currently the Penalty is £120, which is reduced to £80 if paid within 29 days. A breakdown of FPNs issued in Quarter 2 of 2014/15 is shown in Graph 3.27 in Appendix A. The total number of FPNs accepted by PUs in Quarter 2 was 126. A further 62 FPNs were accepted by other non-PU agents in relation to Road Occupation Permits eg skips, scaffolding, etc.

Actions

Edinburgh Road Works Ahead Agreement (ERWAA)

- 3.28 A report outlining the new working arrangements for the ERWAA was submitted to, and approved by, this Committee on 18 March 2014. Following a meeting of a Member/Officer Working Group on 7 August 2014, work is ongoing to finalise the wording of the Agreement to satisfy the requirements of both the PUs and the Council. Once this is achieved arrangements will be made to have the Agreement signed by all parties. An update will be provided to this Committee on 17 March 2015 in the Quarter 3 performance report.

Improvement Plans

- 3.29 Meetings have been held with Scottish Water, Scottish Power, SGN, Virgin Media and Openreach throughout the past 12 months to discuss poor performance. NFAPs were issued in November 2014, requesting Improvement Plans from each PU. The Improvement Plans should detail how they intend to address their poor performance in relation to signing, lighting and guarding and reinstatements. In addition to the formal NFAPs, informal Improvement Plans were requested to detail how each PU will address their poor performance in respect of outstanding defective apparatus failures and FPNs.
- 3.30 Monitoring the performance of all PUs has shown that little or no improvement has been made by any PU in addressing the number of outstanding defective apparatus.
- 3.31 All PUs are required to show a significant improvement in the number of outstanding defective apparatus by the end of Quarter 3. The details of how each PU will address this should be shown in their Improvement Plan and details will be provided in the report for Quarter 3.

Proposals for the coming year

- 3.32 Invitations to the future liaison meetings have now been extended to include Vodafone and Telefonica as well as the five main Utility companies (Scottish Water, Scottish Power, SGN, Openreach and Virgin Media).

Measures of success

- 4.1 Achievement of improvement targets, as agreed in Improvement Plans and bi-monthly liaison meetings.

- 4.2 Improved performance in the key areas reported will be measured by greater public satisfaction with:
- the planning, co-ordination and delivery of road works across the city;
 - the quality of information supplied to people who live in, work in or visit Edinburgh; and
 - the quality and longevity of PU reinstatements.
- 4.3 Public satisfaction will be measured at the end of each year by targeting Community Councils with customer questionnaires. It is anticipated that this will be undertaken in March 2015.

Financial impact

- 5.1 The cost of carrying out inspections is offset by the charges levied from inspecting 100% of reinstatements. These inspections identify defective reinstatements during the two-year PU guarantee period, which are repaired at the PU's expense. If defects are identified outwith this period the cost of reinstatement would have to be borne by the Council.
- 5.2 The total value of charges levied and paid in respect of Sample and Repeat inspections to the end of Quarter 2 was £108,180.

Risk, policy, compliance and governance impact

- 6.1 There is a risk that the condition of the road network could deteriorate if the 100% inspection of all PU reinstatements is not maintained. Should 100% of inspections not be undertaken, there is a risk that defects would not be found and the responsibility for their repair would then fall to the Council at the end of their guarantee period.
- 6.2 Where the Council has made significant investment in road improvements, there is a risk that the road network may deteriorate following reinstatements that have not been carried out to the agreed standards.
- 6.3 There is a risk of reduced revenue if the number of inspections is less than that estimated at the beginning of the year.
- 6.4 There is a risk of lack of improvement by poorer performing PUs. This can be addressed by the use of formal Improvement Plans, as specified in Code of Practice for Co-ordination of Works in Roads.

Equalities impact

- 7.1 There are no equalities impacts arising from this report.

Sustainability impact

8.1 There are no sustainability impacts arising from this report.

Consultation and engagement

9.1 Individual Liaison meetings are held every two months with representatives from all of the major PUs. Specific performance issues and improvement requirements are discussed at these meetings.

9.2 Throughout the year the Council was represented at all relevant Committees, as required within the Code of Practice for the Co-ordination of Works in Roads. These meetings are detailed below:

The Roads and Utilities Committee Scotland (RAUCS) where all Roads Authorities and PUs are represented together with representatives from Transport Scotland and the office of the Scottish Road Works Commissioner.

The South East of Scotland Roads and Utilities Committee (SERAUC) where representatives from the City of Edinburgh, Midlothian, East Lothian, West Lothian and Scottish Borders Councils attend, together with representatives from all PUs.

The Local Roads and Utilities Committee (LRAUC) is also known as the Local Co-ordination meeting. This includes representatives from the service areas within Services for Communities that are involved in roadworks or road occupations, as well as Lothian Buses, Tram Team and all PUs.

Background reading/external references

[Quality of Utility Company Reinstatements – Item 5.16, Transport and Environment Committee, 18 June 2012.](#)

[Code of Practice for Inspections”, 3rd edition, approved by the Roads Authority and Utility Committee Scotland, November 2012.](#)

[Code of Practice for the Co-ordination of Works in Roads, version 1.0, April 2013.](#)

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Links

Coalition pledges	P28 - Further strengthen links with the business community by developing and implementing strategies to promote and protect the economic well being of the city. P33 Strengthen Neighbourhood Partnerships and further involve local people in decisions on how Council resources are used.
Council outcomes	CO19 - Attractive Places and Well Maintained – Edinburgh remains an attractive city through the development of high quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm. CO26 - The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives.
Single Outcome Agreement	SO4 - Edinburgh's communities are safer and have improved physical and social fabric.
Appendices	Appendix A - Utility Company Performance Information Quarter 2 - 2014/15

Table 3.11A
Number of inspections for ALL PUs

TYPE	CATEGORY A	CATEGORY B	CATEGORY C	OTHER INSPECTIONS	TOTAL
	Inspections during the progress of the works.	Inspection within six months of the work being completed.	Inspection within three months of end of guarantee period.		
SAMPLE INSPECTION	35	200	228	-	463
TARGET INSPECTION	15	26	1,190	-	1,231
DEFECTIVE APPARATUS	-	-	-	24	24
DEFECTIVE REINSTATEMENT	-	-	-	1,749	1,749
INSPECTIONS RELATED TO CORING	-	-	-	189	189
OTHERS	-	-	-	163	163
TOTAL	50	226	1,418	2,125	3,819

Table 3.11B
Average fail rate for ALL PUs

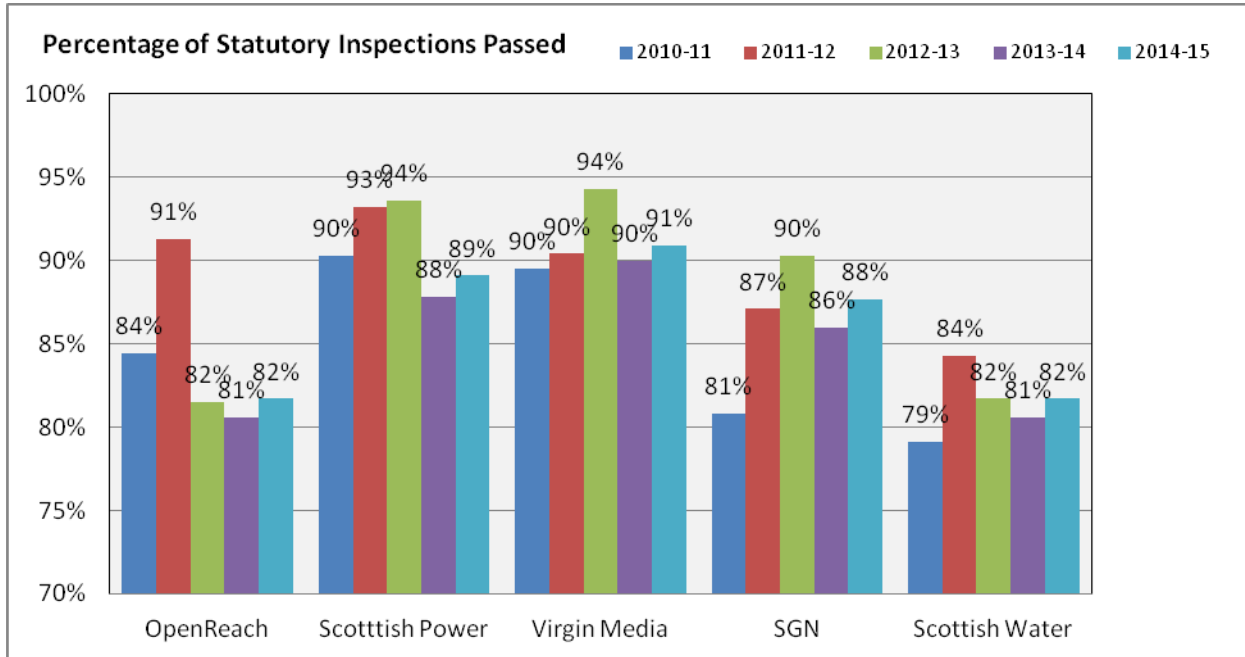
	No of Failures Q2	% Fail Rate Q1	% Fail Rate Q2	Difference Q1 to Q2
SAMPLE INSPECTIONS	104	14.7%	13.6%	-0.9%
Category A	26	20.8%	17.0%	-3.8%
Category B	51	27.7%	16.7%	-11%
Category C	27	6.2%	8.9%	+2.7%
TARGET INSPECTIONS	166	10.2%	10.0%	-0.2%
Category A	3	33.3%	33.3%	0%
Category B	54	25.3%	17.1%	-8.2%
Category C	110	17.0%	8.2%	-8.8%
DEFECTIVE REINSTATEMENTS	242	19.1%	12.7%	-6.4%

Table 3.12

The table below shows the average percentage pass rate for defective apparatus for each PU over Quarter 2. The target pass rate for all PUs is 90%.

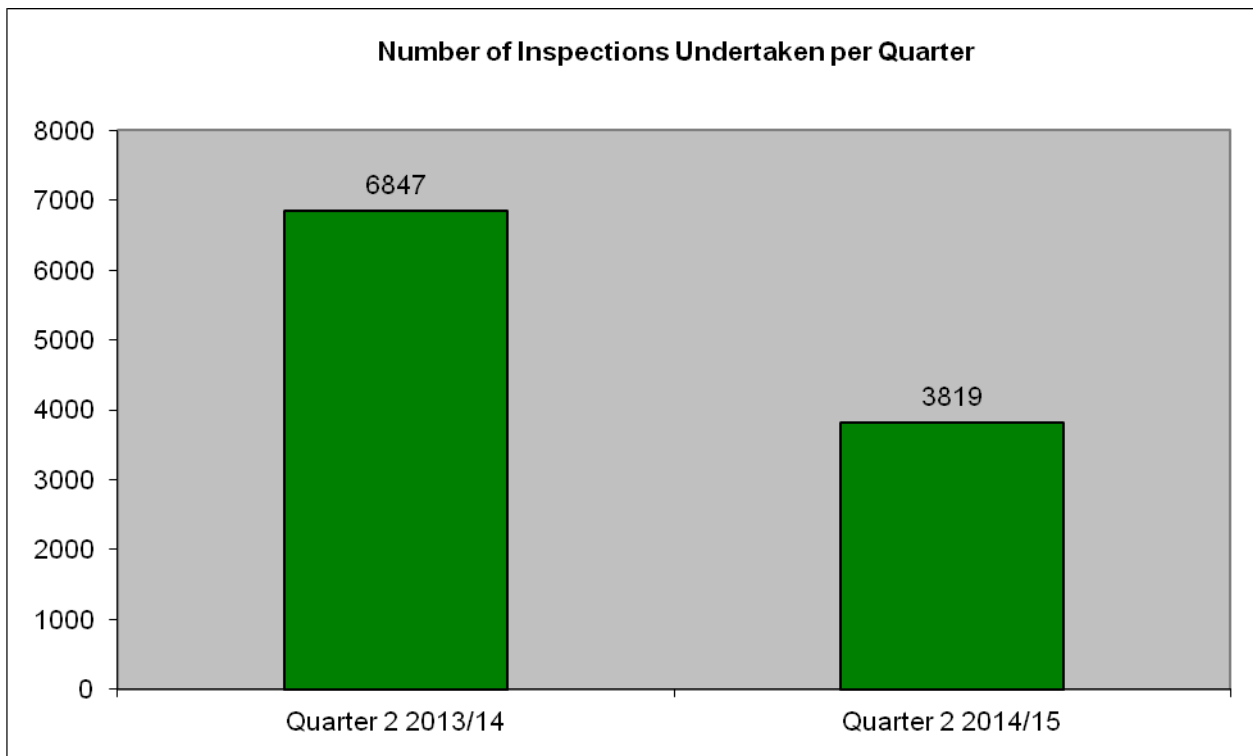
	Openreach	Scottish Power	Virgin Media	Scotland Gas Networks	Scottish Water
Pass Rate	82%	89%	91%	88%	82%

Graph 3.12



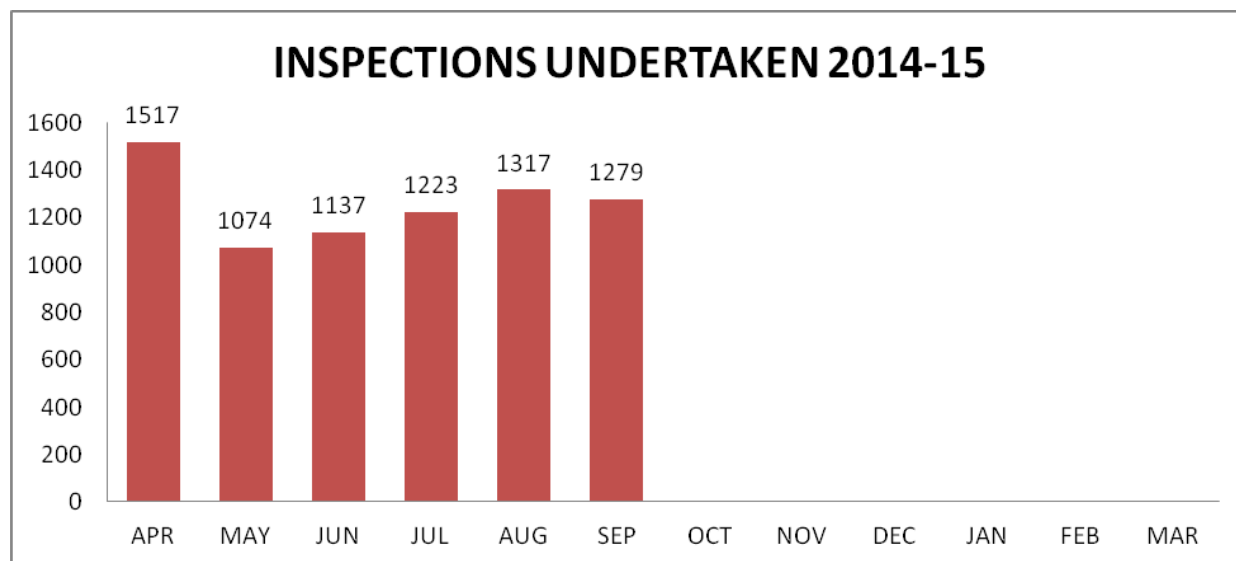
The target pass rate is 90%. All but one of the PUs failed to achieve this target in Quarter 2. The average pass rate for Quarter 2 was 86%. This is an improvement of only 1% since Quarter 4 of 2013/14.

Graph 3.16A



The reason for the decrease in the number of inspections compared to Quarter 2 last year is due to two Inspectors resigning and another on long term sickness. The total number of Inspectors has reduced from six to three for most of Quarter 2.

Graph 3.16B



3,819 inspections were carried out in Quarter 2. The target number of 20,000 inspections for the year may not currently be met due to the reduction in the number of Inspectors. A revised annual target is estimated to be 15,094 (based on figures achieved in the first six months).

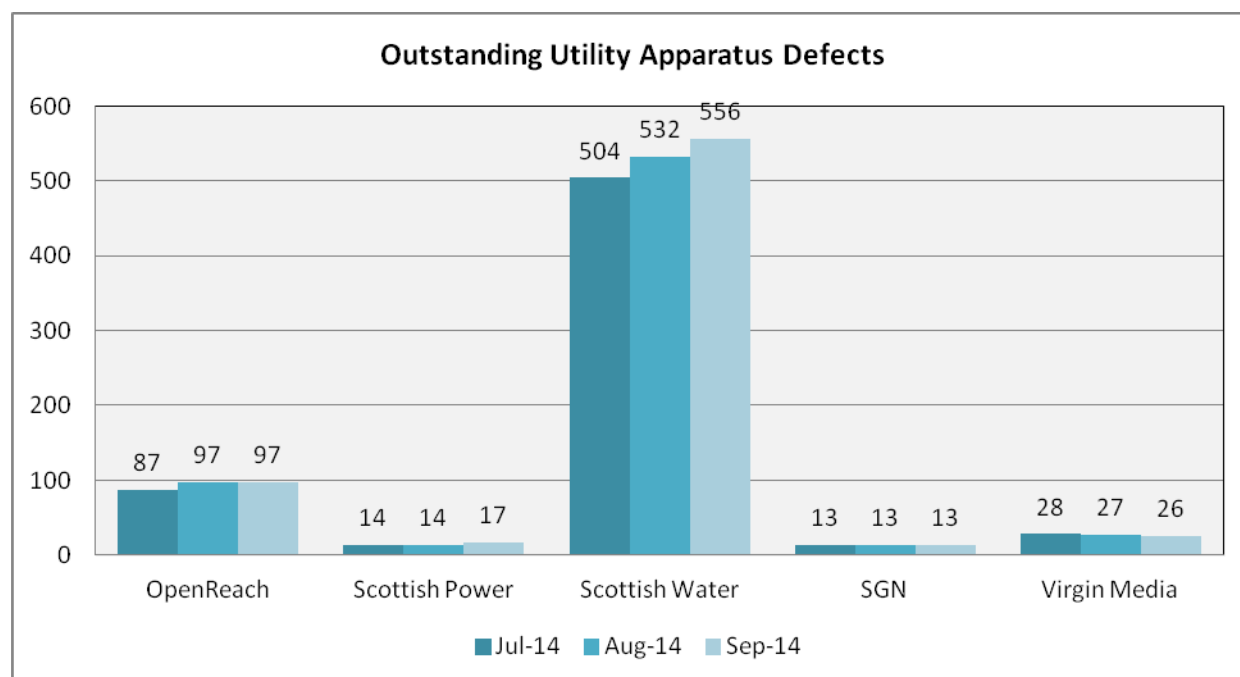
Table 3.18

The total numbers of outstanding Defective Apparatus for Quarter 4 of 2013/2014 and Quarter 2 of 2014/2015 is shown below.

Utility	Q4 (2013/14)	Q1 (2014/15)	Q2 (2014/15)
SGN	8	14	13
Scottish Water	470	521	556
BT Openreach	51	78	97
Scottish Power	5	12	17
Virgin Media	19	26	26
Totals	553	651	709

Total end Quarter 2 2014/15	709	28.2% increase
Total at end 2013/14	553	

Graph 3.19



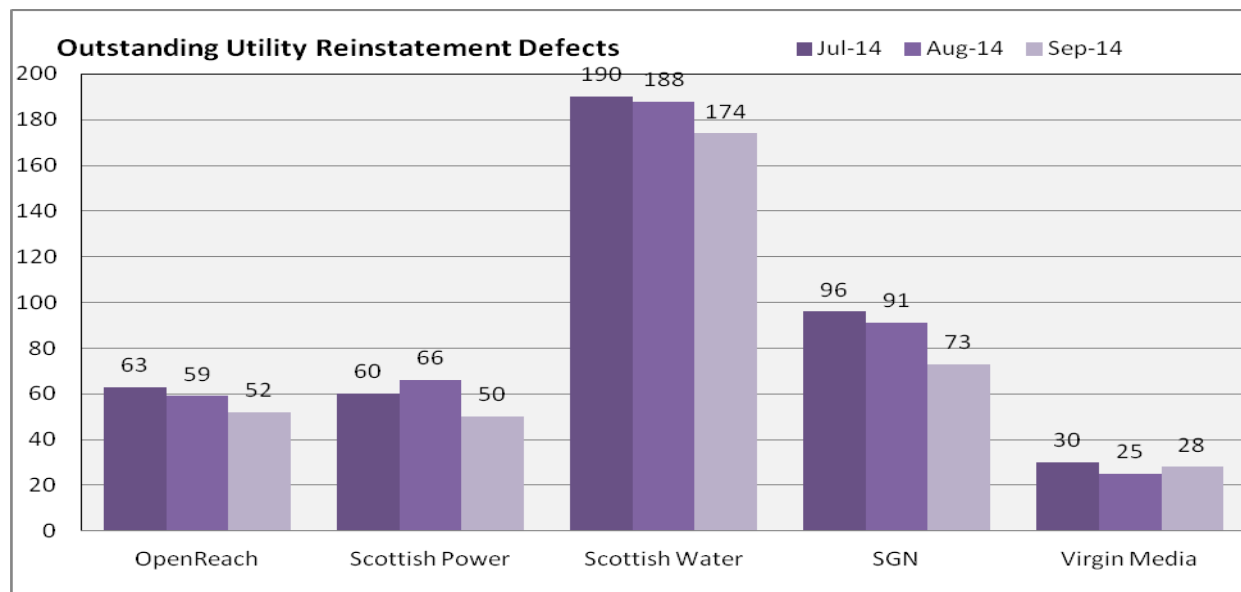
The number of outstanding defects for Scottish Water (556) is a long standing issue. This has been raised as a specific problem and an Improvement Plan has been requested.

Table 3.20

The total number of outstanding Defective Reinstatements for each quarter, for each PU, is shown below:

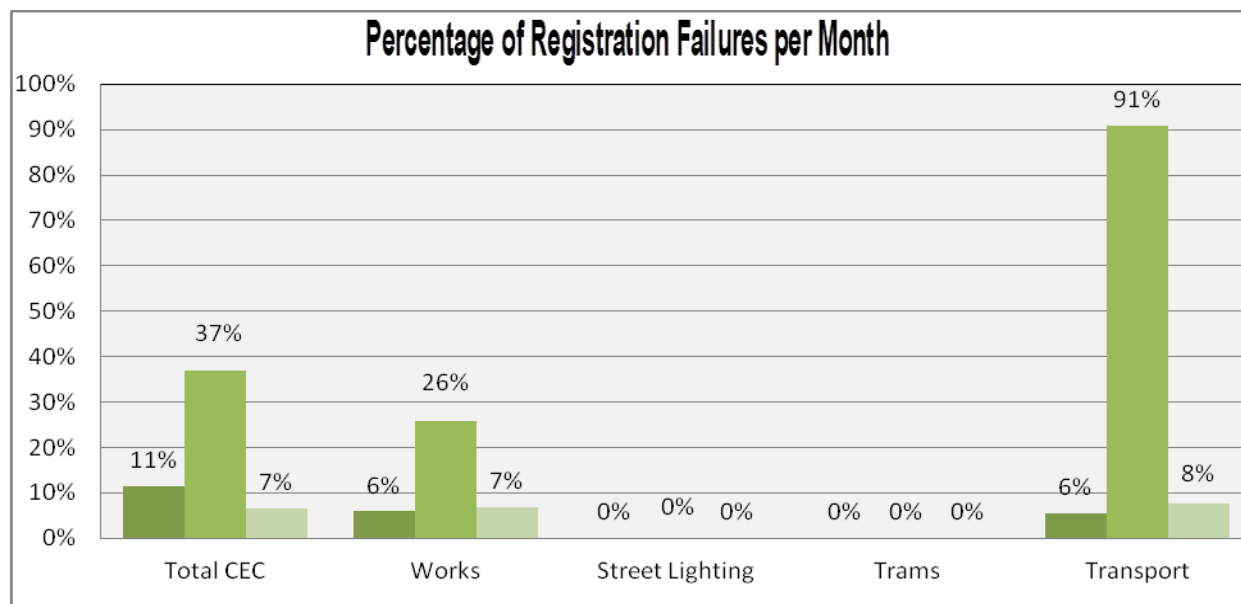
Utility	Q4 (2013/2014)	Q1(2014/2015)	Q2 (2014/2015)	Reduction Q4 to Q2
SGN	124	97	73	51 (41.1%)
Scottish Water	291	191	174	117 (40.2%)
BT Openreach	94	58	52	42 (44.7%)
Scottish Power	87	66	50	37 (42.5%)
Virgin Media	41	35	28	13 (31.7%)
Totals	637	447	377	Average 40.0%

Graph 3.20



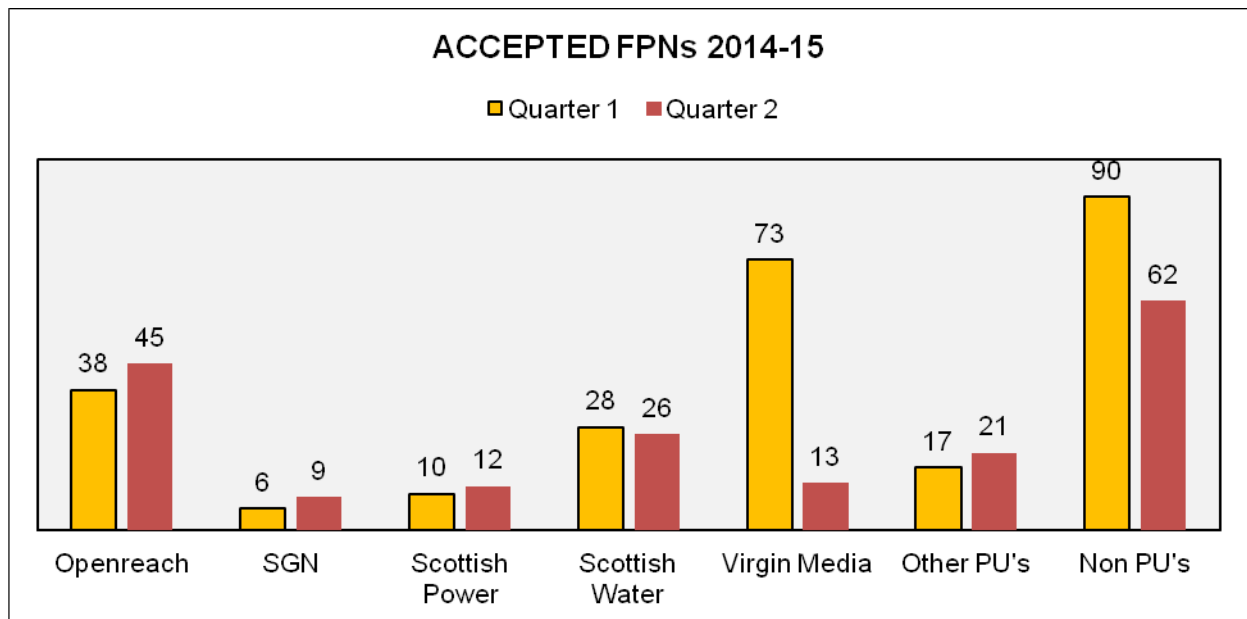
The number of outstanding or defective reinstatements has shown an improvement with the exception of Virgin Media. There has been a positive trend in the improvement for all three months for Openreach, Scottish Water and SGN. Scottish Power has shown an improvement since August. However, the total number of outstanding reinstatements (377) remains unacceptably high.

Graph 3.26



In Quarter 2 the average fail rate was 18.3%. At the end of Quarter 2 the monthly registration failure rate was 7%. The monthly and annual target is 9%. The 37% fail rate in August is attributed to issues with not closing completed work on time.

Graph 3.27



Cumulatively, over Quarters 1 and 2, the PU with the highest number of FPNs is Virgin Media, followed by Openreach. These FPNs were issued for the following reasons:

- excavations being temporarily reinstated with the permanent reinstatement not completed within the statutory six month period;
- notices not being closed on time;
- leaving traffic signs and barriers on site once the work was complete; and
- no notice given for the work carried out.