

Transport and Environment Committee

10.00am, Tuesday, 30 August 2016

Public Utility Company Performance 2015/16

Item number	8.2
Report number	
Executive/routine	Executive
Wards	All

Executive Summary

This report summarises the performance of Public Utility Companies (PUs) during the period April 2015 to March 2016 (Quarters 1 to 4), for the 2015/16 financial year.

It summarises and compares the four quarters of the year and shows trend information from previous years.

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.

The report also details the proposals for managing future PU performance.

Links

Coalition pledges	P28 and P33
Council priorities	CP4
Single Outcome Agreement	SO4

Public Utility Company Performance 2015/16

1. Recommendations

- 1.1 It is recommended that the Transport and Environment Committee notes the report and the arrangements for securing an improved level of performance from all Public Utilities.

2. 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 roadworks. 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 year April 2015 to March 2016.

3. 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:
 - 3.2.1 The Roadwork Authority issues a Notice of Failure to Achieve Performance (NFAP). This is the first stage of action in improving performance.
 - 3.2.2 The undertaker responds with an Improvement Plan – Stage 1.

- 3.3 In the event that the PU does not achieve the required level of improvement, the following actions are taken:
 - 3.3.1 the Roadwork Authority issues an Improvement Notice (IN); and
 - 3.3.2 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. The PU should then prepare an outline Improvement Plan, designed to achieve the objectives, and forward this to the Roadwork 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:
 - 3.5.1 escalation of the Improvement Plan monitoring to achieve a step change in performance;
 - 3.5.2 involvement of a more senior level of management within both the PU and the Roadwork Authority; and
 - 3.5.3 following an appropriate grievance and dispute process, civil and/or criminal remedies.
- 3.6 Where improvements are not achieved following a Stage 2 plan, a report, containing all relevant evidence of the PU's failure to comply with its duties under the New Roads and Street Works Act, will be submitted to the Office of the Scottish Road Works Commissioner for information.
- 3.7 The figures and graphs referred to throughout this report are shown in Appendix A.

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 roadworks. Councils, as Roadwork 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 the performance. The sample size that is currently chargeable is 30% of the total annual number of reinstatements. Other inspections, carried out routinely by the Roadwork 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 the other inspections carried out. They involve the Council investigating all new reinstatements, or those still within their two year guarantee period.

- 3.11 The total number of all inspections carried out in 2015/16 was 34,270, as shown in Graph 3.11A. The numbers carried out in each month of 2015/16 are shown in Graph 3.11B. The number of inspections carried out in 2015/16 has increased by 89.3% from that carried out in 2014/15. This is a direct result of the initiative to increase inspections and the subsequent numbers of trained dedicated Inspectors within the Roadwork Support Team, for this purpose. The cost of this is fully offset by projected income from compliance inspections.
- 3.12 The average pass rate for inspected reinstatements was 80.5%, against a minimum target of 90%, as shown in Table 3.12. This is a reduction in performance of 7% since the end of 2014/15.
- 3.13 The total number of inspections carried out in 2015/16 shows an increase of 16,166 inspections, when compared to the total number carried out in 2014/15, as shown in Graph 3.11A.

Sample Inspections

- 3.14 The total number of sample inspections carried out in 2015/16 was 1,880, with the breakdown between each inspection type shown in Table 3.14.
- 3.15 The average percentage pass rate for each PU, at the end of 2015/16, was 76.9% as shown in Table 3.15 and Graph 3.15. The target pass rate for all PUs is 90%.

Target Inspections

- 3.16 The cumulative number of target inspections carried out in 2015/16 was 9,127, with the breakdown between each inspection type shown in Table 3.14.
- 3.17 The average percentage pass rate for target inspections for all PUs during 2015/16 was 80.1%. The target pass rate for all PUs is 90%.

Utility Defective Apparatus

- 3.18 The total number of outstanding defective apparatus at the end of 2015/16 was 565, a reduction of 73 from the previous quarter. A breakdown for each PU is shown in Table 3.18. There was a reduction in the number of outstanding defective apparatus of 16% when compared to the end of 2014/15.
- 3.19 The PU with the largest number of defective apparatus continues to be Scottish Water, with 415 items, as shown in Graph 3.19. This represents a reduction of 68 defects since Quarter 3 and a reduction of 47 defects since the end of 2014/15.
- 3.20 During 2015/16, all PUs, with the exception of Virgin Media, reduced the number of outstanding apparatus defects from the end of 2014/15. For comparison, the figures for the end of the last four years are shown in Table 3.20.

Utility Defective Reinstatements

- 3.21 At the end of 2015/16, the total number of outstanding defective reinstatements in Edinburgh was 950. A breakdown for each PU is shown in Table 3.21 and Graph 3.21. Scottish Water continues to be the PU with the largest number of defective reinstatements although this number decreased by 21.8% from the previous quarter. These defects are discussed at the bi-monthly liaison meetings and proposals to remedy the backlog were included in their Stage 2 Improvement Plans.
- 3.22 Virgin Media has shown a 67.7% increase in the number of defective reinstatements since Quarter 3 and a 166.1% increase since the end of 2014/15. This is as a result of the additional inspections being carried out and defects being discovered with the reinstatements nearing the end of the guarantee period.

Registration and Fixed Penalty Notices (FPNs)

- 3.23 All roadworks on public roads must be registered on the Scottish Road Works Register (SRWR).
- 3.24 PUs are required to record all information relating to the works they wish to undertake and works that are underway. Roadwork 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 consents (Road Occupation Permits) from the Roadwork Authority. The Roadwork Authority is then responsible for the registration of these works.
- 3.25 A comparison of the Council's own registration performance is shown in Graphs 3.25A and B.
- 3.26 Failure to comply with the above requirements is an offence. PUs and those working under Road Occupation Permits, that 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 accepted in 2015/16 is shown in Graph 3.26.
- 3.27 The total number of FPNs accepted by PUs in 2015/16 was 971. A further 71 FPNs were accepted by other agents in relation to Road Occupation Permits e.g. skips, scaffolding, etc. For comparison, the FPN totals for each PU at the end of the last four years are shown in Graph 3.27.

Improvement Plans

- 3.28 Scottish Water, SGN, Scottish Power, Openreach and Virgin Media were served with a Stage 2 Improvement Notice on 8 June 2015. The Stage 2 Improvement Plans submitted and implemented by each PU were monitored for 12 weeks up to 31 October 2015. The changes made to working practices were a permanent change and continued beyond the end of the monitoring period. The performance data collected from Sample Inspections, used in the determination of the outcome of any improvement, was only available at the end of Quarter 3 (December 2015).

- 3.29 The pass rates for each of the five PUs (with Staged Improvement Notices) are shown in Table 3.29.
- 3.30 The assessment covers the performance of each PU during the 12-week period of its Improvement Plan and their performance figures for the 12-month period from 1 October 2014 to 30 September 2015. It also considers the commitment from each PU to achieve the required improvement in performance and reduction in legacy defects.
- 3.31 Following analysis of the performance figures for each PU, all five PUs failed to show any significant improvement in performance. A report, on each PUs failure, will be passed to the Scottish Road Works Commissioner. Each PUs performance data will be included in this report together with performance information since the end of the official monitoring period. This will show their failure to comply with their duties under the New Roads and Street Works Act 1991 and, in particular, of their failure to achieve satisfactory levels of performance.
- 3.32 The evidence contained within the report to the Scottish Road Works Commissioner will include all data relating to the continued failure in performance, the subsequent failure in each Improvement Plan and evidence of performance following 31 October 2015.

The Edinburgh Road Works Ahead Agreement (ERWAA)

- 3.33 A report outlining the new working arrangements for the ERWAA was submitted to, and approved by, the Transport and Environment Committee on 18 March 2014.
- 3.34 As requested at the Committee meeting of 27 August 2015, letters were sent to the CEO of each Public Utility Company inviting them to a meeting to discuss their performance and their concerns with signing the agreement.
- 3.35 A meeting was held with Scottish Water on 23 December 2015, to discuss the areas of the agreement it wished to amend prior to signing. Changes were made to the agreement and an updated copy issued for Scottish Water's attention requesting confirmation of receipt and agreement to sign the ERWAA. At the time of writing this report, no reply has been received.
- 3.36 CityFibre, SGN, Openreach and Scottish Water are the only PUs to have responded to date. CityFibre has confirmed that it is in favour of signing the agreement. SGN has acknowledged its willingness to sign the agreement, subject to two areas of concern, which have been addressed and Scottish Water confirmed their agreement to sign if the amendments are made.
- 3.37 Scottish Water has not responded to requests from the Council, for confirmation of their willingness to sign the agreement since the updated version was issued on 5 February 2016.

4. Measures of success

- 4.1 Improved performance in the key areas reported will be measured by greater public satisfaction with:
 - 4.1.1 the planning, co-ordination and delivery of road works across the city;
 - 4.1.2 the quality of information supplied to people who live in, work in or visit Edinburgh; and
 - 4.1.3 the quality and longevity of PU reinstatements.
- 4.2 It is intended to commence issuing Customer Satisfaction cards in locations where major schemes of work have been undertaken following completion of the Planning and Transport Review.

5. Financial impact

- 5.1 The revenue streams associated with sample and repeat inspections of failed PU reinstatements exceeded the budget of £236,393 for 2015/16. The total revenue from the charges levied for these activities was £339,472.
- 5.2 The total potential recovery of revenue, through sample and repeat inspections of failed PU reinstatements during 2015/16, amounts to £634,104. Some of the failed inspections have yet to be accepted by PUs. It is within their right to decline failures which results in meetings to discuss each of the failures placed onto the Scottish Road Works Register.
- 5.3 The cost of employing the additional Inspectors, is currently fully offset by the revenue received from the compliance inspections.
- 5.4 The revenue associated with FPNs exceeded the budget of £58,000 with a total revenue from the charges levied of £92,510 being achieved.

6. 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 PU reinstatements is not maintained. If 100% inspections are not undertaken, there is a risk that defects would not be found and responsibility for their repair would fall to the Council.
- 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 poor performing PUs. This is currently being addressed by the use of formal Improvement Plans, as specified in Code of Practice for Co-ordination of Works in Roads.

7. Equalities impact

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

8. Sustainability impact

- 8.1 There are no sustainability impacts arising from this report.

9. 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 (detailed below), as required within the Code of Practice for the Co-ordination of Works in Roads.
- 9.2.1 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.
- 9.2.2 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.
- 9.2.3 The Local Roads and Utilities Committee (LRAUC) is also known as the Local Co-ordination meeting. This includes representatives from every function and service within Place that have an involvement in roadworks or road occupation eg Lothian Buses, every Utility, Edintravel and the Tram Team.

10. Background reading/external references

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

- 10.2 [Code of Practice for Inspections, 3rd edition, approved by the Roads Authority and Utility Committee Scotland, November 2012.](#)
- 10.3 [Code of Practice for the Co-ordination of Works in Roads, version 1.0, April 2013.](#)

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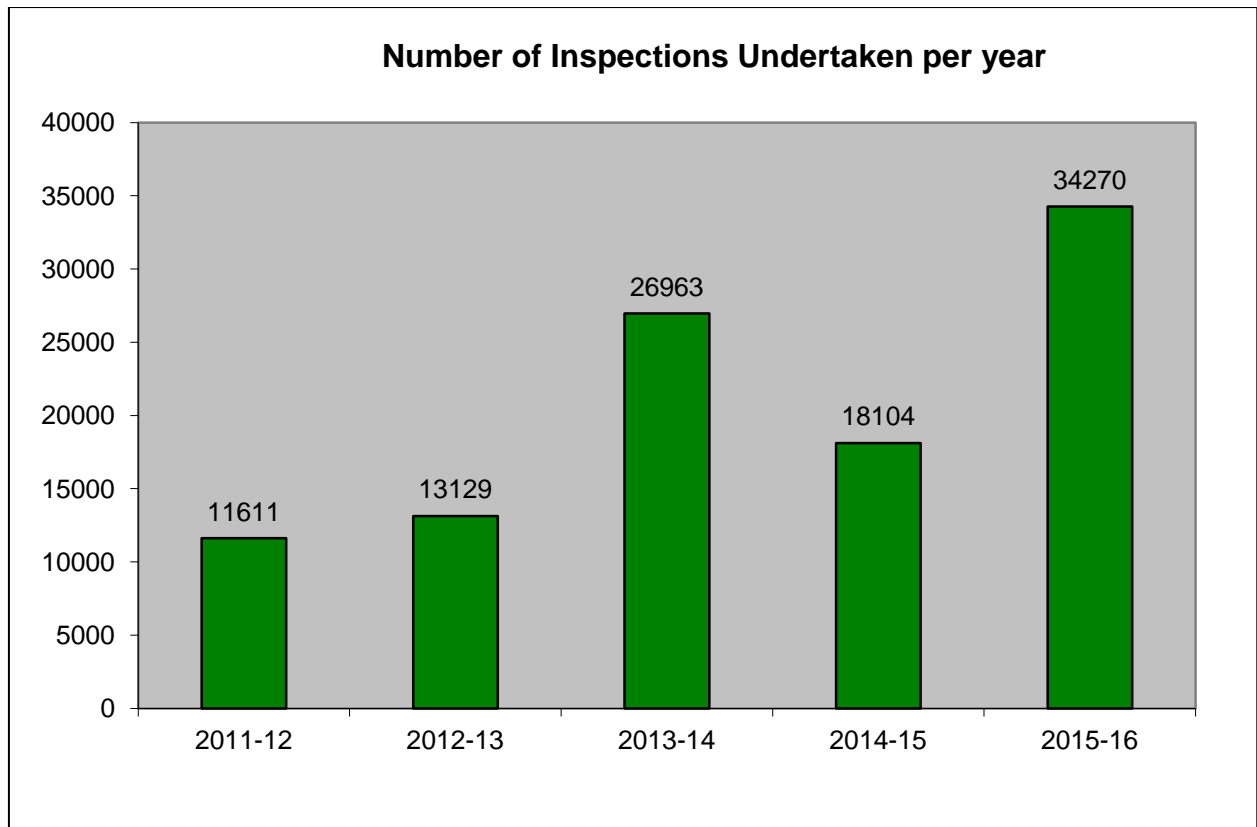
E-mail: stuart.harding@edinburgh.gov.uk | Tel: 0131 529 3704

11. Links

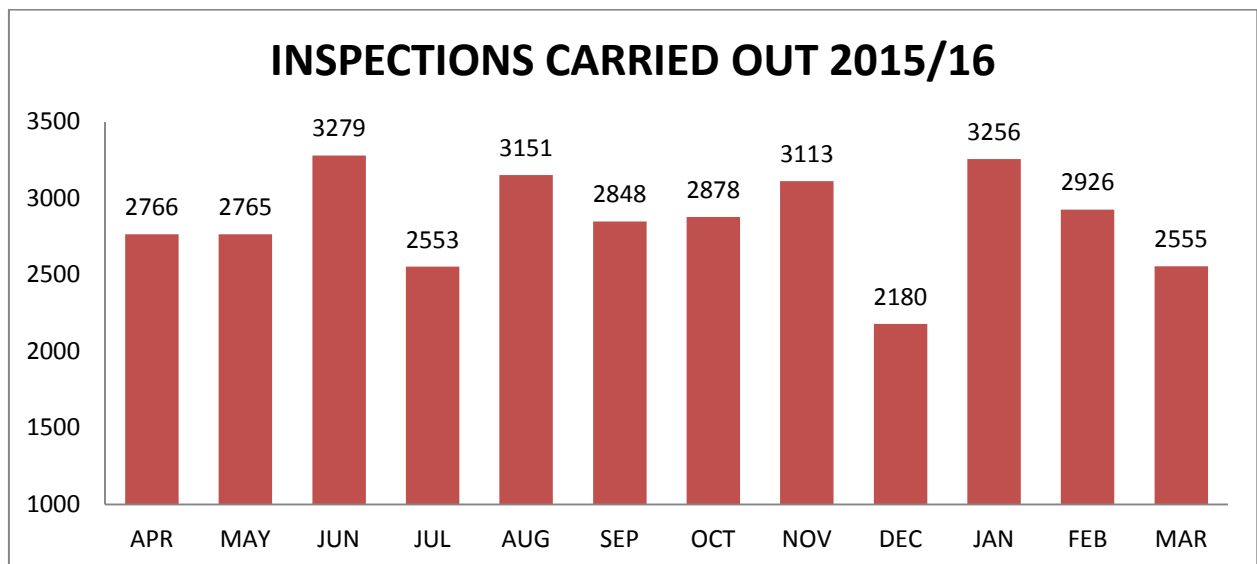
Coalition pledges	<p>P28 - Further strengthen links with the business community by developing and implementing strategies to promote and protect the economic well being of the city.</p> <p>P33 - Strengthen Neighbourhood Partnerships and further involve local people in decisions on how Council resources are used.</p>
Council priorities	<p>CP4 - Safe and empowered communities</p> <p>CP12 - A built environment to match our ambition</p>
Single Outcome Agreement	<p>SO4 - Edinburgh’s communities are safer and have improved physical and social fabric.</p>
Appendices	<p>Appendix A - Utility Company Performance Information 2015/16</p>

APPENDIX A

Graph 3.11A



Graph 3.11B



In 2015/16 there were 34,270 inspections carried out. The estimated target of 20,000 inspections has been exceeded this year. There was a fall each month in the last Quarter due to a reduction in the number of Inspectors.

APPENDIX A

Table 3.12

Average pass rate for ALL PUs

	No of Failures	% Pass Rate
SAMPLE INSPECTIONS	1445 / 1880	76.9%
Category A	394 / 564	69.9%
Category B	500 / 668	74.9%
Category C	551 / 648	85.0%
TARGET INSPECTIONS	7312 / 9127	80.1%
Category A	345 / 481	71.7%
Category B	3294 / 4336	76.0%
Category C	3673 / 4310	85.2%
DEFECTIVE REINSTATEMENTS	8018 / 9962	80.5%

The target minimum pass rate for all PUs is 90%.

APPENDIX A

Table 3.14

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	564	668	648	-	1,880
TARGET INSPECTION	481	4,336	4,310	-	9,127
DEFECTIVE APPARATUS	-	-	-	4,342	4,342
DEFECTIVE REINSTATEMENT	-	-	-	15,106	15,106
INSPECTIONS RELATED TO CORING	-	-	-	1,240	1,240
OTHERS	-	-	-	2,575	2,575
TOTAL	1,045	5,004	4,958	23,263	34,270

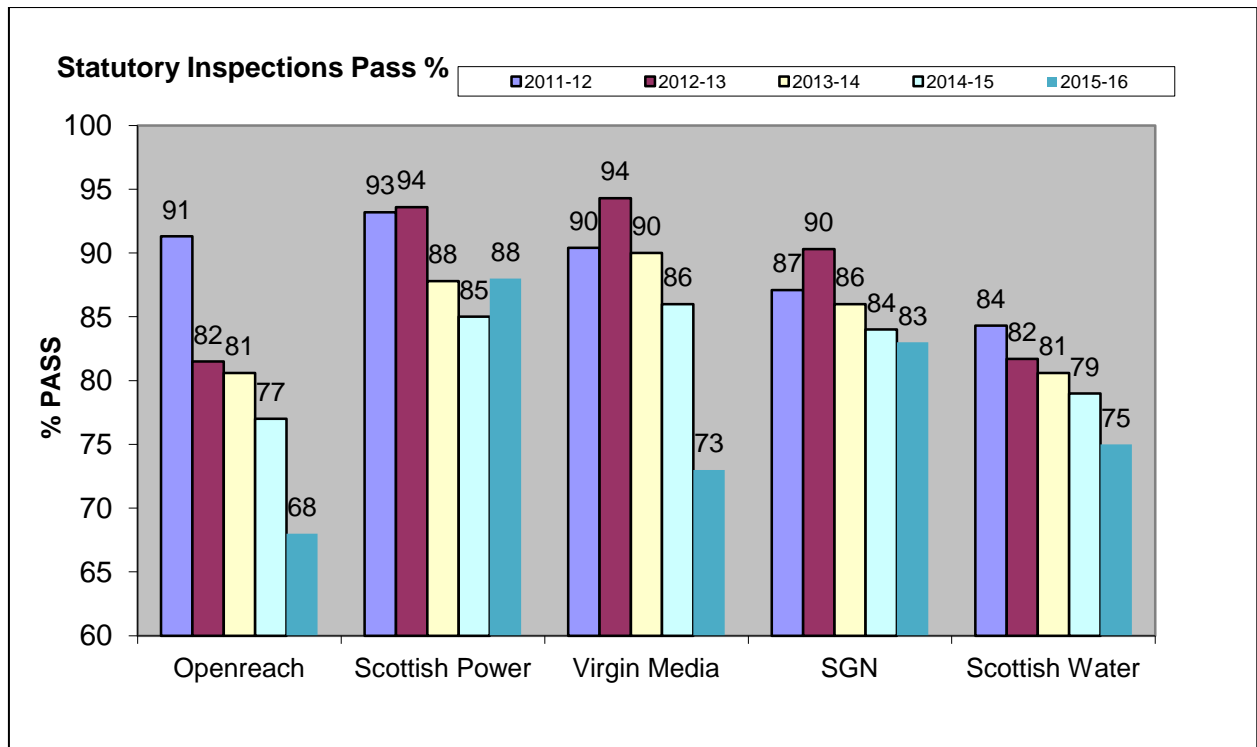
Table 3.15

The table below shows the average percentage pass rate for Sample Inspections for each PU over 2015/16. The target minimum pass rate for all PUs is 90%.

	Openreach	Scottish Power	Virgin Media	SGN	Scottish Water	Average
Pass Rate	68%	88%	73%	83%	75%	76.9%

APPENDIX A

Graph 3.15



No PU achieved the target pass rate of 90% by the end of 2015/16.

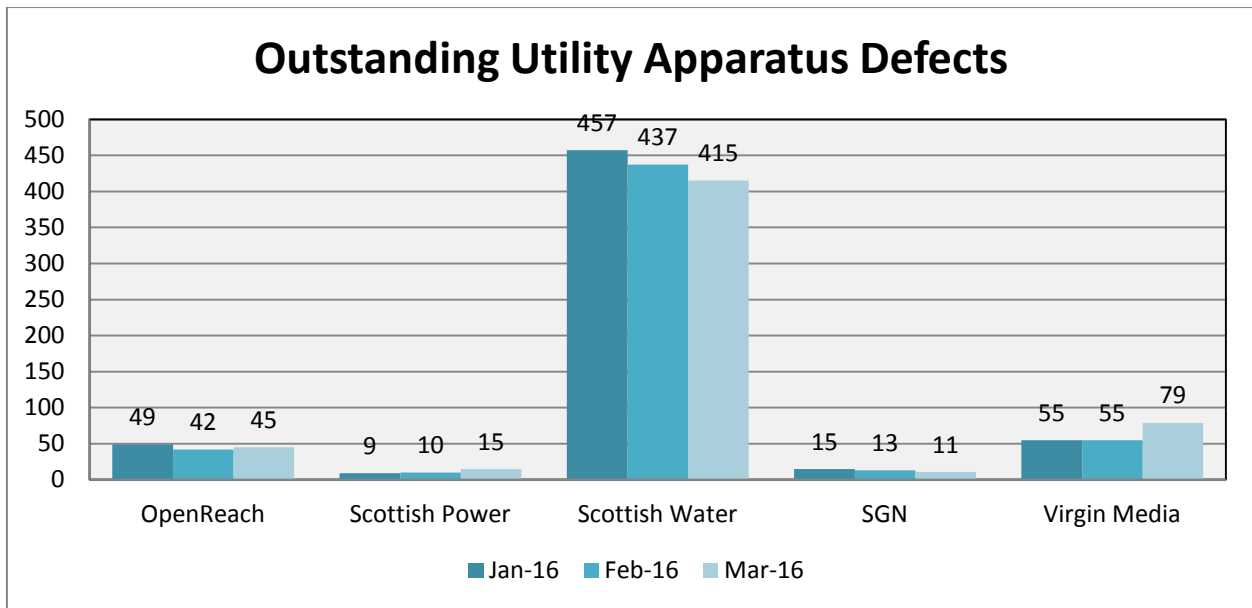
Table 3.18

The total number of outstanding Defective Apparatus for the last 4 Quarters is shown below.

Utility	Q1 (2015/16)	Q2 (2015/16)	Q3 (2015/16)	Q4 (2015/16)	Difference Q3 to Q4
SGN	19	14	15	11	-4 (-26.7%)
Scottish Water	333	373	483	415	-68 (-14.1%)
Openreach	36	37	63	45	-18 (-28.6%)
Scottish Power	14	11	10	15	5 (50.0%)
Virgin Media	58	51	67	79	12 (17.9%)
Totals	460	486	638	565	-73 (-11.4%)

APPENDIX A

Graph 3.19



The high number of outstanding defects for Scottish Water (at 415) is a long standing issue, which has been raised as a specific concern and included in their Stage 2 Improvement Plan.

Table 3.20

The table below shows the comparison of the numbers of outstanding defective apparatus for each PU over the past four years, measured at the end of each year.

PU	End of 2011/12	End of 2012/13	End of 2013/14	End of 2014/15	End of 2015/16
Openreach	130	53	51	144	45
SGN	75	22	8	21	11
Scottish Power	47	8	5	26	15
Scottish Water	801	582	470	462	415
Virgin Media	93	27	19	20	79

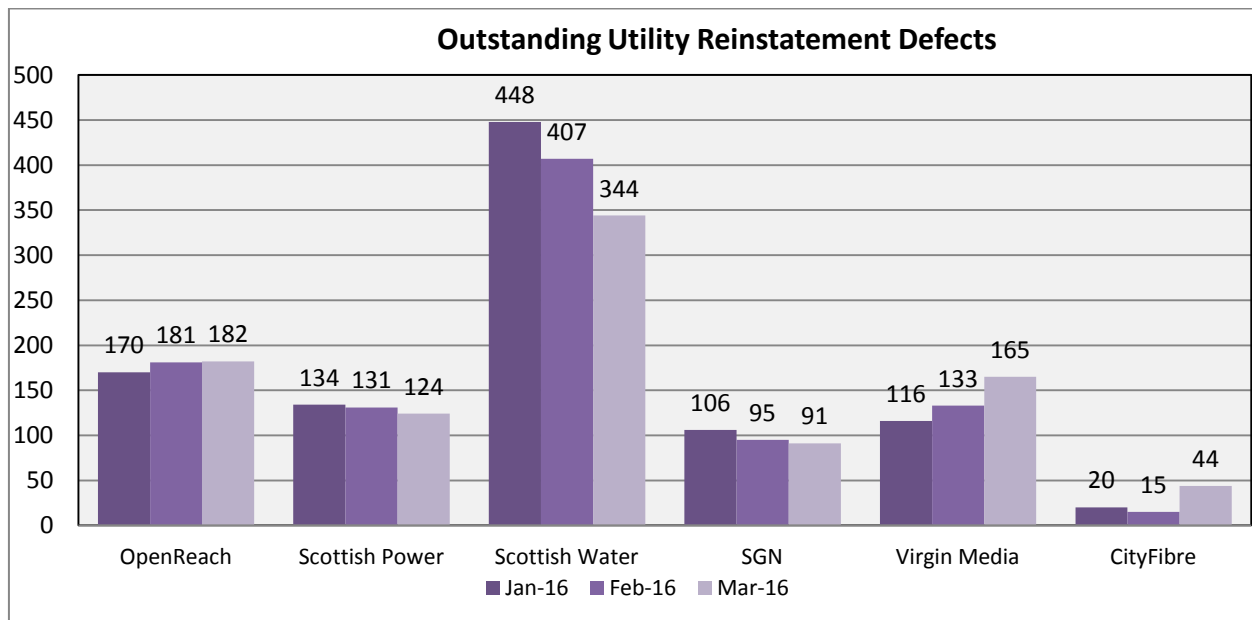
APPENDIX A

Table 3.21

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

Utility	Q1 (2015/16)	Q2 (2015/16)	Q3 (2015/16)	Q4 (2015/16)	Difference Q3 to Q4
SGN	172	113	105	91	-14 (-13.3%)
Scottish Water	527	473	440	344	-96 (-21.8%)
Openreach	135	135	174	182	8 (4.6%)
Scottish Power	108	110	115	124	9 (7.8%)
Virgin Media	82	104	99	165	66 (66.7%)
CityFibre	-	3	6	44	38 (633.3%)
Totals	1024	938	939	950	11 (1.2%)

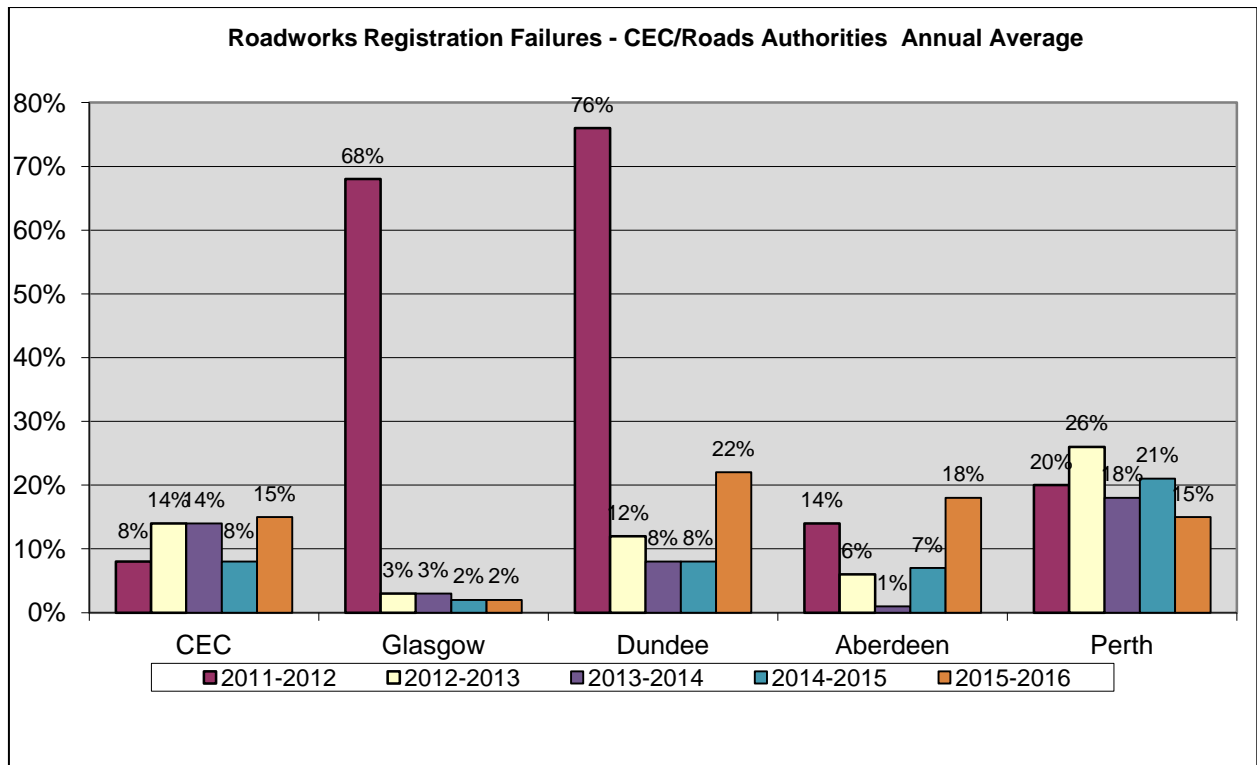
Graph 3.21



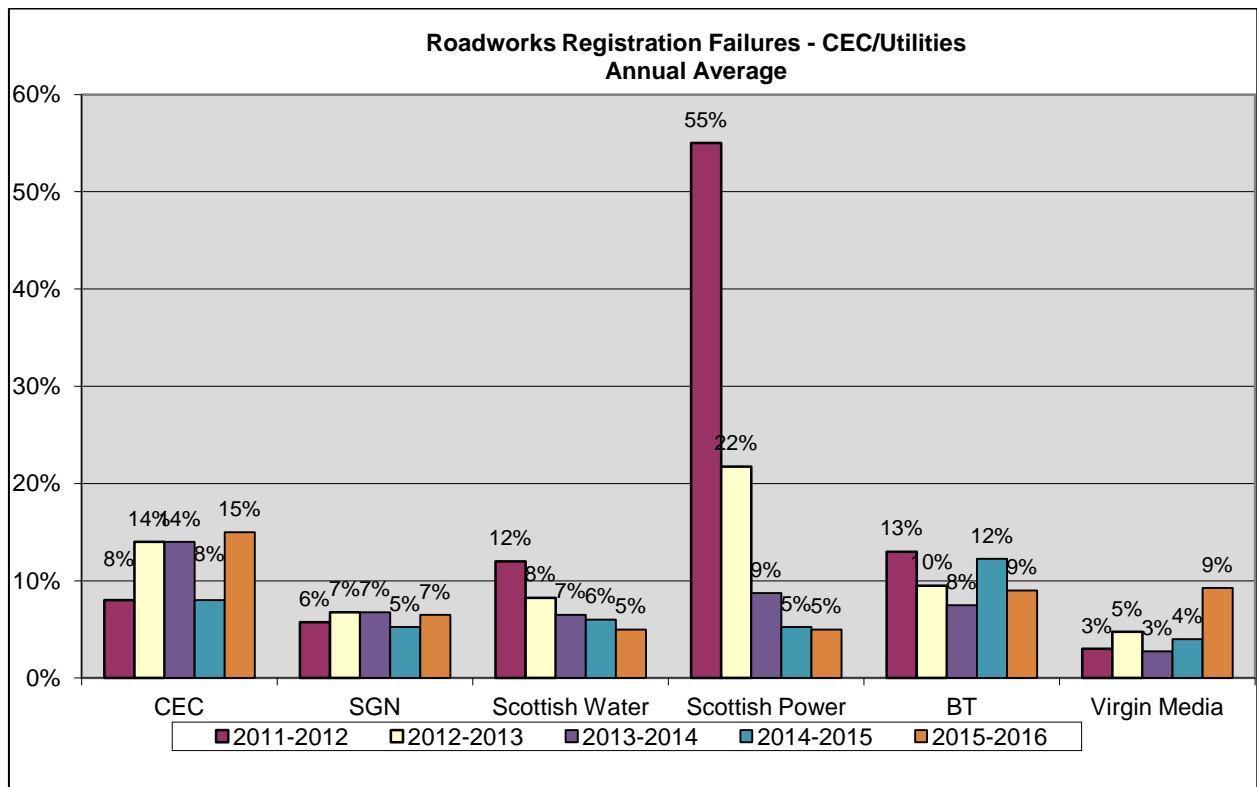
The number of outstanding defective reinstatements has increased slightly during the last Quarter of 2015/16.

APPENDIX A

Graph 3.25A

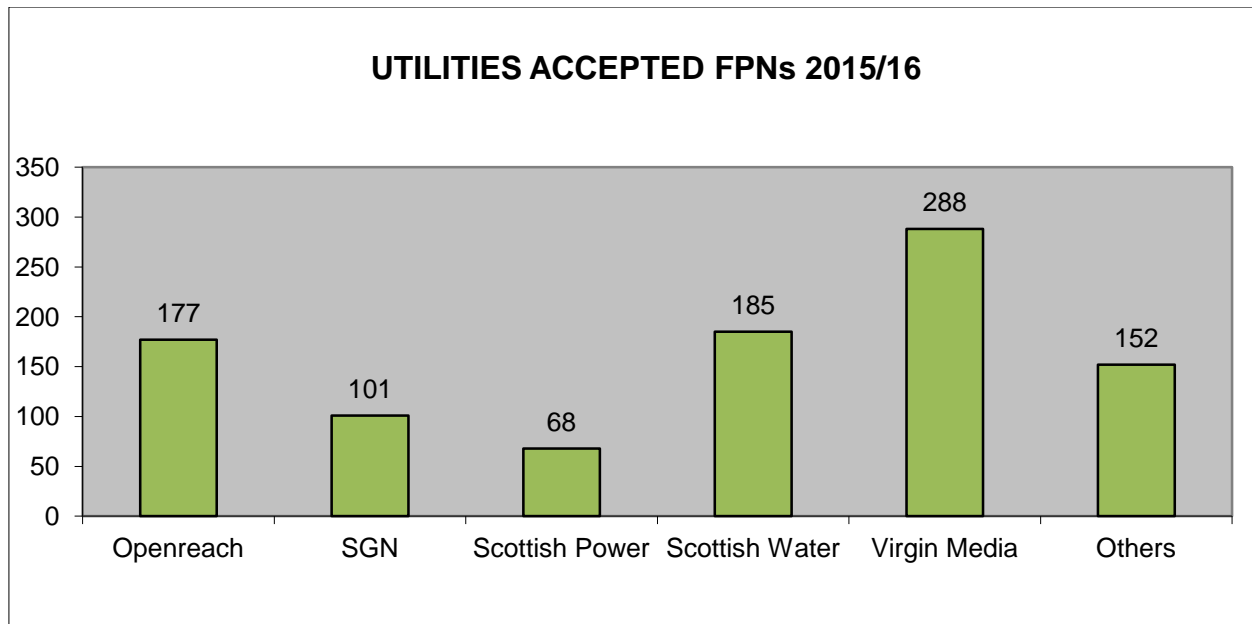


Graph 3.25B



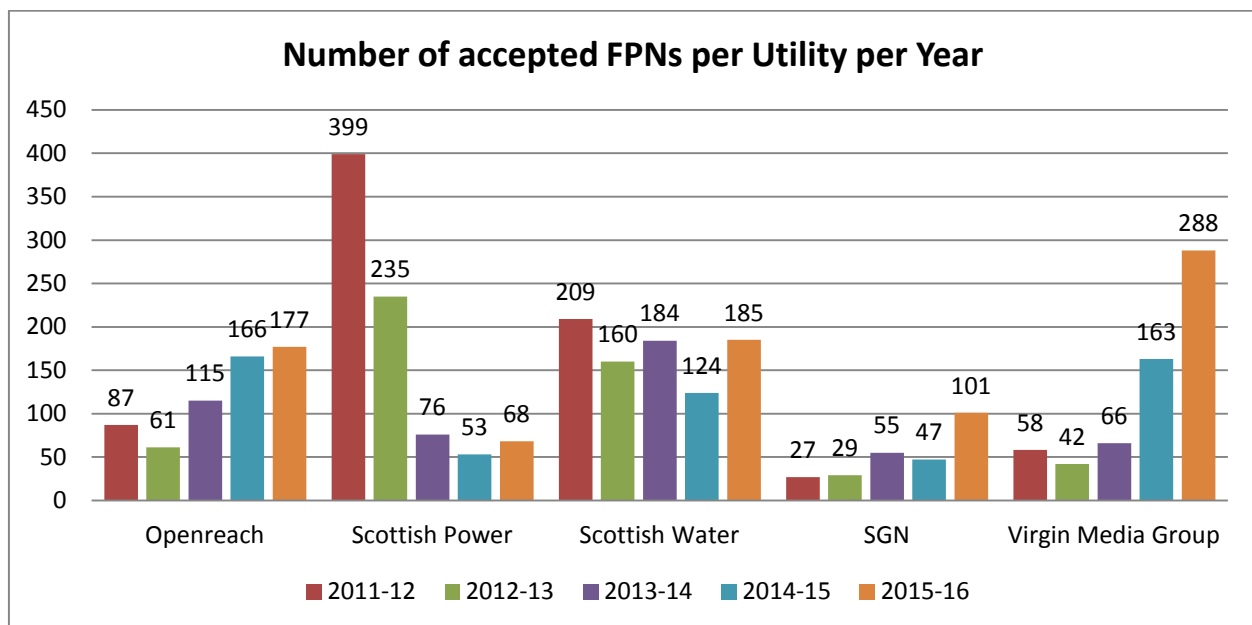
APPENDIX A

Graph 3.26



Virgin Media, Scottish Water and Openreach were issued with the highest number of Fixed Penalty Notices in 2015/16. This was due to their notices not being closed on time and/or no notice being received for their work. These recurring issues have been raised with them and the Council has received assurances that training will be carried out to address this matter.

Graph 3.27



All PUs failed to improve in the number of FPNs issued at the end of 2015/16. The FPNs were discussed at the Liaison meetings. Virgin Media, Scottish Water and Openreach had the most FPN's issued during 2015/16:

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.

APPENDIX A

Table 3.29

The percentage pass rate for each PU that has been placed on a Staged Improvement Notice.

Quarters used to gather performance information		Q 3-4 2013 & Q 1-2 2014	Q 1-4 2014	Q 3-4 2014 & Q 1-2 2015	Q 1-4 2015
Utility	Inspection Type	At Stage 1 Notice on 14 November 2014	At Stage 2 on 8 June 2015	At end of monitoring Period 31 October 2015	At 10 March 2016
Scottish Power	Sample A	78.9%	68.8%	72.1%	78.6%
	Sample B & C	91.6%	92.8%	92.1%	93.0%
Scottish Water	Sample A	81.0%	77.0%	74.2%	66.7%
	Sample B & C	82.0%	80.1%	77.4%	78.5%
SGN	Sample A	83.1%	80.6%	82.0%	85.7%
	Sample B & C	85.9%	85.6%	84.0%	80.5%
Openreach	Sample A	72.2%	47.8%	39.5%	48.2%
	Sample B & C	84.3%	80.7%	80.5%	80.5%
Virgin Media	Sample A	77.8%	63.6%	60.0%	55.6%
	Sample B & C	91.3%	87.3%	77.1%	78.4%

The Notice of Failure to Achieve Performance figures from the previous four quarters is used. Any failure rate, lower than 90%, resulted in a Staged Improvement Plan being requested. Scottish Power received an Improvement Notice for their Sample A failures only.

The target minimum pass rate for all PUs is 90%.