

Transport and Environment Committee

10.00am, Tuesday, 1 November 2016

Public Utility Company Performance 2016/17 Quarter 1 (April, May and June 2016)

Item number	8.4
Report number	
Executive/routine	Routine
Wards	All

Executive Summary

This report summarises the performance of Public Utility Companies (PUs) during the period April 2016 to June 2016 (Quarter 1), for the 2016/17 financial year.

The report comments on the performance and progress of the Citywide Network Team (formerly the Roadwork Support Team) 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 2016/17 Quarter 1 (April, May and June 2016)

1. Recommendations

- 1.1 It is recommended that the Transport and Environment Committee notes:
 - 1.1.1 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 road works. The Committee also agreed to instruct the Head of Planning and 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 three month period between April and June 2016.

3. Main report

Performance

- 3.1 The performance of each PU is monitored daily by the Citywide Network Team (formerly the Roadwork Support Team), 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 PUs 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 road works. 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 Quarter 1 was 7,545, as shown in Graph 3.11A. The numbers carried out in each month of Quarter 1 are shown in Graph 3.11B. The number of inspections carried out in Quarter 1 has reduced by 14.3% from those carried out in the same period in 2015/16. This is a result of the reduction in the total numbers of Inspectors from six to four. As part of the Transformation Programme all vacant Inspectors posts will be filled by the end of November 2016.
- 3.12 The average pass rate for inspected reinstatements was 78%, against a minimum target of 90%, as shown in Table 3.12. This is a reduction in performance of 2.5% since the end of 2015/16.

Sample Inspections

- 3.13 The total number of sample inspections carried out in Quarter 1 was 404, with the breakdown between each inspection type shown in Table 3.13.
- 3.14 The average percentage pass rate for each PU, at the end of Quarter 1, was 70% as shown in Table 3.14 and Graph 3.14. The target pass rate for all PUs is 90%. The low average result was due to no PU achieving the required 90% pass rate and CityFibre achieving a pass rate of only 18%.

Target Inspections

- 3.15 The cumulative number of target inspections carried out in Quarter 1 was 2,458, with the breakdown between each inspection type shown in Table 3.13.
- 3.16 The number of inspections carried out in Quarter 1 shows an increase of five inspections, when compared to the number carried out in the same period in 2015/16, as shown in Graph 3.16.

Utility Defective Apparatus

- 3.17 The total number of outstanding defective apparatus at the end of Quarter 1 was 653, an increase of 88 from the previous quarter. A breakdown for each PU is shown in Table 3.17. There was an increase in the number of outstanding defective apparatus of 15.6% when compared to the end of 2015/16.
- 3.18 The PU with the largest number of defective apparatus continues to be Scottish Water, with 482 items, as shown in Graph 3.18. This represents an increase of 67 defects since the end of 2015/16 and an increase of 149 defects at the end of Quarter 1 last year.

3.19 All PUs, with the exception of SGN and Virgin Media, increased the number of outstanding apparatus defects during each month of Quarter 1. Both SGN and Virgin Media did not however show any significant improvement during Quarter 1. For comparison, the figures for the end of the last four years are shown in Table 3.19.

Utility Defective Reinstatements

3.20 At the end of Quarter 1, the total number of outstanding defective reinstatements in Edinburgh was 1,024. A breakdown for each PU is shown in Table 3.20 and Graph 3.20.

3.21 Scottish Water continues to be the PU with the largest number of defective reinstatements although this number decreased by 3.5% 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 SGN and Openreach are the only PUs to show a significant reduction in the number of outstanding defects since the end of the previous quarter by 34.1% and 40.7% respectively.

3.23 Virgin Media has shown a 39.4% increase in the number of defective reinstatements since the previous quarter and a 180.5% increase since the same period last year.

3.24 CityFibre has shown a 265.9% increase in the number of defective reinstatements since the end of 2015/16. Increasing from 44 to 161 defects. Regular meetings are held with CityFibre to discuss their proposals to remedy this situation.

Registration and Fixed Penalty Notices (FPNs)

3.25 All roadworks on public roads must be registered on the Scottish Road Works Register (SRWR).

3.26 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.

3.27 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 Quarter 1 is shown in Graph 3.27.

3.28 The total number of FPNs accepted by PUs in Quarter 1 was 150. A further 58 FPNs were accepted by other agents in relation to Road Occupation Permits eg skips, scaffolding, etc.

- 3.29 The reasons for issuing a FPN was due to the following reasons:
- 3.29.1 CityFibre's notice to close or clear works once they were completed, were submitted late and they did not permanently reinstate their interim temporary reinstatements within six months.
 - 3.29.2 The Openreach notice to close or clear works was submitted late.
 - 3.29.3 Scottish Power undertook work prior to an agreed start date where no early start date was requested.
 - 3.29.4 Scottish Water commenced work without a notice or started late.
 - 3.29.5 SGN commenced work without a notice being submitted or their work started late.
 - 3.29.6 Virgin Media did not complete their interim reinstatements within its required six months.
- 3.30 These recurring issues have been raised with each PU and the Council has received assurances that training will be carried out to address this matter.

Improvement Plans

- 3.31 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).
- 3.32 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.
- 3.33 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, was passed to the Scottish Road Works Commissioner on 31 August 2016. Each PUs performance data was included in the report together with performance information since the end of the official monitoring period. This report detailed their failure to comply with duties under the New Roads and Street Works Act 1991 and, in particular, their failure to achieve satisfactory levels of performance.

The Edinburgh Road Works Ahead Agreement (ERWAA)

- 3.34 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.
- 3.35 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.

- 3.36 Discussions have taken place with each PU to determine which ones are prepared to sign the ERWAA. A further meeting of the Member/Officer Working Group will be arranged before the end of November to discuss the next steps with regard to the ERWAA document. An update will be provided in the Quarter 2 report.

Proposals for 2016/2017

- 3.37 A Lane Rental is a means by which a Road Authority can impose on a PU, a charge for each day during which works occupy the Road. This is commonly referred to as "lane rental" scheme.
- 3.38 Primary Legislation exists in England governing this and is used in some English Local Authorities. Although there is currently no Primary Legislation to allow this in Scotland, it is proposed to investigate the benefits of Lane Rental within Edinburgh.
- 3.39 A report of the findings together with recommendations will be included in the Quarter 3 performance report.

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.

5. Financial impact

- 5.1 The revenue streams associated with sample and repeat inspections of failed PU reinstatements did not achieve the budget of £71,743 for Quarter 1. The total revenue from the charges levied for the failed inspections was £42,372 at the end of June 2016. This was as a result of late submissions to the Councils payments unit and it is anticipated that the annual projected Revenue will be achieved.
- 5.2 The number of failures found, through sample and repeat inspections of PU reinstatements during Quarter 1, amounts to £168,336 (£36 per eligible inspection). Some of the failed inspections have yet to be accepted by PUs. It is within their right to decline failures and 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 £15,149 with a total revenue from the charges levied of £16,592 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 has 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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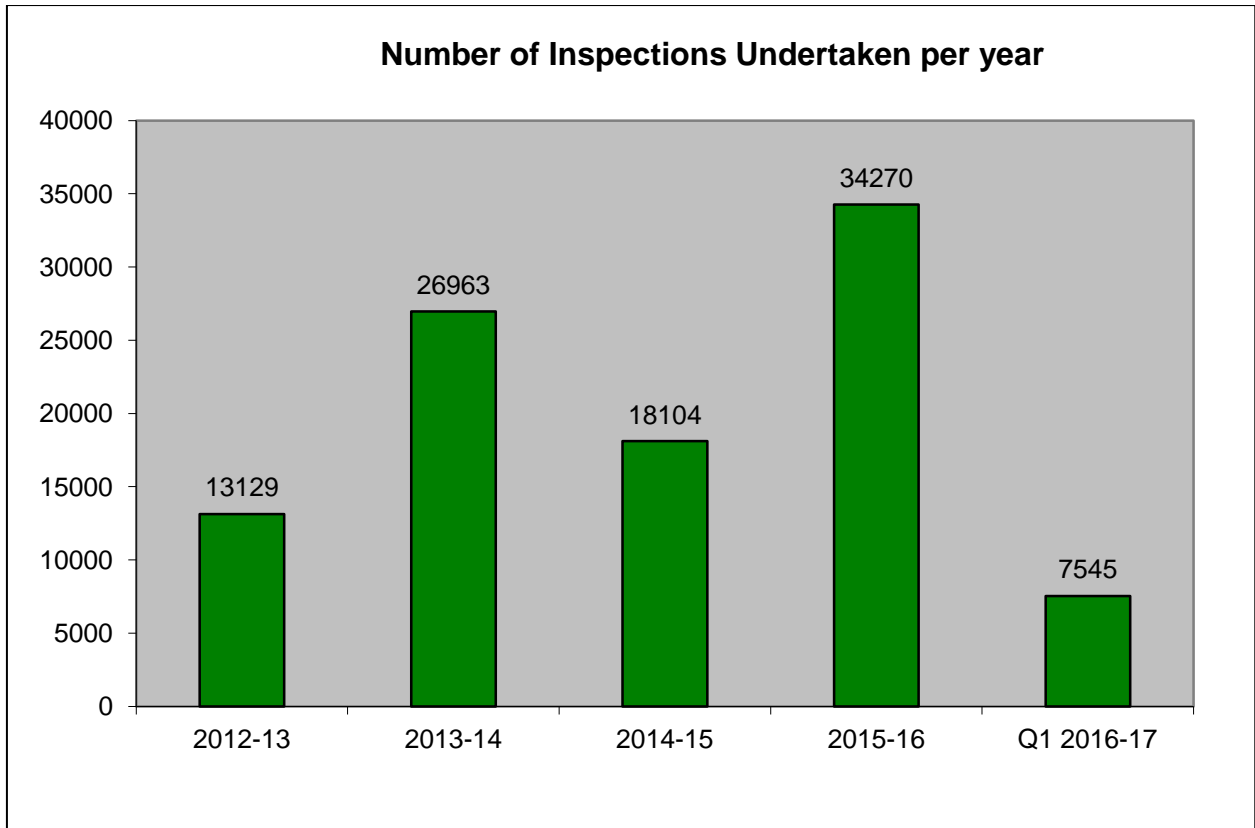
E-mail: stuart.harding@edinburgh.gov.uk | Tel: 0131 529 3704

11. Links

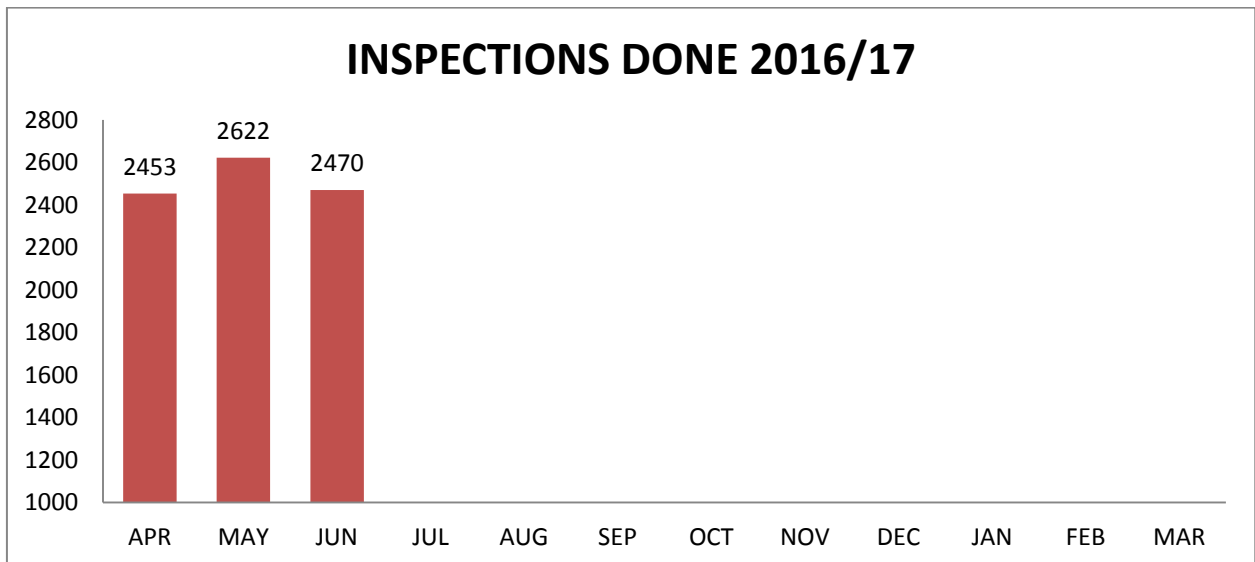
Coalition pledges	P28 - Further strengthen links with the business community by developing and implementing strategies to promote and protect the economic well being of the city. P33 - Strengthen Neighbourhood Partnerships and further involve local people in decisions on how Council resources are used.
Council priorities	CP4 - Safe and empowered communities CP12 - A built environment to match our ambition
Single Outcome Agreement	SO4 - Edinburgh's communities are safer and have improved physical and social fabric.
Appendices	Appendix A - Utility Company Performance Information 2016/17

APPENDIX A

Graph 3.11A



Graph 3.11B



In Quarter 1 there were 7,545 inspections carried out. The estimated target of 20,000 inspections will be achieved this year.

APPENDIX A

Table 3.12

Average pass rate for ALL PUs

	No of Failures	% Pass Rate
SAMPLE INSPECTIONS	109/464	77%
Category A	52/168	69%
Category B	37/158	76.6%
Category C	20/138	85.5%
TARGET INSPECTIONS	558/2,458	77.3%
Category A	14/21	33.3%
Category B	371/1,359	72.7%
Category C	173/1,078	84%
DEFECTIVE REINSTATEMENTS	601/2,733	78%

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

APPENDIX A

Table 3.13

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	168	158	138	-	404
TARGET INSPECTION	21	1,359	1,078	-	2,458
DEFECTIVE APPARATUS	-	-	-	228	228
DEFECTIVE REINSTATEMENT	-	-	-	4,039	4,039
INSPECTIONS RELATED TO CORING	-	-	-	177	177
OTHERS	-	-	-	179	179
TOTAL	189	1,517	1,216	23,263	7,545

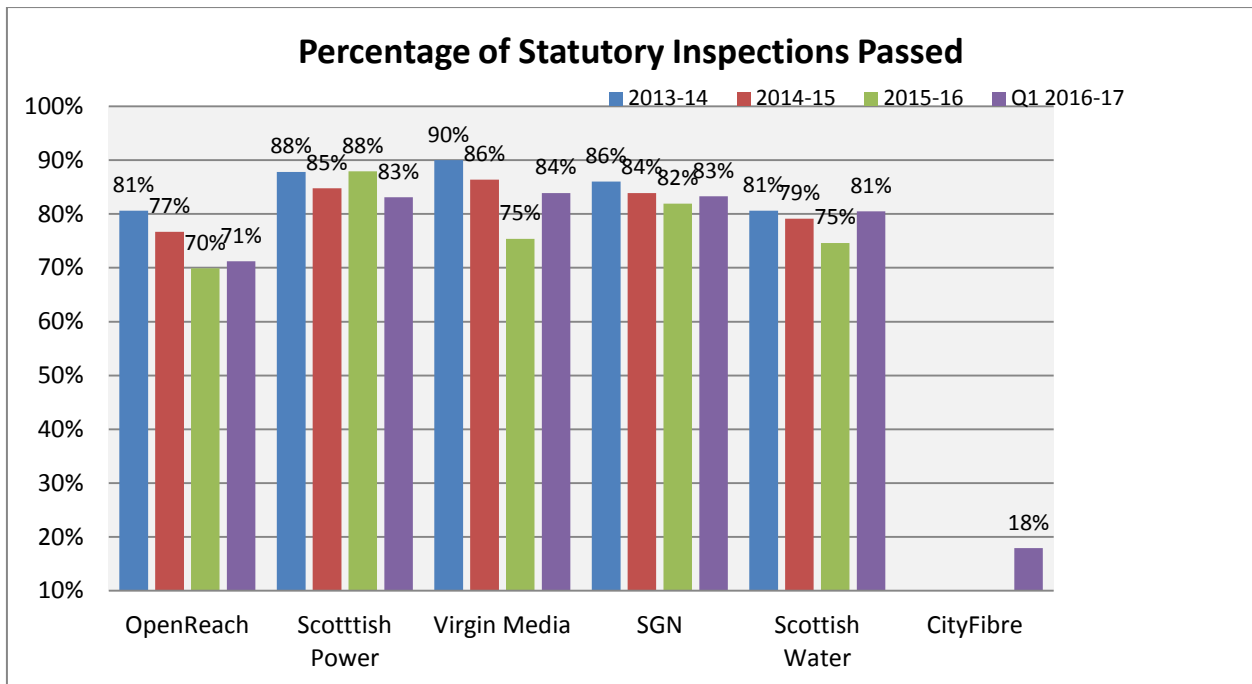
Table 3.14

The table below shows the average percentage pass rate for Sample Inspections for each PU during Quarter 1. The target minimum pass rate for all PUs is 90%.

	Openreach	Scottish Power	Virgin Media	SGN	Scottish Water	City Fibre	Average
Pass Rate	71%	83%	84%	83%	81%	18%	70%

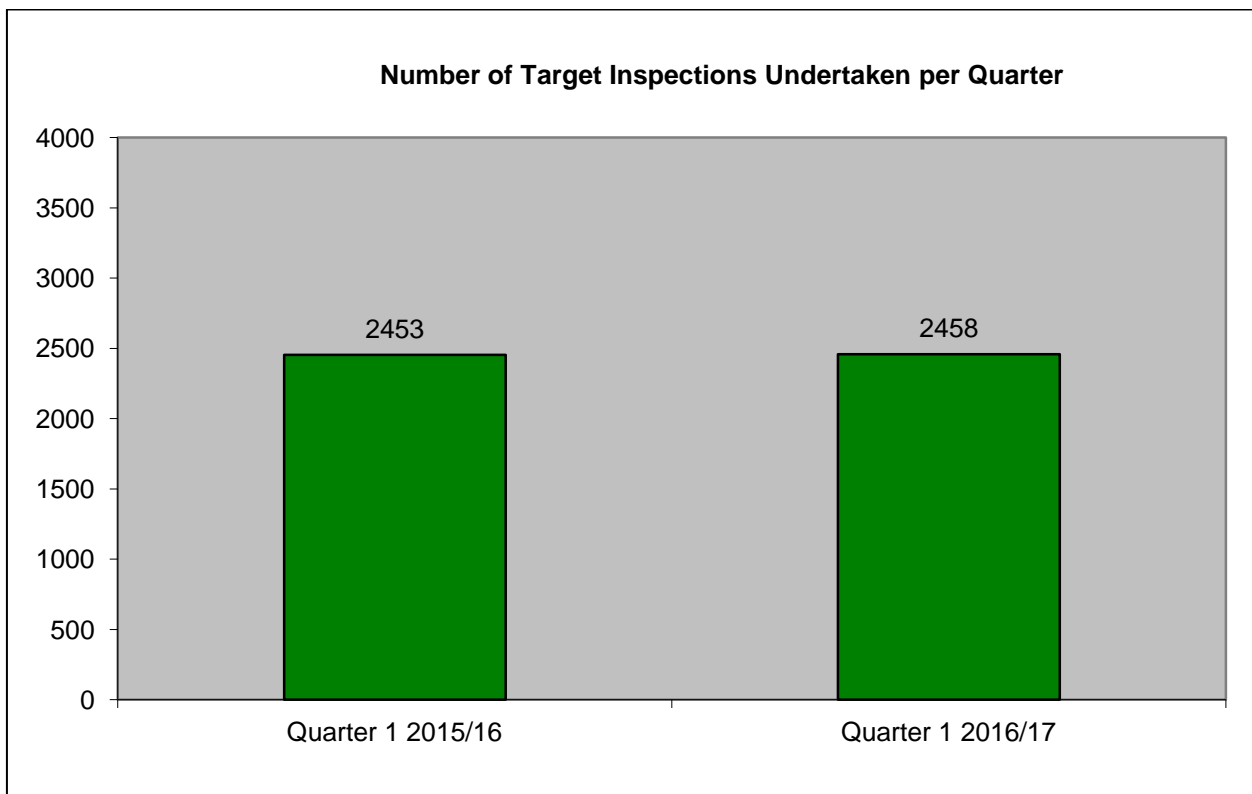
APPENDIX A

Graph 3.14



No PU achieved the target pass rate of 90% by the end of Quarter 1.

Graph 3.16



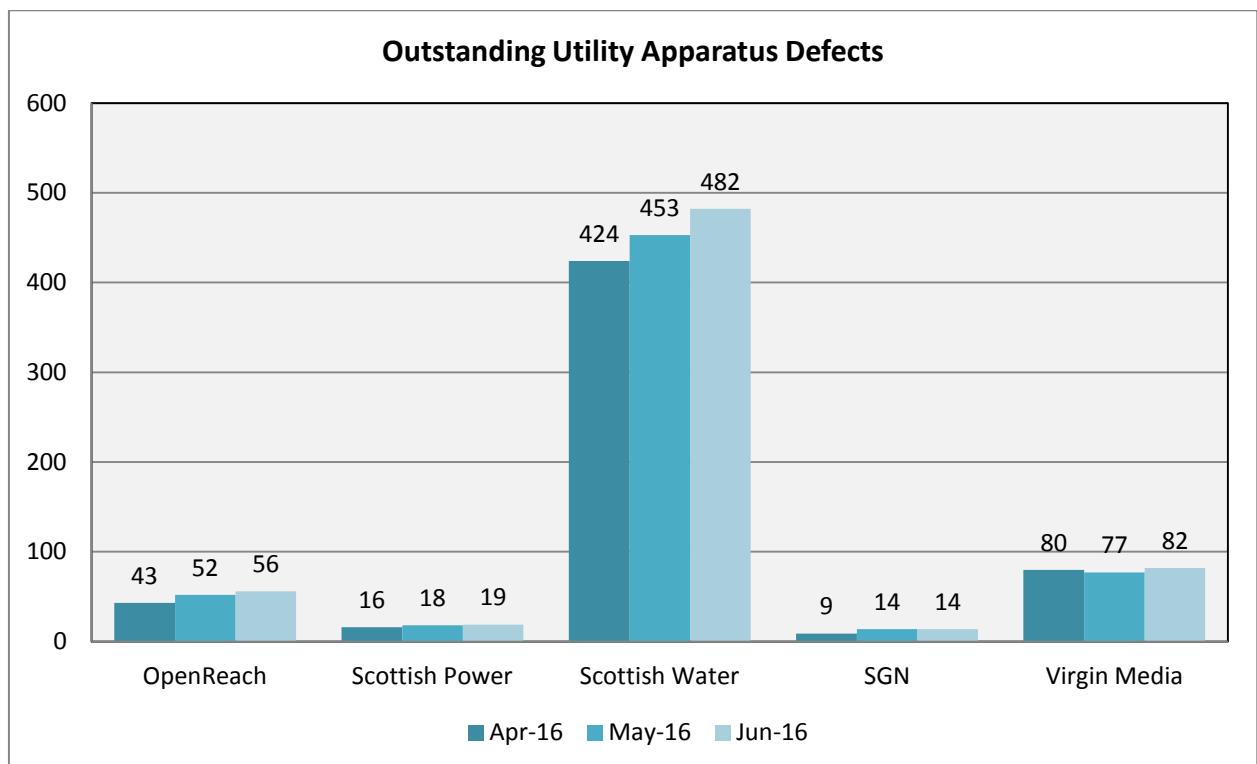
APPENDIX A

Table 3.17

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

Utility	Q2 (2015/16)	Q3 (2015/16)	Q4 (2015/16)	Q1 (2016/17)	Difference Q3 to Q4
SGN	14	15	11	14	3 (27.3%)
Scottish Water	373	483	415	482	67 (16.1%)
Openreach	37	63	45	56	11 (24.4%)
Scottish Power	11	10	15	19	4 (26.7%)
Virgin Media	51	67	79	82	3 (3.8%)
Totals	486	638	565	653	88 (15.6%)

Graph 3.18



The number of outstanding defects for Scottish Water (at 482) is a long standing issue, which has been raised as a specific concern and included in their Stage 2 Improvement Notice.

APPENDIX A

Table 3.19

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 and Quarter 1 of 2016/17.

PU	End of 2012/13	End of 2013/14	End of 2014/15	End of 2015/16	Quarter 1 of 2016/17
Openreach	53	51	144	45	56
SGN	22	8	21	11	14
Scottish Power	8	5	26	15	19
Scottish Water	582	470	462	415	482
Virgin Media	27	19	20	79	82

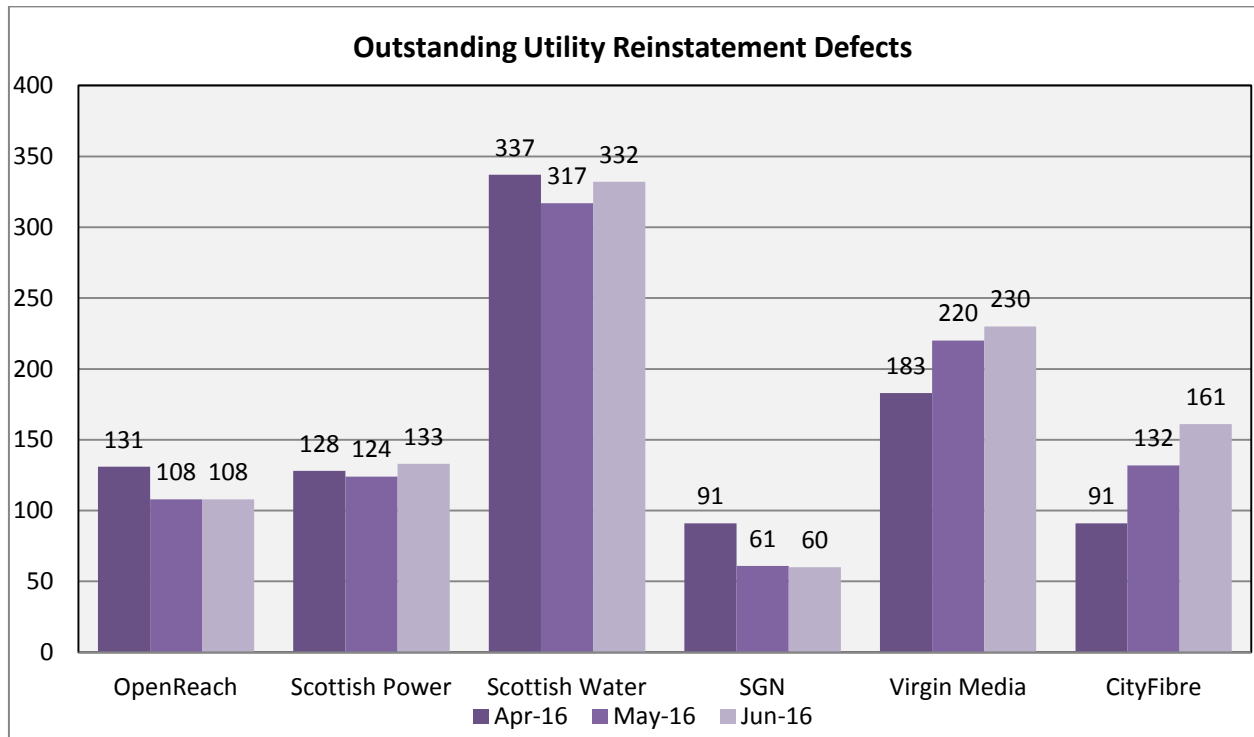
Table 3.20

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

Utility	Q2 (2015/16)	Q3 (2015/16)	Q4 (2015/16)	Q1 (2016/17)	Difference Q3 to Q4
SGN	113	105	91	60	-31 (-34.1%)
Scottish Water	473	440	344	332	-12 (-3.5%)
Openreach	135	174	182	108	-74 (-40.7%)
Scottish Power	110	115	124	133	9 (7.3%)
Virgin Media	104	99	165	230	65 (39.4%)
CityFibre	3	6	44	161	117 (265.9%)
Totals	938	939	950	1024	74 (7.8%)

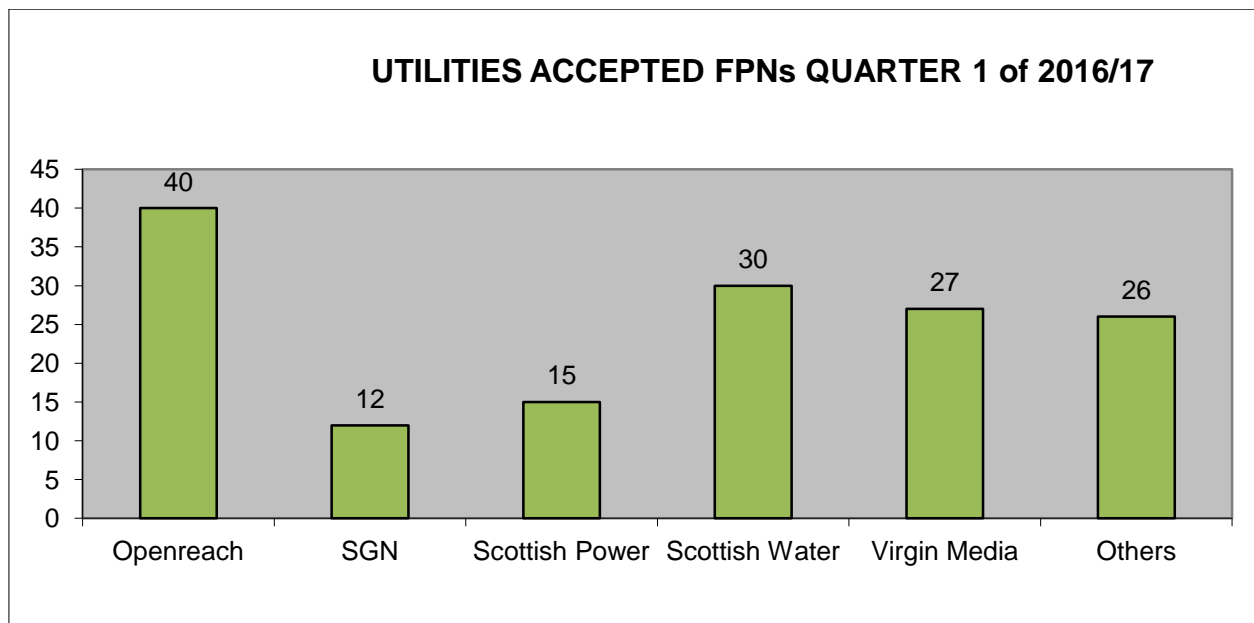
APPENDIX A

Graph 3.20



The number of outstanding defective reinstatements has increased during Quarter 1.

Graph 3.27



Virgin Media, Scottish Water and Openreach were issued with the highest number of Fixed Penalty Notices in Quarter 1.