

Transport and Environment Committee

10.00am, Tuesday, 17 January 2017

Public Utility Company Performance 2016/17 Quarter 2 (July, August and September 2016)

Item number	8.3
Report number	
Executive/routine	Routine
Wards	All

Executive Summary

This report summarises the performance of Public Utility Companies (PUs) during the period July to September 2016 (Quarter 2), 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 Inspectors who, following the Transformation Programme, have now been employed on a permanent basis. These Inspectors assist with monitoring the performance of PUs and will continue the initiative of inspecting 100% of PU reinstatements.

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

Links

Coalition pledges	P28 and P33
Council priorities	CP4 and CP12
Single Outcome Agreement	SO4

Public Utility Company Performance 2016/17 Quarter 2 (July, August and September 2016)

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 PUs.

2. Background

- 2.1 The New Roads and Street Works Act 1991, as amended by the Transport (Scotland) Act 2005, gives statutory undertakers or PUs (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 PU Performance Reports and instructed the Head of Planning and 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 July and September 2016.

3. Main report

Performance

- 3.1 The performance of each PU is monitored daily by the Citywide Network 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 1.

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 notices registered by PUs. 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). A sample inspection of the traffic management used at live sites is also undertaken.
- 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 2 was 6,670. The figures for Q1 and 2 are shown in Graph 3.11A. The numbers carried out in each month of Quarter 2 are shown in Graph 3.11B. The number of inspections carried out in Quarter 2 has reduced by 22.0% 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. At the time of writing this report two vacancies remain to be filled however it is expected that all vacant Inspectors posts will be filled by January 2017.
- 3.12 The average pass rate for inspected reinstatements was 79.4%, against a minimum target of 90%, as shown in Table 3.12. This is an improvement in performance of 1.4% since Quarter 1.

Sample Inspections

- 3.13 The total number of sample inspections carried out in Quarter 2 was 418, 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 2, was 69% 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 20%.
- 3.15 The Sample Inspections of the reinstatements carried out by PUs, between January and June 2016, had the poorest performance in Quarter 2, with an average pass rate of 64.5%. The reinstatements that failed the Council's Sample Inspections have been passed to the relevant PU with requests to carry out remedial work to ensure the reinstatements meet the required specification.

Target Inspections

- 3.16 The cumulative number of target inspections carried out in Quarter 2 was 1,419, with the breakdown between each inspection type shown in Table 3.13.
- 3.17 The number of inspections carried out in Quarter 2 shows a reduction of 785 inspections, when compared to the number carried out in the same period in 2015/16, as shown in Graph 3.17. This is due to the reduction in the numbers of Inspectors referred to in 3.11.

Utility Defective Apparatus

- 3.18 The total number of outstanding defective apparatus at the end of Quarter 2 was 683, an increase of 30 from the previous quarter. A breakdown for each PU is shown in Table 3.18. There was an increase in the number of outstanding defective apparatus of 20.9% when compared to the end of 2015/16.
- 3.19 The PU with the largest number of defective apparatus continues to be Scottish Water, with 499 items, as shown in Graph 3.19. This represents an increase of 85 defects since the end of 2015/16 and a reduction of 26 defects when compared to the end of Quarter 2 last year.
- 3.20 Both SGN and Virgin Media reduced the number of outstanding apparatus defects during each month of Quarter 2. For Openreach and Scottish Power the number of defective apparatus increased during Quarter 2. Scottish Water reduced the number of defects from July to August however the number of defects increased again from August to September. 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 Quarter 2, the total number of outstanding defective reinstatements in Edinburgh was 941. A breakdown for each PU is shown in Table 3.21 and Graph 3.21.
- 3.22 Scottish Water had significantly reduced the number of outstanding defective reinstatements by the end of Quarter 2. Whilst Scottish Water continues to be the PU with the largest number of defective reinstatements, this number decreased by 19.9% from the previous quarter. Scottish Water was the only PU that reduced the number of outstanding defects each month during Quarter 2.
- 3.23 SGN showed an increase in defective reinstatements each month during Quarter 2. The number of outstanding defects since the end of Quarter 1 reduced by 8.3%.
- 3.24 Openreach showed a reduction in the number of defective reinstatements of 20.4% when compared to Quarter 1.
- 3.25 Scottish Power and Virgin Media have also shown a reduction in the number of defective reinstatements since Quarter 1 of 12.0% and 2.2% respectively.
- 3.26 CityFibre has shown a 19.3% increase in the number of defective reinstatements since Quarter 1, increasing from 161 to 192 defects. Regular meetings are held with CityFibre to discuss its proposals to remedy this situation.

Registration and Fixed Penalty Notices (FPNs)

- 3.27 All road works on public roads must be registered on the Scottish Road Works Register (SRWR).

- 3.28 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.
- 3.29 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 2 is shown in Graph 3.29.
- 3.30 The total number of FPNs accepted by PUs in Quarter 2 was 177. A further 34 FPNs were accepted by other agents in relation to Road Occupation Permits eg skips, scaffolding, etc.
- 3.31 The reasons for issuing a FPN were due to the following:
- 3.31.1 CityFibre commencing work after the scheduled start date and failure to permanently reinstate its interim temporary reinstatements within six months.
 - 3.31.2 Openreach notice to close or clear works was submitted late and did not permanently reinstate its interim temporary reinstatements within six months.
 - 3.31.3 Scottish Power undertook work prior to an agreed start date where no early start date was requested and the works closed notice was submitted late.
 - 3.31.4 Scottish Water commenced work without a notice or started late and did not register that work had been completed.
 - 3.31.5 SGN commenced work without a notice being submitted or their work started late.
 - 3.31.6 Virgin Media did not complete their interim reinstatements within the required six months.
- 3.32 These recurring issues have been raised with each PU and the Council has received assurances that training will be carried out to address these matters.

Improvement Plans

- 3.33 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 from the Scottish Road Works Register at the end of Quarter 3 (December 2015).

- 3.34 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.
- 3.35 Following analysis of the performance figures for each PU, all five PUs failed to show any significant improvement in performance. A report, on each PU's failure, has been passed to the Scottish Road Works Commissioner. Each PU's 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.
- 3.36 A meeting will be arranged with the Commissioner in January 2017 to discuss this poor performance and an update will be provided in the March 2017 report to this Committee.

The Edinburgh Road Works Ahead Agreement (ERWAA)

- 3.37 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](#).
- 3.38 As requested at the Committee meeting of [25 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.
- 3.39 A further meeting of the Member/Officer Working Group took place on 9 November 2016 where it was agreed that all PUs will be invited to attend a signing ceremony on 24 January 2017. All PUs will be given the opportunity to take part in the ceremony together with the media who will also be invited to attend.

Proposals for 2016/17 - Lane Rental Scheme

- 3.40 Information was provided in the Quarter 1 report on the Lane Rental Scheme and the proposal to investigate the potential benefits of a scheme in Edinburgh. Work is ongoing and the findings and recommendations will be included in the August 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.

- 4.2 It is intended to issue Customer Satisfaction cards in locations where major schemes of work have been undertaken by PUs. Following the Transformation Programme, this should now be carried out by Business Support Services. Discussions are taking place to agree procedures for taking this forward.

5. Financial impact

- 5.1 The revenue streams associated with sample and repeat inspections of failed PU reinstatements did not achieve the budget of £143,486 for Quarter 2. The total fees received from inspection of the failed reinstatements amounted to £65,232 at the end of September 2016. This was as a result of late submissions to the Council's payments unit and it is anticipated that the annual projected fee recovery will be achieved.
- 5.2 The number of failures found, through sample and target inspections of PU reinstatements during Quarter 1 and 2, amounts to £342,468 (£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 this results in meetings being held to discuss each of the failures placed onto the Scottish Road Works Register.
- 5.3 The revenue associated with FPNs exceeded the budget (April to September), of £30,297 with the total revenue from the charges levied of £37,805 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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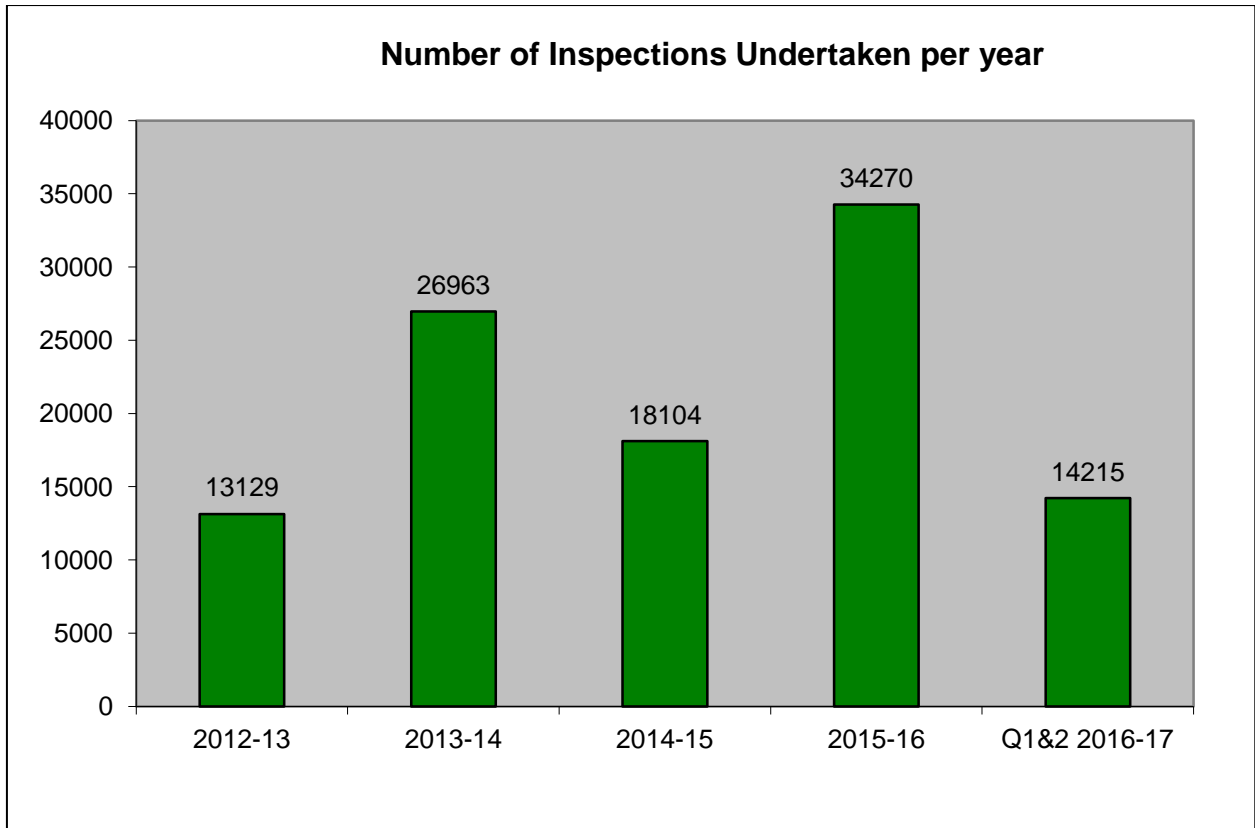
E-mail: stuart.harding@edinburgh.gov.uk | Tel: 0131 529 3704

11. Links

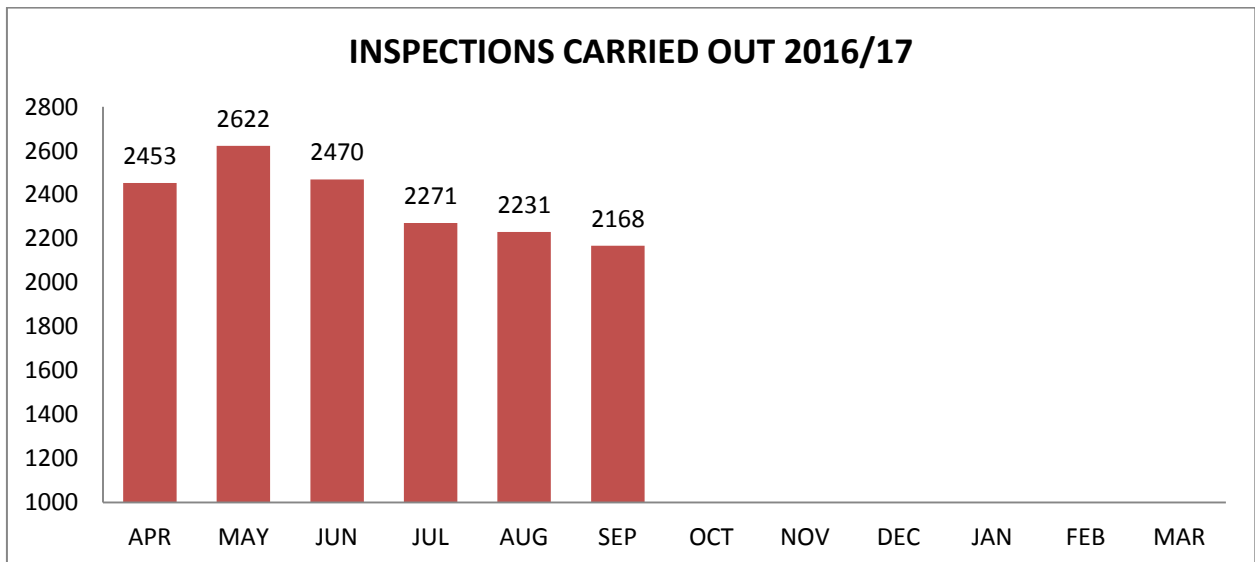
Coalition pledges	P28 - Further strengthen links with the business community by developing and implementing strategies to promote and protect the economic well being of the city. P33 - Strengthen Neighbourhood Partnerships and further involve local people in decisions on how Council resources are used.
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 1 - Utility Company Performance Information 2016/17

APPENDIX 1

Graph 3.11A



Graph 3.11B



In Quarter 2 there were 6,670 inspections carried out. The estimated target of 20,000 inspections will be achieved this year.

APPENDIX 1

Table 3.12

Average pass rate for ALL PUs

	No of Failures	% Pass Rate
SAMPLE INSPECTIONS	117/418	72%
Category A	23/85	73%
Category B	66/186	64.5%
Category C	28/147	81%
TARGET INSPECTIONS	267/1419	81%
Category A	2/10	80%
Category B	123/467	73.7%
Category C	142/942	85%
DEFECTIVE REINSTATEMENTS	359/1742	79.4%

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

APPENDIX 1

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	85	186	147	-	418
TARGET INSPECTION	10	467	942	-	1419
DEFECTIVE APPARATUS	-	-	-	206	206
DEFECTIVE REINSTATEMENT	-	-	-	4249	4249
INSPECTIONS RELATED TO CORING	-	-	-	190	190
OTHERS	-	-	-	188	188
TOTAL	95	653	1089	4833	6670

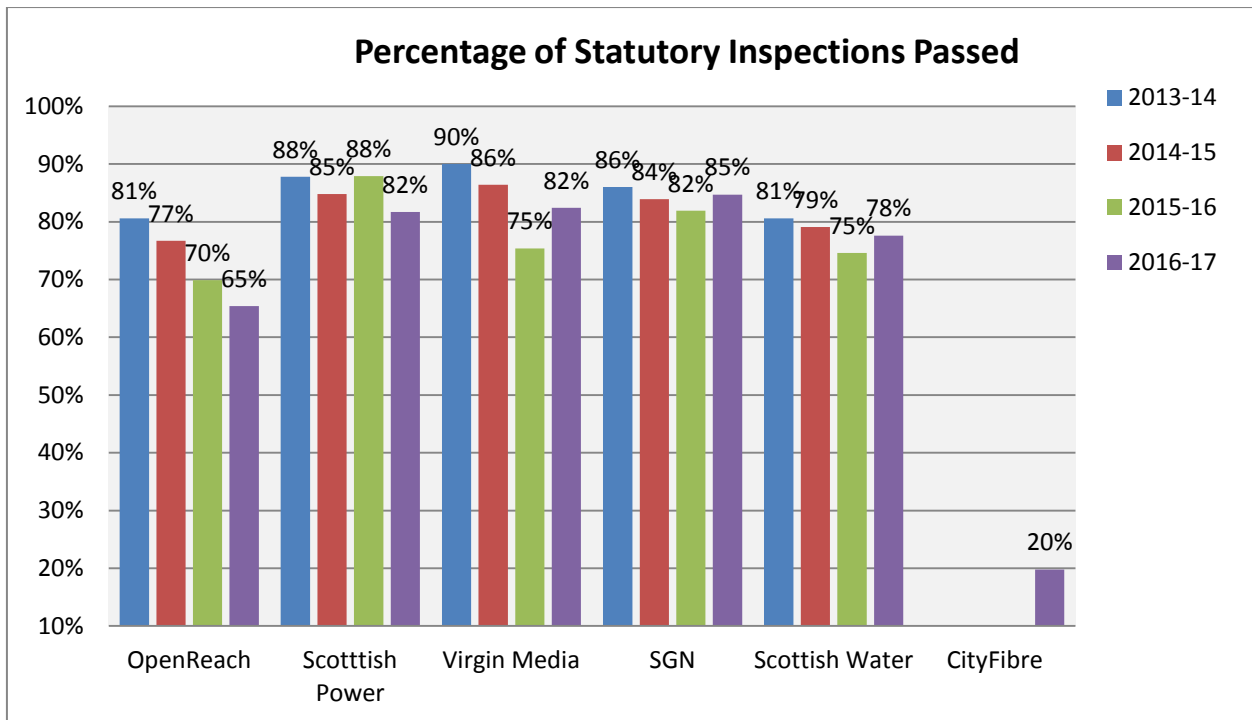
Table 3.14

The table below shows the average percentage pass rate for Sample Inspections for each PU during Quarter 2. The target minimum pass rate for all PUs is 90%.

	Openreach	Scottish Power	Virgin Media	SGN	Scottish Water	City Fibre	Average
Pass Rate	65%	82%	82%	85%	78%	20%	69%

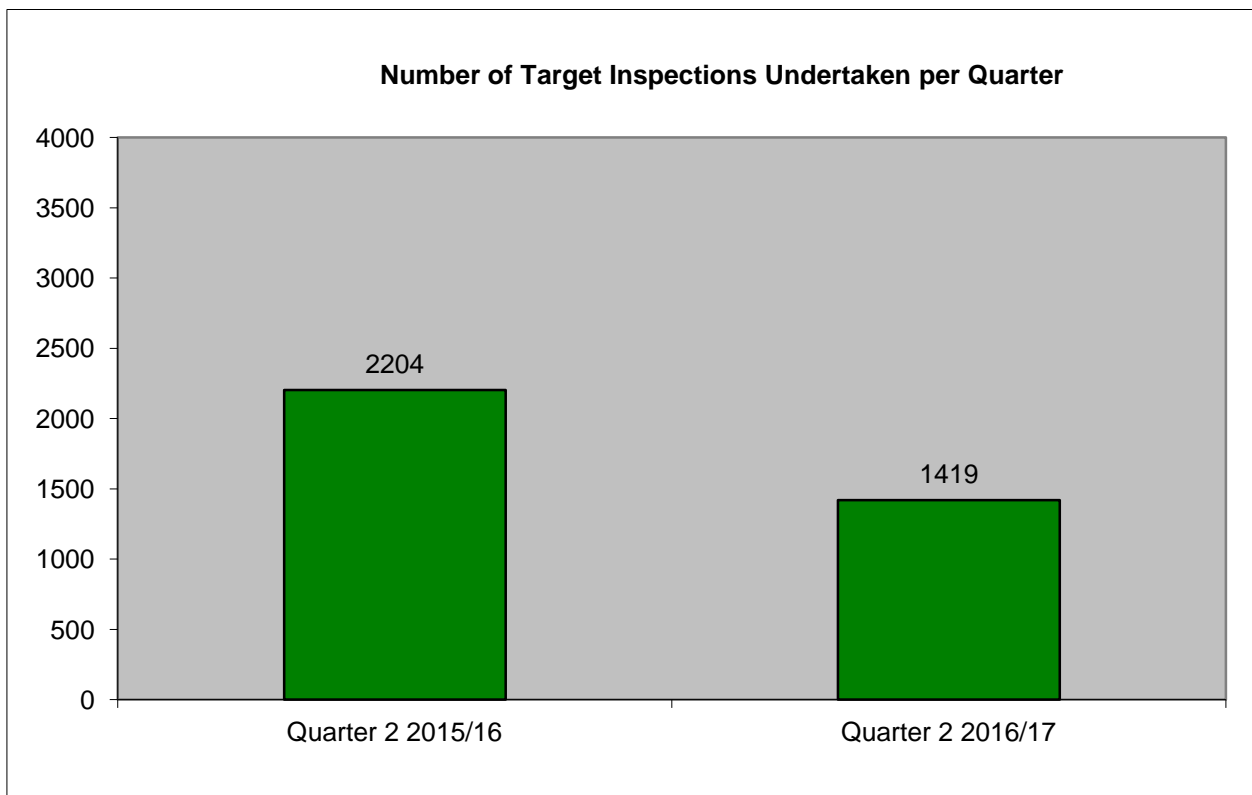
APPENDIX 1

Graph 3.14



No PU achieved the target pass rate of 90% by the end of Quarter 2.

Graph 3.17



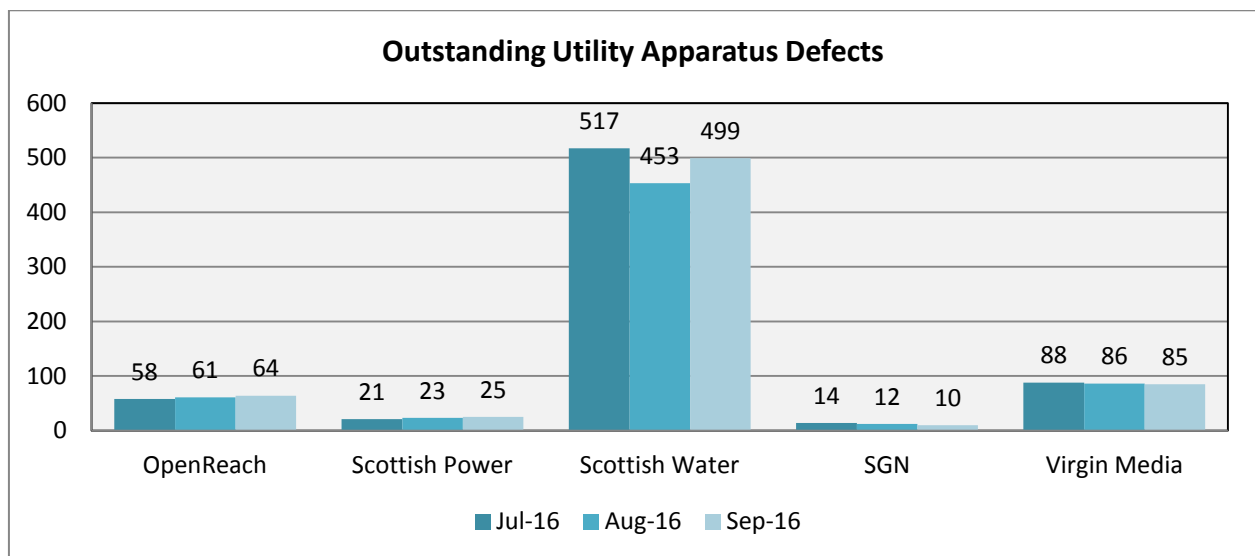
APPENDIX 1

Table 3.18

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

Utility	Q3 (2015/16)	Q4 (2015/16)	Q1 (2016/17)	Q2 (2016/17)	Difference Q1 to Q2
SGN	15	11	14	10	-4 (-28.6%)
Scottish Water	483	415	482	499	17 (3.5%)
Openreach	63	45	56	64	8 (14.3%)
Scottish Power	10	15	19	25	6 (31.6%)
Virgin Media	67	79	82	85	3 (3.7%)
Totals	638	565	653	683	30 (4.6%)

Graph 3.19



The number of outstanding defects for Scottish Water (at 499) remains a long standing issue, which has been raised as a specific concern and included in their Stage 2 Improvement Notice.

APPENDIX 1

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 and Quarter 2 of 2016/17.

PU	End of 2012/13	End of 2013/14	End of 2014/15	End of 2015/16	Quarter 2 of 2016/17
Openreach	53	51	144	45	64
SGN	22	8	21	11	10
Scottish Power	8	5	26	15	25
Scottish Water	582	470	462	415	499
Virgin Media	27	19	20	79	85

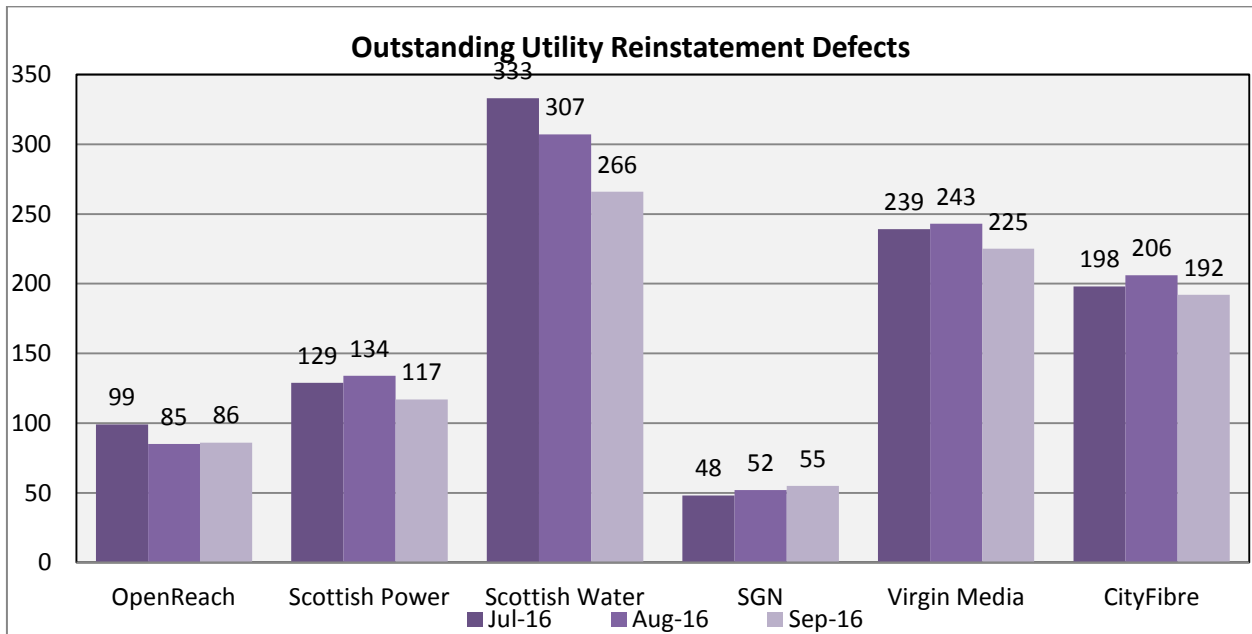
Table 3.21

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

Utility	Q3 (2015/16)	Q4 (2015/16)	Q1 (2016/17)	Q2 (2016/17)	Difference Q1 to Q2
SGN	105	91	60	55	-5 (-8.3%)
Scottish Water	440	344	332	266	-66 (-19.9%)
Openreach	174	182	108	86	-22 (-20.4%)
Scottish Power	115	124	133	117	-16 (-12.0%)
Virgin Media	99	165	230	225	-5 (-2.2%)
CityFibre	6	44	161	192	31 (19.3%)
Totals	939	950	1024	941	-83 (-8.1%)

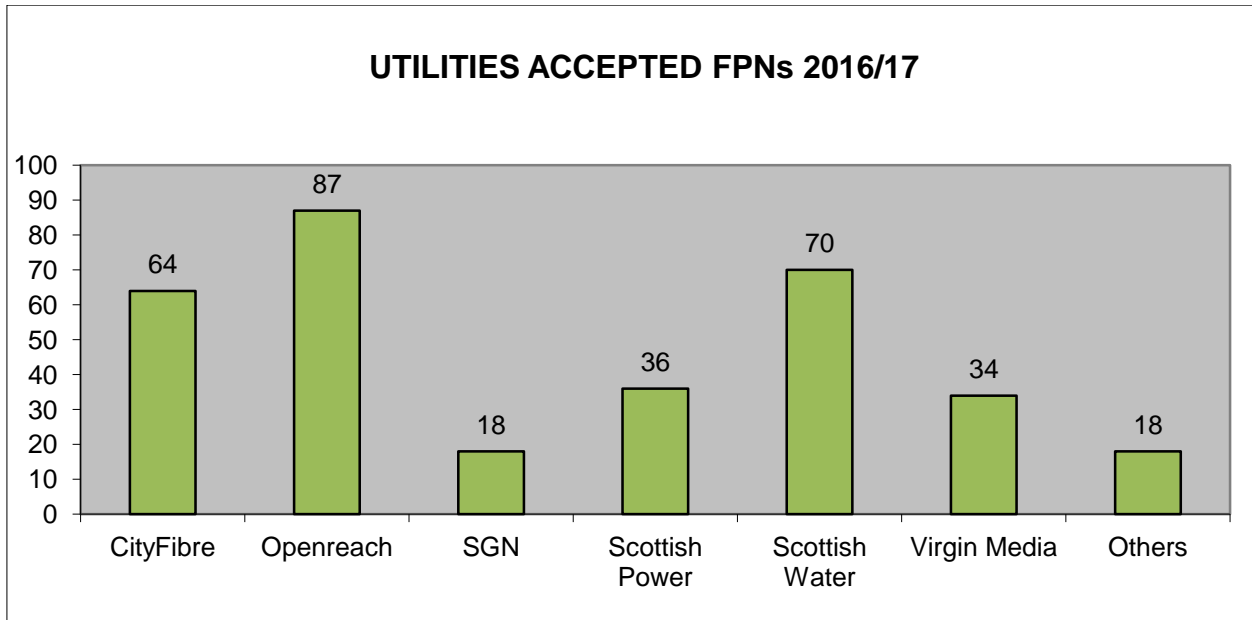
APPENDIX 1

Graph 3.21



The number of outstanding defective reinstatements has increased during Quarter 2.

Graph 3.29



CityFibre, Scottish Water and Openreach were issued with the highest number of Fixed Penalty Notices in Quarter 2.