

# Transport and Environment Committee

10.00am, Tuesday, 17 March 2015

## Public Utility Company Performance 2014/15 Quarter 3 (October, November and December 2014)

Item number	7.15
Report number	
Executive	
Wards	All

### Executive summary

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This report summarises the performance of Public Utility Companies (PUs) during the period October 2014 to December 2014 (Quarter 3), 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	<a href="#">P28</a> and <a href="#">P33</a>
Council outcomes	<a href="#">CO19</a> and <a href="#">CO26</a>
Single Outcome Agreement	<a href="#">SO4</a>

## Public Utility Company Performance 2014/15 Quarter 3 (October, November and December 2014)

### Recommendations

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- 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

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- 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 roadworks. 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 period from October 2014 to December 2014.

### Main report

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#### 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.

### **Inspections**

- 3.7 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 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.

- 3.8 The two areas that are inspected and monitored closely are PU reinstatements and PU defective apparatus (manholes, toby covers, valve and inspection/access covers).
- 3.9 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.
- 3.10 The total number of all inspections carried out in Quarter 3 was 3,823, as shown in Graph 3.10A. The numbers carried out in each month of Quarter 3 is shown in Graph 3.10B. The average failure rate for reinstatements inspected was 11.96%, against a target of 10% as shown in Table 3.10B. This is an improvement of 0.74% from 12.7% at the end of 2013/14.
- 3.11 The number of inspections carried out in Quarter 3 has decreased from the number carried out in Quarter 3 of 2013/14 and is shown in Graph 3.10A. The team of six Inspectors reduced to three, during the previous year, due to them leaving their employment with the Council. A recruitment exercise has led to the employment of two new Inspectors. The recruitment of a sixth Inspector is underway.

### **Sample Inspections**

- 3.12 The total number of sample inspections carried out in Quarter 3 was 477. The breakdown between each inspection type is shown in Table 3.12A. The average failure rate for all PUs is shown in Table 3.12B.
- 3.13 The percentage pass rate for each PU, at the end of Quarter 3, is shown in Table 3.13 and Graph 3.13 and is compared with the percentage pass rate at the end of Quarter 4 for the previous four years. The target pass rate for all PUs is 90%.
- 3.14 There has been no improvement in sample A and B inspection types in Quarter 3, compared to Quarter 2. However, there has been a decrease in category C failures (1.1%) this quarter, compared to Quarter 2. Over all categories there has been a 2.2% increase in failures in Quarter 3 compared to Quarter 2, as shown in Table 3.12B.

### **Target Inspections**

- 3.15 The number of target inspections carried out in Quarter 3, in addition to the above sample inspections, was 1,549. The breakdown between each inspection type is shown in Table 3.12A. The average failure rate for all PUs is shown in Table 3.12B.
- 3.16 There has been an improvement in Category B target inspections (17.1%) but a small increase in failures (0.3%) in Category C types in Quarter 3, compared to Quarter 2. Overall there has been an increase in failures (4.25%) in Quarter 3 compared to Quarter 2, as shown in Table 3.12B.

## **Utility Defective Apparatus**

- 3.17 The total number of outstanding defective apparatus at the end of Quarter 3 was 901. A breakdown for each PU is shown in Table 3.17. This represents an increase of 62.9% when compared to Quarter 4 (2013/14) and an increase of 38.4% when compared with Quarter 1 (2014/15).
- 3.18 The PU with the largest numbers of defective apparatus continues to be Scottish Water (SW), with 685 items followed by Openreach with 135 items. A comparison of the three months in Quarter 3 is shown in Graph 3.18.

## **Utility Defective Reinstatements**

- 3.19 Every PU has seen an increase in the number of outstanding defective reinstatements, at the end of Quarter 3. A breakdown for each PU is shown in Table 3.19 and Graph 3.19. At the end of Quarter 4 (2013/14), the total number of outstanding defective reinstatements in Edinburgh was 637. At the end of Quarter 3 this reduced to 427, an improvement of 33%. SW continues to have the largest number of defective reinstatements, although it has reduced this number by 119 (40.9%) since Quarter 4 (2013/14). SGN has not shown any improvement this quarter, in the numbers of outstanding defective reinstatements and has shown a negative trend in Quarter 3.
- 3.20 The inspections, as discussed in paragraph 3.10, are responsible for identifying and reporting failures and have had a direct effect 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**

- 3.21 To address the reduced number of inspections created by the reduced staffing levels, a streamlined process was adopted. With the recent addition of replacement inspectors, it is intended to continue with this process until the number of inspections is brought back on track. The amended process is as follows:
- Sample Inspections (Categories A, B and C) to be given priority to ensure the Council meet its statutory obligations.
  - Target Category C Reinstatement Inspections, are carried out to ensure reinstatements are inspected within three months of their guarantee period expiring, to ensure the responsibility and cost of any defect will not fall to the Council.
  - Follow-Up Defective Reinstatement Inspections are carried out every 17 days, to ensure identified issues continue to be monitored.

- Target Category B Inspections are reduced, as they can be inspected at a later date as a Target Category C Inspection within three months of their guarantee period expiring.
- Follow-Up Defective Apparatus Inspections will re-commence.

### **Registration and Fixed Penalty Notices (FPNs)**

- 3.22 All roadworks on public roads must be registered on the Scottish Road Works Register (SRWR).
- 3.23 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.
- 3.24 The comparison of registration failures for the Council's own works is shown in Graph 3.24.
- 3.25 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 3 of 2014/15 is shown in Graph 3.25. The total number of FPNs accepted by PUs in Quarter 3 was 140. A further 89 FPNs were accepted by other non-PU agents in relation to Road Occupation Permits eg skips, scaffolding, etc.

### **Improvement Plans**

- 3.26 Owing to poor performance in their signing, lighting and guarding of roadworks and defective reinstatements, NFAPs were issued to Scottish Water, Scottish Power, SGN, Virgin Media and Openreach on 14 November 2014.
- 3.27 Formal Improvement Plans were subsequently received from each of the PUs, in which they detail how they will address their poor performance.
- 3.28 Additionally, informal Improvement Plans were requested from each PU to detail how they intend to address their poor performance in relation to defective apparatus failures and Fixed Penalty Notices (FPNs).
- 3.29 The above Improvement Plans were discussed and agreed with each PU prior to them being implemented at the end of Quarter 3, with significant improvements required during Quarter 4.
- 3.30 Improvements planned by the PUs include; employing additional members of staff to monitor the work carried out by contractors, carrying out inspections in line with those undertaken by the Council, Toolbox Talks to on-site operatives on the required standards for signing, lighting and guarding and reinstatements, the allocation of additional funds to address outstanding repairs, and planning remedial work for Quarter 4.

- 3.31 Scottish Water met with the Roadworks Support Team (RST) on 27 January 2015 and agreed to complete all outstanding repairs by 31 March 2015. These repairs consist of 685 items of Defective Apparatus and 172 Defective Reinstatements and equate to 76% and 40% respectively of the total number of defects for all PUs. Scottish Water has allocated additional capital funding specifically for this work and will bring in two additional contractor squads to assist its existing squads to achieve this commitment. An agreement has also been given that work will be undertaken through the day on non-traffic sensitive roads and during the evenings on traffic sensitive roads.

## **Actions**

### **Edinburgh Road Works Ahead Agreement (ERWAA)**

- 3.32 The Member/Officer Working Group met on 17 December 2014 to discuss timescales for acceptance of the Agreement by PUs. As a result of the reluctance of PUs to sign up to the agreement a letter was issued by the Acting Head of Service for Transport, to senior managers of all PUs. The letter also explained the reasons for the agreement and the importance of implementing it. The letter requested that each PU reply, stating its intentions towards signing the Agreement.
- 3.33 It was agreed at the Working Group that, once responses have been received from each PU, a Senior Manager from each PU will be invited to attend a presentation and discussion detailing the intentions and implications of working to the requirements of the Agreement. This presentation is currently being arranged and will form the final stage in the process. It is hoped that the signing of the Agreement will be reported in the Quarter 4 report to this Committee.

### **Proposals for the coming year**

- 3.34 Trials are scheduled for an innovative method of testing reinstatements. This process determines reinstatement layer thicknesses and checks the compaction of the layers using ultra sound techniques. The RST are working with two testing companies and Scottish Power to assess and evaluate the effectiveness and accuracy of the trials.
- 3.35 Further to this, Scottish Water also met with the RST on 23 January 2015 to explore the benefits of using this new technology. Scottish Water was enthusiastic about this process and agreed to be involved in future testing and development of procedures for its use. This technique is in its infancy but is showing great promise as a future means of testing reinstatements and the existing road structure. The Council is taking a leading role in promoting this trial as the benefits go beyond PU work and include testing of the Council's own capital resurfacing work and reinstatements.
- 3.36 It is anticipated that this testing will replace the need to carry out coring of road reinstatements, which creates a potential weakness in the road where water can seep into the sub layers causing damage to the road surface.

- 3.37 It is believed that this form of Non Destructive Testing can be used, in conjunction with PUs and Contractors, to confirm compliance with specification and give an accurate picture of the sub-structure of the road.

## Measures of success

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- 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 roadworks 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

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- 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 reinstatement 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 3 was £199,482.

## Risk, policy, compliance and governance impact

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- 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 is being addressed by the use of formal Improvement Plans, as specified in Code of Practice for Co-ordination of Works in Roads.

## Equalities impact

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

## Sustainability impact

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

## Consultation and engagement

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- 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

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

[Code of Practice for Inspections”, 3<sup>rd</sup> 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.](#)

### John Bury

Acting Director of Services for Communities

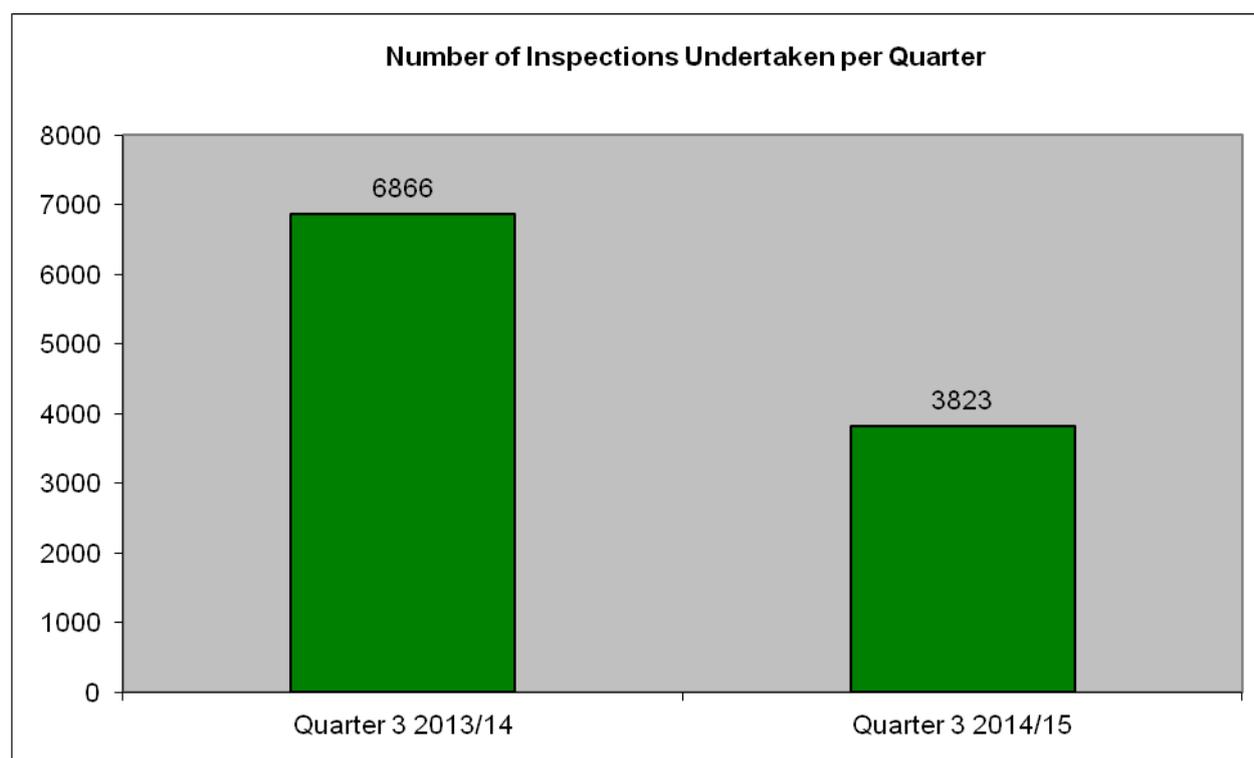
Contact: Stuart Harding, Performance Manager

E-mail: [stuart.harding@edinburgh.gov.uk](mailto:stuart.harding@edinburgh.gov.uk) | Tel: 0131 529 3704

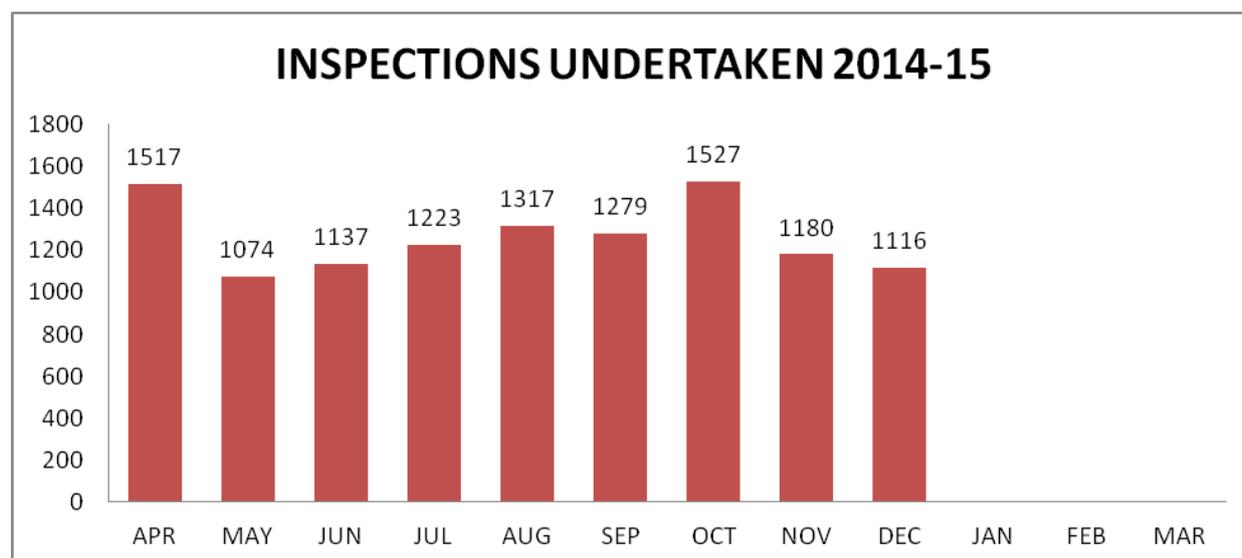
## Links

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<b>Coalition pledges</b>	<b>P28</b> - Further strengthen links with the business community by developing and implementing strategies to promote and protect the economic well being of the city. <b>P33</b> Strengthen Neighbourhood Partnerships and further involve local people in decisions on how Council resources are used.
<b>Council outcomes</b>	<b>CO19</b> - 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. <b>CO26</b> - The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives.
<b>Single Outcome Agreement</b>	<b>SO4</b> - Edinburgh’s communities are safer and have improved physical and social fabric.
<b>Appendices</b>	Appendix A - Utility Company Performance Information Quarter 2 - 2014/15

**Graph 3.10A**

The reason for the decrease in the number of inspections (compared to Quarter 3 of 2013/14) is due to the team of six Inspectors reducing to three following them leaving their employment with the Council.

**Graph 3.10B**

3,823 inspections were carried out in Quarter 3. The target number of 20,000 inspections for the year is not expected to be met due to the reduction in the number of Inspectors up to January 2015. A revised annual target is estimated to be 15,160 (based on figures achieved in the first nine months of this financial year).

**Table 3.12A****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 the guarantee period expiring.		
<b>SAMPLE INSPECTION</b>	79	194	204	-	<b>477</b>
<b>TARGET INSPECTION</b>	11	1	1537	-	<b>1549</b>
<b>DEFECTIVE APPARATUS</b>	-	-	-	7	<b>7</b>
<b>DEFECTIVE REINSTATEMENT</b>	-	-	-	1451	<b>1451</b>
<b>INSPECTIONS RELATED TO CORING</b>	-	-	-	268	<b>268</b>
<b>OTHERS</b>	-	-	-	71	<b>71</b>
<b>TOTAL</b>	<b>90</b>	<b>195</b>	<b>1741</b>	<b>1797</b>	<b>3823</b>

**Table 3.12B****Average fail rate for ALL PUs**

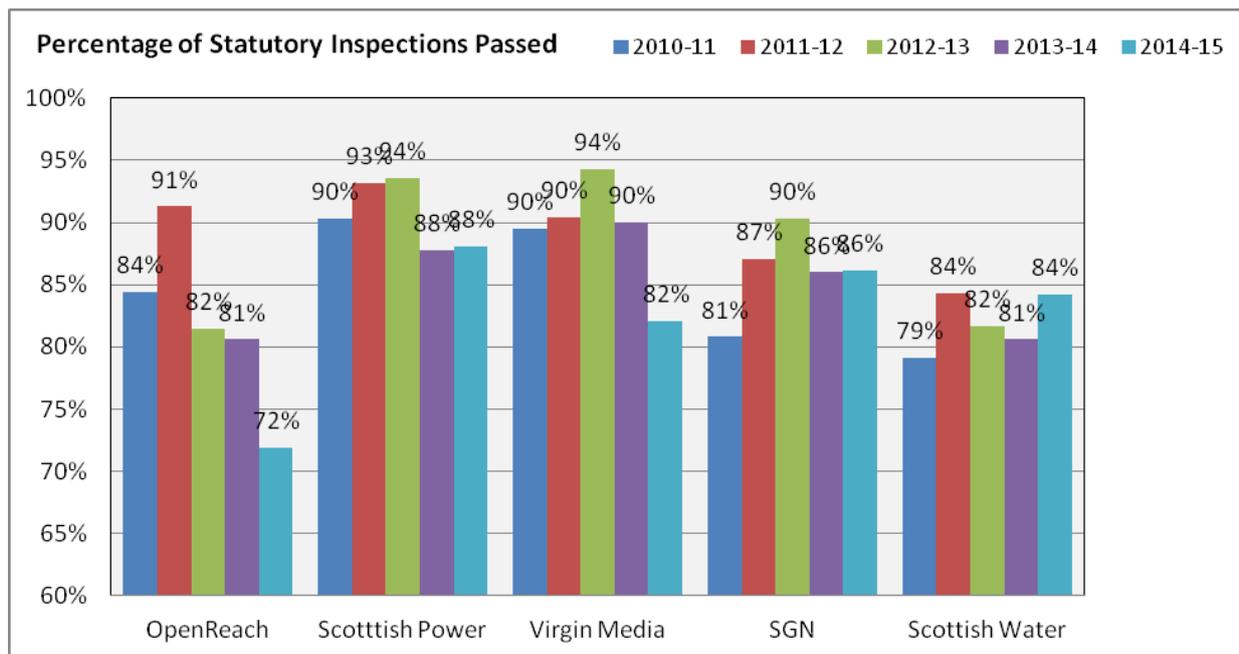
	% Fail Rate Q2	% Fail Rate Q3	Difference Q2 to Q3
<b>SAMPLE INSPECTIONS</b>	<b>13.6%</b>	<b>15.8%</b>	<b>2.2%</b>
Category A	17.0%	<b>24.7%</b>	7.7%
Category B	16.7%	<b>19.6%</b>	2.9%
Category C	8.9%	<b>7.8%</b>	-1.1%
<b>TARGET INSPECTIONS</b>	<b>10.0%</b>	<b>14.25%</b>	<b>4.25%</b>
Category A	33.3%	<b>20%</b>	-13.3%
Category B	17.1%	<b>0%</b>	-17.0%
Category C	8.2%	<b>8.5%</b>	0.3%
<b>DEFECTIVE REINSTATEMENTS</b>	<b>12.7%</b>	<b>11.96%</b>	<b>-0.74%</b>

**Table 3.13**

The table below shows the average percentage pass rate for defective apparatus for each PU over Quarter 3. The target pass rate for all PUs is 90%.

	Openreach	Scottish Power	Virgin Media	SGN	Scottish Water
Pass Rate	72%	88%	82%	86%	84%

**Graph 3.13**

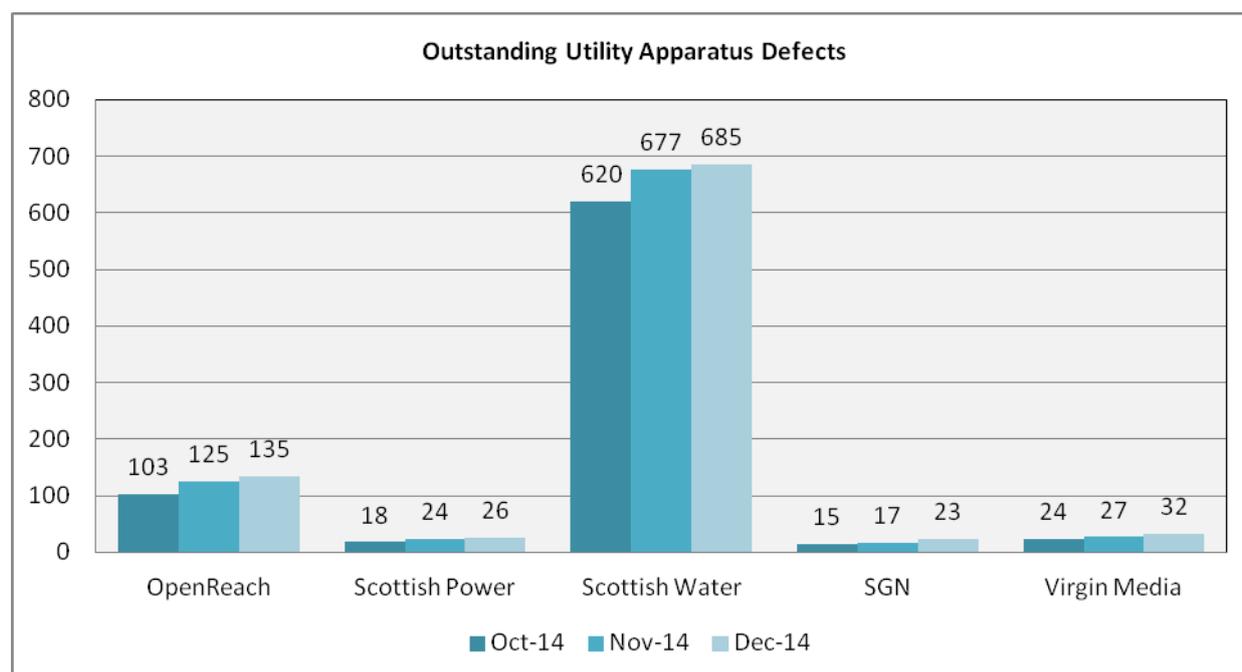


The target pass rate is 90%. All PUs failed to achieve this target in Quarter 3. The average pass rate for Quarter 3 was 84%.

**Table 3.17**

The total numbers of outstanding Defective Apparatus for Quarter 4 of 2013/14, Quarter 1, Quarter 2 and Quarter 3 of 2014/15 are shown below.

Utility	Q4 (2013/14)	Q1 (2014/15)	Q2 (2014/15)	Q3 (2014/15)	Increase Q4 to Q3
<b>SGN</b>	8	14	13	23	15 (187.5%)
<b>Scottish Water</b>	470	521	556	685	215 (45.7%)
<b>Openreach</b>	51	78	97	135	84 (164.7%)
<b>Scottish Power</b>	5	12	17	26	21 (420%)
<b>Virgin Media</b>	19	26	26	32	13 (68.4%)
<b>Totals</b>	<b>553</b>	<b>651</b>	<b>709</b>	<b>901</b>	<b>348 (62.9%)</b>

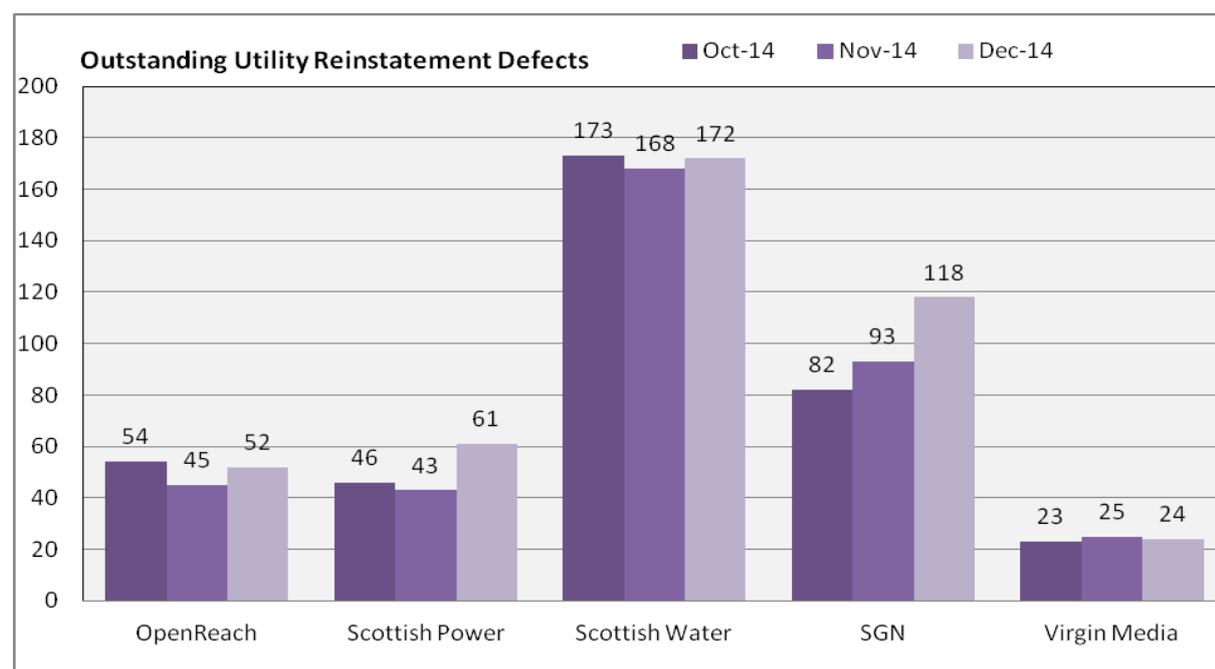
**Graph 3.18**

The number of outstanding defects for Scottish Water (685) is a longstanding issue. This has been raised as a specific problem and an Improvement Plan has been received. All PUs failed to make improvements this quarter and the number of outstanding defects has increased.

**Table 3.19**

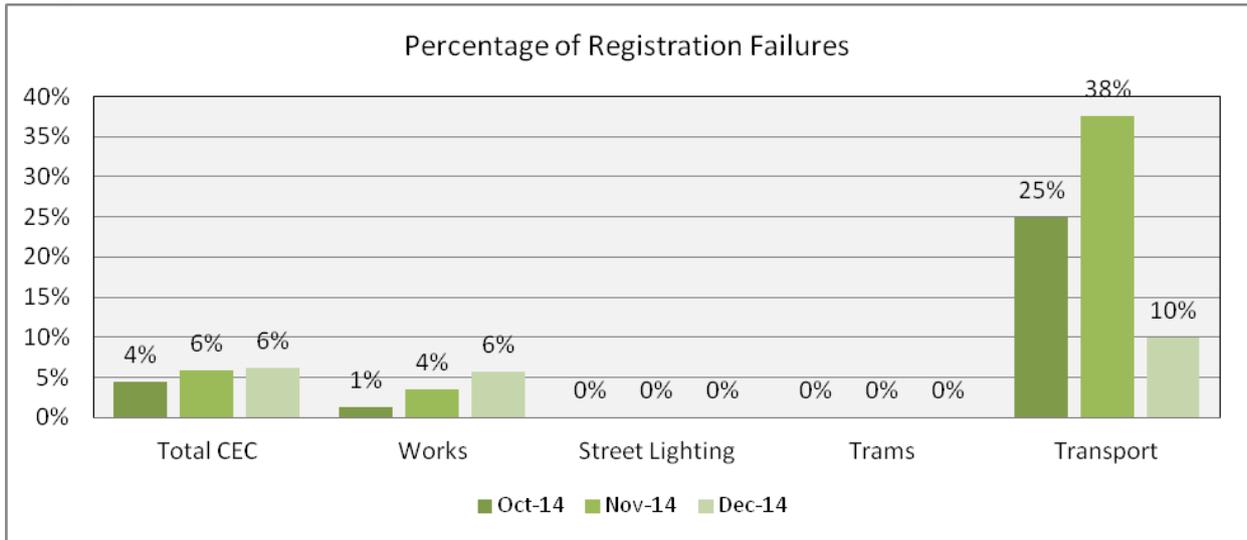
The total number of outstanding Defective Reinstatements for each quarter, for each PU, is shown below:

Utility	Q4 (2013/14)	Q1 (2014/15)	Q2 (2014/15)	Q3 (2014/15)	Reduction Q4 to Q3
<b>SGN</b>	124	97	73	118	6 (4.8%)
<b>Scottish Water</b>	291	191	174	172	119 (40.9%)
<b>BT Openreach</b>	94	58	52	52	42 (44.7%)
<b>Scottish Power</b>	87	66	50	61	26 (29.9%)
<b>Virgin Media</b>	41	35	28	24	17 (41.5%)
<b>Totals</b>	<b>637</b>	<b>447</b>	<b>377</b>	<b>427</b>	<b>210 (33%)</b>

**Graph 3.19**

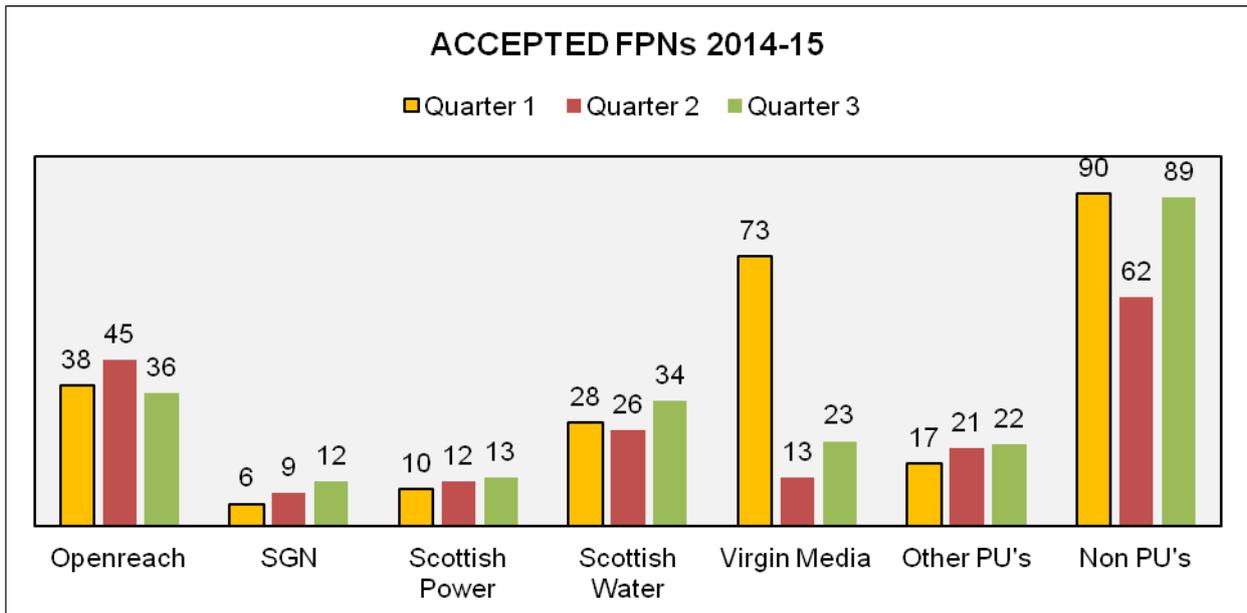
In this quarter there has been no improvement in the number of outstanding or defective reinstatements, with the exception of Virgin Media. There has been a negative trend with improvements this quarter. SW continues to be the worst performer. SGN has shown no improvement over the past three months and has shown a negative trend throughout the year. The total number of outstanding reinstatements (427) remains unacceptably high and is being addressed through their Improvement Plan.

**Graph 3.24**



In Quarter 3 the average failure rate was 5.3%. At the end of Quarter 3 the monthly registration failure rate was 6%. The monthly and annual target is 9%. The target has been achieved in each month of this quarter.

**Graph 3.25**



Cumulatively, over Quarters 1, 2 and 3, 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.