

Transport and Environment Committee

10.00am, Tuesday, 25 August 2015

Public Utility Company Performance 2014/15

Item number	7.7
Report number	
Executive	
Wards	All

Executive summary

This report summarises the performance of Public Utility Companies (PUs) during the period April 2014 to March 2015 (Quarters 1 to 4), for the 2014/15 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 PU performance in 2015/16.

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

Public Utility Company Performance 2014/15

Recommendations

- 1.1 It is recommended that the Transport and Environment Committee:
- i) notes the report and performance information shown in Appendix A, including the arrangements for securing an improved level of performance from all Public Utilities, and
 - ii) agrees to the Convener of the Committee writing to each of the Public Utilities Directorate, that have, as yet, to agree to sign up to the Edinburgh Road Works Ahead Agreement and ask them to give further consideration to adopting the agreement.

Background

- 2.1 The New Roads and Street Works Act 1991, as amended by the Transport (Scotland) Act 2005, gives statutory undertakers or Public Utilities (companies and private utility providers) responsibility for signing, lighting and guarding road works. The legislation also requires the road to be reinstated to prescribed standards upon completion of works.
- 2.2 The Transport and Environment Committee, at its meeting on 15 January 2013, agreed to receive quarterly Public Utility (PU) Performance Reports and instructed the Head of Transport to enhance the scrutiny and monitoring of all road works. The Committee also agreed to instruct the Head of Transport to take the lead in developing a revived Edinburgh Road Works Ahead Agreement (ERWAA).
- 2.3 This report provides an update on developments that have occurred during the year April 2014 to March 2015.

Main report

Performance

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

- 3.2 Where a PU fails to meet the specified performance standards, as defined in the appropriate Code of Practice, the following staged procedure should be used:
- The Roadworks Authority issues a Notice of Failure to Achieve Performance (NFAP) and is seen as the first stage of action in improving performance.
 - 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, then:
- the roadworks 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, 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 its 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. The minimum period of a plan is 12 weeks.

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 road works. Councils, as Roads Authorities, are responsible for monitoring the performance of the PUs and are empowered to charge them for a number of sample inspections carried out to monitor 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 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 the 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 2014/15 was 18,104, as shown in Graph 3.10A. The numbers carried out in each month of 2014/15 is shown in Graph 3.10B. The number of inspections carried out in 2014/15 has decreased from the number carried out in 2013/14 as a result of the staff turnover within the inspection team. Following a recruitment exercise three new Inspectors were in post by April 2015.
- 3.11 The average failure rate for reinstatements inspected was 13%, against a target of 10% as shown in Table 3.11. This is a 0.2% increase in the failure rate of 12.8% at the end of 2013/14.

Sample Inspections

- 3.12 The total number of sample inspections carried out in 2014/15 was 1,738. The breakdown between each inspection type is shown in Table 3.12.
- 3.13 The percentage pass rate for each PU at the end of 2014/15, and over the past five years, is shown in Table 3.13 and Graph 3.13. The target pass rate for all PUs is 90%.

Target Inspections

- 3.14 The cumulative number of target inspections carried out in 2014/15, was 5,590. The breakdown between each inspection type is shown in Table 3.12.
- 3.15 The number of inspections carried out last year shows a 32.8% reduction, from the number carried out in the previous year. When compared with 2013/14, the decrease in the number of inspections did not affect the number of reinstatement failures identified. There was an increase of 0.2% in identified reinstatement failures.

Utility Defective Apparatus

- 3.16 The total number of outstanding defective apparatus at the end of 2014/15 was 673. A breakdown for each PU is shown in Table 3.16. There was an increase in defective apparatus of 21.7% when compared to the year 2013/14.
- 3.17 The PU with the largest number of defective apparatus continues to be Scottish Water, with 462 items as shown in Graph 3.17. Scottish Water has improved by 32.6% since Q3 but only 1.7% when compared to the same period last year. An improvement will need to be agreed with Scottish Water following completion or approval of its improvement plan.
- 3.18 When comparing the outstanding numbers in 2014/15 to 2013/14, each PU showed an increase in the number of outstanding defective apparatus with the exception of Scottish Water. The comparison over the previous five years is shown in Table 3.18 and Graph 3.18.

Utility Defective Reinstatements

- 3.19 Every PU has seen an increase in the number of outstanding defects since Q1. A breakdown for each PU is shown in Table 3.19 and Graph 3.19. At the end of Q4, the total number of outstanding defective reinstatements in Edinburgh was 824. Scottish Water continues to be the PU with the largest number of defective reinstatements, followed by SGN and Openreach. These defects are discussed at the bi-monthly liaison meetings and have been included in Improvement Notices.
- 3.20 Due to the reduction in the number of Inspectors, and the resulting reduction in the number of inspections possible, the Roadwork Support Team reprioritised the types of inspections undertaken. The focus shifted to Category B and C inspections. This targeted approach resulted in the identification of a high number of failed reinstatements. Had these inspections not been carried out, there was a real possibility that these defects would not be found and the responsibility for their repair would have fallen to the Council, after the end of their guarantee period.

Registration and Fixed Penalty Notices (FPNs)

- 3.21 All road works on public roads must be registered on the Scottish Road Works Register (SRWR).
- 3.22 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 consents (Road Occupation Permits) from the Roads Authority. The Roads Authority is then responsible for the registration of these works.

- 3.23 The comparison of registration failures is shown in Graphs 3.23A and 3.23B.
- 3.24 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 issued in 2014/15 is shown in Graphs 3.24A and 3.24B.
- 3.25 The total number of FPNs accepted by PUs, in 2014/15 was 553. A further 90 FPNs were accepted by other agents in relation to Road Occupation Permits eg skips, scaffolding, etc.

The Edinburgh Road Works Ahead Agreement (ERWAA)

- 3.26 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.
- 3.27 A list of the actions taken to progress the agreement, and secure sign off by PUs, is listed below:
- November 2013 to March 2014 – Consultations and presentations held with Neighbourhood Partnerships and Transport sub groups.
 - 21 October 2013 – Initial draft of ERWAA issued to all PUs for consultation.
 - 1 November 2013 – Agreement in principal given by the Scottish Joint Utilities Group (SJUG).
 - 13 January 2014 – Reminder issued to SJUG requesting information on any concerns regarding the ERWAA.
 - 27 January 2014 – Chair of SJUG was offered a meeting to discuss any concerns regarding the agreement.
 - 17 February 2014 – A copy of the agreement was received from SJUG providing their comments/concerns.
 - 18 February to 18 March 2014 – A number of discussions took place to discuss the comments/concerns. Further concerns were also provided.
 - 4 April 2014 – Meeting arranged to gain approval for the ERWAA. Concerns were discussed but no agreement reached, mainly in relation to areas that would incur a cost by the PU.
 - 18 July 2014 – Meeting took place and agreement reached that parts of the ERWAA could not be amended to the satisfaction of SJUG. Role of the City Wide Traffic Management Group was provided.
 - 22 August 2014 – Final amended version of ERWAA sent to the Chair of SJUG.
 - 2 September 2014 – Request sent to Chair of SJUG asking for any final

concerns from PUs. No response received.

- 3 October 2014 – PUs sent a request asking for the name of the senior manager who would be signing the agreement.
- 13 October 2014 – Reminder sent to PUs for the name of the senior manager.

Openreach, SGN, Vodafone, and EE provided a name.

- November 2014 – Further requests for the details of their concerns was made to Chair of SJUG.
- 19 December 2014 – Latest version of the agreement was passed to each PU named above and to the main contact for all other PUs asking for an indication of their willingness to sign the agreement. Scottish Water raised two concerns re the content of the agreement.
- 12 February 2015 – An invitation was issued by the Acting Head of Transport to attend a presentation and question and answer event.
- 15 February 2015 – Event held.
- 29 June 2015 – Amended agreement issued asking for confirmation on willingness to sign the agreement. Only one PU responded.
- 21 July 2015 – Reminder issued.
- 7 August 2015 – Further reminder issued.

3.28 At the time of writing this report, CityFibre is the only PU that has agreed to sign the ERWAA. The following PUs have not yet agreed to sign the agreement nor have they responded to the correspondence sent by the Head of Transport:

- Scottish Water
- Scottish Power
- SGN
- Virgin Media
- Openreach
- Telefonica
- EE.

Actions - Improvement Plans

- 3.29 Performance failure reports have been issued to the following PUs:
- Scottish Water
 - SGN
 - Scottish Power
 - Openreach
 - Virgin Media.
- 3.30 Meetings have been held throughout the year with all Utilities to discuss their performance. The five main Utilities were served with a Notice of Failure to Achieve Performance in November 2014. Each PU returned a Stage 1 Improvement Plan, which contained its proposals for improving performance and to rectify existing defects.
- 3.31 The Improvement Plans received initially did not contain sufficient detail, to assure the Council that adequate measures would be taken, to address their poor performance. Meetings took place to allow the PUs to modify their proposals. Following this, and a lack of satisfactory improvement, each PU was served with a Stage 2 Improvement Notice, in June 2015.
- 3.32 With the number of outstanding defective reinstatements not reducing, in line with each PUs Stage 1 Improvement Plan, the Council now requires each PU to provide details of how its numbers of outstanding defective apparatus will be reduced.
- 3.33 It is worth noting that Scottish Water has made significant improvements in lowering the number of outstanding apparatus defects from December 2014, however 462 remain outstanding.
- 3.34 If the PUs do not achieve satisfactory levels of performance within three months of agreeing their Improvement Plans, the Council will look to increase inspections and escalate the issue to the highest levels of management within each of the affected PUs.
- 3.35 If performance does not significantly improve, a report will be submitted to the office of the Scottish Road Works Commissioner, detailing the PUs failure to comply with their duties under the New Roads and Street Works Act 1991.

Proposals for the coming year

- 3.36 As detailed in paragraph 3.30, following a lack of improvement in performance, Improvement Notices were served to each PU in June 2015. Each PU is required to return a Stage 2 Improvement Plan within five days of receipt of the Notice. Improvement will be measured at the end of a 12 week period.

- 3.37 To measure the effectiveness of the Improvement Plans, it is proposed to carry out 100% of inspections (Category A and B) of the work carried out during the 12 week period.
- 3.38 The outcome of this monitoring will be reported to Committee at the end of Quarter 2 of 2015/16.

Performance Monitoring

- 3.39 The figures and graphs referred to throughout this report are shown in Appendix A. This Appendix provides performance information for 2014/15 and trend information from 2010/2011.

Measures of success

- 4.1 Improved performance in the key areas reported will be measured by greater public satisfaction with:
- the planning, co-ordination and delivery of road works across the city;
 - the quality of information supplied to people who live in, work in or visit Edinburgh; and
 - the quality and longevity of PU reinstatements.
- 4.2 Public satisfaction will be measured at the end of each year by contacting Community Councils and residents. Customer Satisfaction cards have been issued to residents in a sample of locations, where major work has been undertaken by PUs. The results are being analysed and will be reported to this Committee within the 2015/16 Quarter 1 report in October 2015.

Financial impact

- 5.1 The revenue streams associated with sample and repeat inspections of failed PU reinstatements, exceeded the budget of £296,393 for 2014/15 financial year. The total revenue from the charges levied for these activities was £355,706.
- 5.2 The cost of employing the additional Inspectors, is currently fully offset by the revenue received from the compliance inspections.

Risk, policy, compliance and governance impact

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

Equalities impact

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

Sustainability impact

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

Consultation and engagement

- 9.1 Individual Liaison meetings are held every two months with representatives from all of the major PUs. Specific performance issues and improvement requirements are discussed at these meetings.
- 9.2 Throughout the year the Council was represented at all relevant Committees, as required within the Code of Practice for the Co-ordination of Works in Roads. These meetings are detailed below:
 - **The Roads and Utilities Committee Scotland (RAUCS)** where all Roads Authorities and PUs are represented together with representatives from Transport Scotland and the office of the Scottish Road Works Commissioner.
 - **The South East of Scotland Roads and Utilities Committee (SERAUC)** where representatives from the City of Edinburgh, Midlothian, East Lothian, West Lothian and Scottish Borders Councils attend, together with representatives from all PUs.

- **The Local Roads and Utilities Committee (LRAUC)** is also known as the Local Co-ordination meeting. This includes representatives from every function and service within Services for Communities that have an involvement in roadworks or road occupation eg Lothian Buses, every Utility and the Tram Team.

Background reading/external references

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

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

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

John Bury

Acting Director of Services for Communities

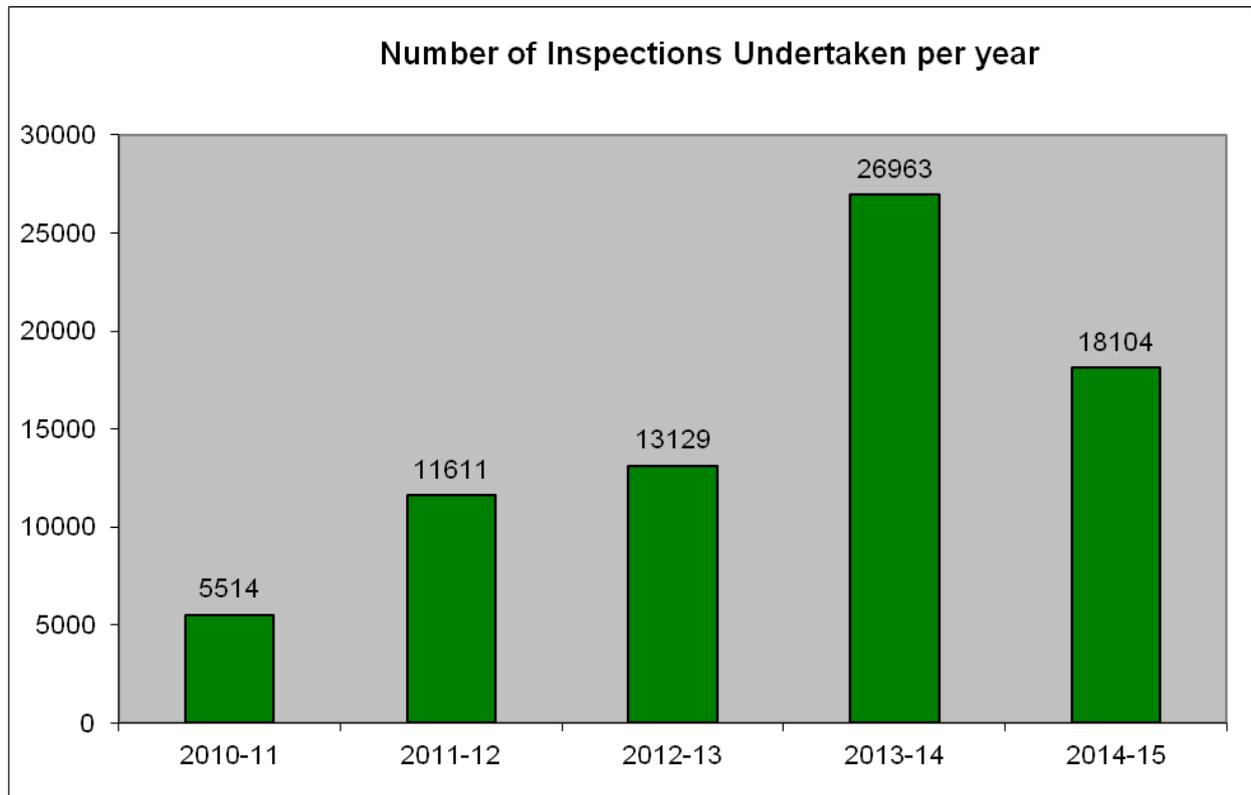
Contact: Stuart Harding, Performance Manager

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

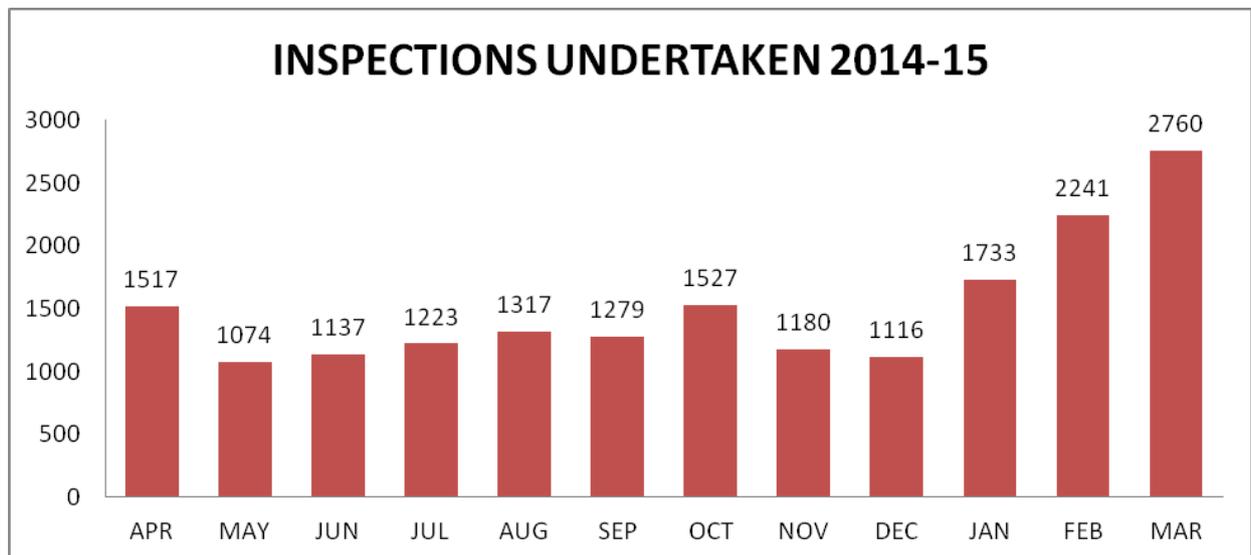
Links

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

Graph 3.10A



Graph 3.10B



In 2014/15 there were 18,104 inspections carried out. The target of 20,000 inspections was not met. The reason for the reduction in the number of inspections from April to December, compared to 2013/14, is due to the reduction in the number of Inspectors.

Table 3.11
Average failure rate for ALL PUs

	No of Failures	% Fail Rate
SAMPLE INSPECTIONS	335 / 1,738	19.3%
Category A	124 / 481	25.8%
Category B	139 / 560	24.8%
Category C	72 / 697	10.3%
TARGET INSPECTIONS	841 / 5,590	15.0%
Category A	54 / 165	32.7%
Category B	317 / 1,401	22.6%
Category C	470 / 4,024	11.7%
DEFECTIVE REINSTATEMENTS	998 / 7,651	13.0%

The target failure rate for all PUs is 10%.

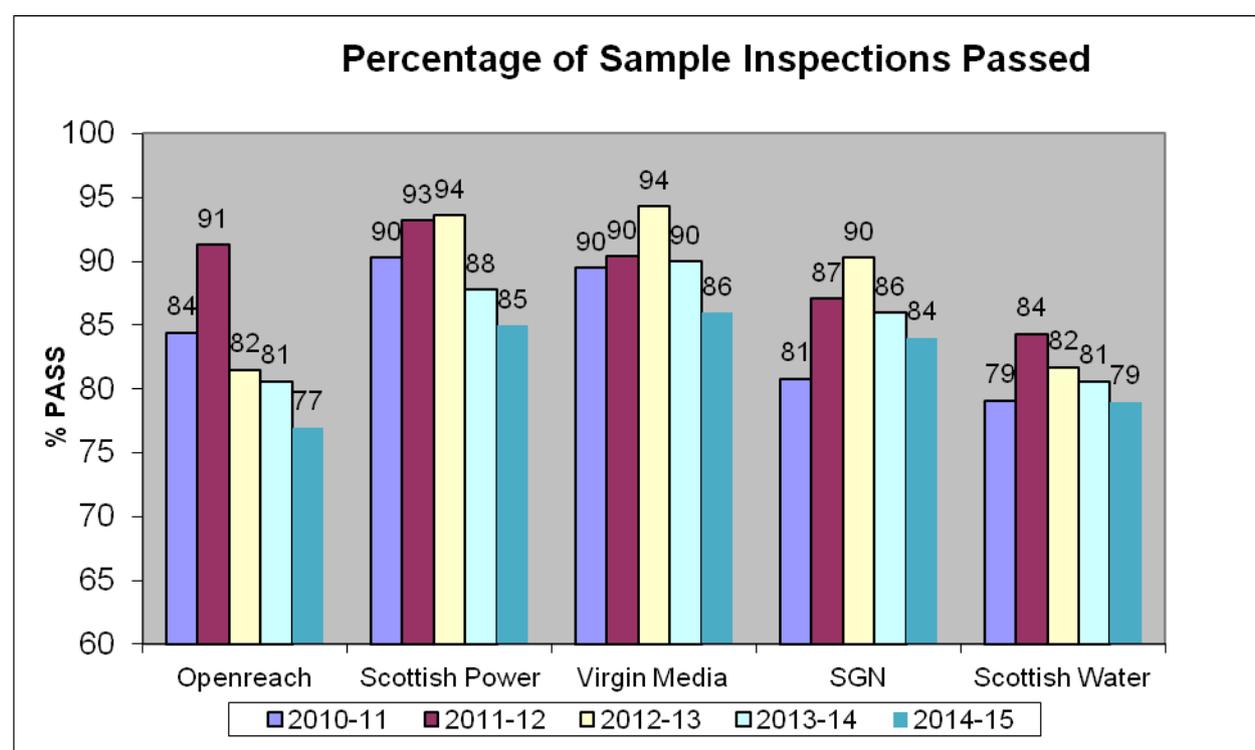
Table 3.12
Number of inspections for ALL PUs

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	481	560	697	-	1,738
TARGET INSPECTION	165	1,401	4,024	-	5,590
DEFECTIVE APPARATUS	-	-	-	1,295	1,295
DEFECTIVE REINSTATEMENT	-	-	-	7,651	7,651
INSPECTIONS RELATED TO CORING	-	-	-	938	938
OTHERS	-	-	-	892	892
TOTAL	646	1,961	4,721	10,776	18,104

Table 3.13

The table below shows the average percentage pass rate for Sample Inspections for each PU over the past year. The target pass rate for all PUs is 90%.

	Openreach	Scottish Power	Virgin Media	SGN	Scottish Water
Pass Rate	77%	85%	86%	84%	79%

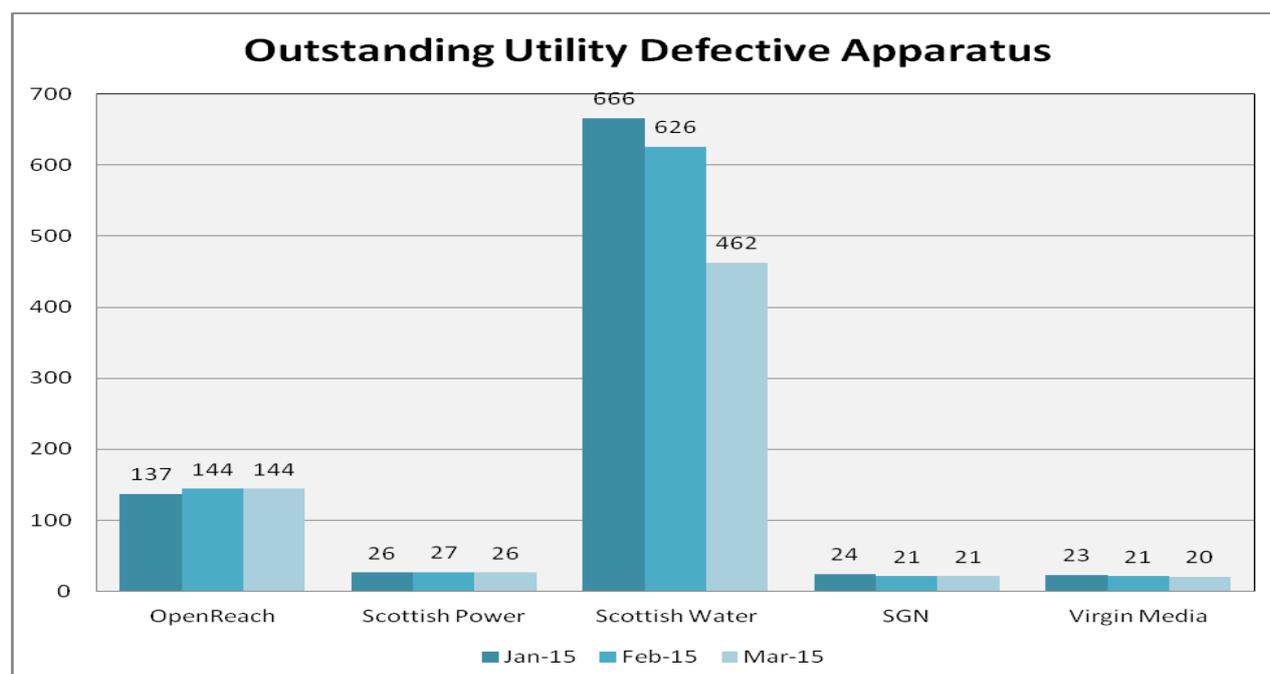
Graph 3.13

No PU achieved the target pass rate by the end of 2014/15 and all PUs were much lower than the previous two years. Both Scottish Water and Openreach have shown a negative trend in their sample inspections since 2011/12. As a direct result of this performance, Stage 2 Improvement Notices were issued in June 2015 to all Utilities.

Table 3.16

The total number of outstanding Defective Apparatus for each Quarter in 2014/15 are shown below.

Utility	Q1 (2014/15)	Q2 (2014/15)	Q3 (2014/15)	Q4 (2014/15)	Difference Q1 to Q4
SGN	14	13	23	21	7 (50%)
Scottish Water	521	556	685	462	-59 (-11.3%)
Openreach	78	97	135	144	66 (84.6%)
Scottish Power	12	17	26	26	14 (116.7)
Virgin Media	26	26	32	20	-6 (-23.1%)
Totals	651	709	901	673	

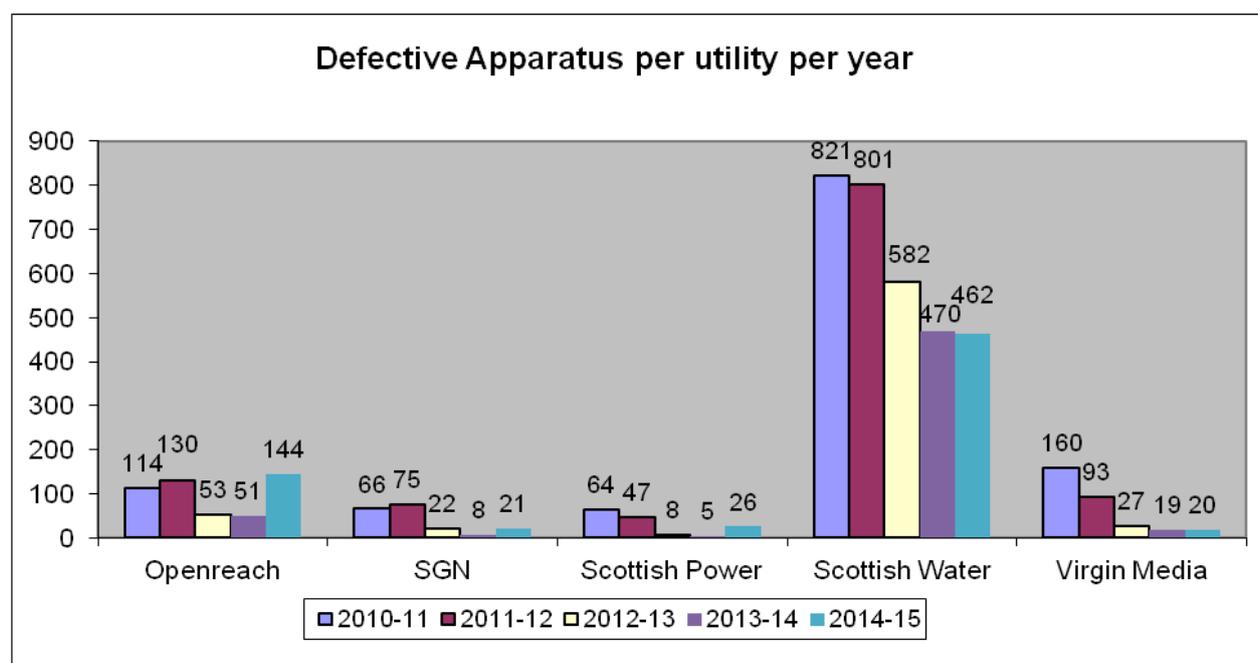
Graph 3.17

The high number of outstanding defects for Scottish Water (462) is a long standing issue and this has been raised as a specific problem and a Stage 1 Improvement Plan was requested to address this. All PUs, with the exception of Scottish Water and Virgin Media, have shown a deterioration in performance since the end of 2013/14 in the numbers of defective apparatus. Due to the increase in the number of inspections this, in turn, has resulted in there being an increase in the overall numbers of defective apparatus identified.

Table 3.18

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

PU	2010-11	2011-12	2012-13	2013-14	2014-15
Openreach	114	130	53	51	144
SGN	66	75	22	8	21
Scottish Power	64	47	8	5	26
Scottish Water	821	801	582	470	462
Virgin Media	160	93	27	19	20

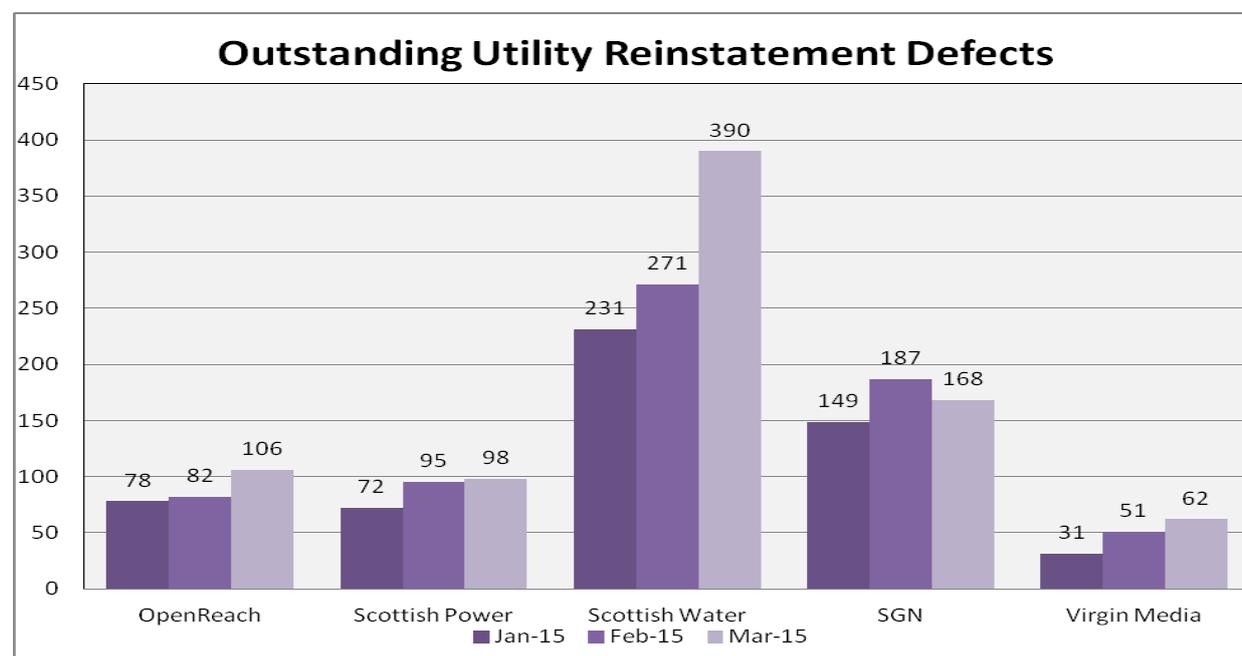
Graph 3.18

Scottish Water is the only PU that has shown a sustained improvement over the past five years in the number of outstanding defective apparatus. All other PUs have shown an increase in the numbers of outstanding defects in 2014/15 compared to 2013/14. This increase is partly due to regular and additional inspections being carried out.

Table 3.19

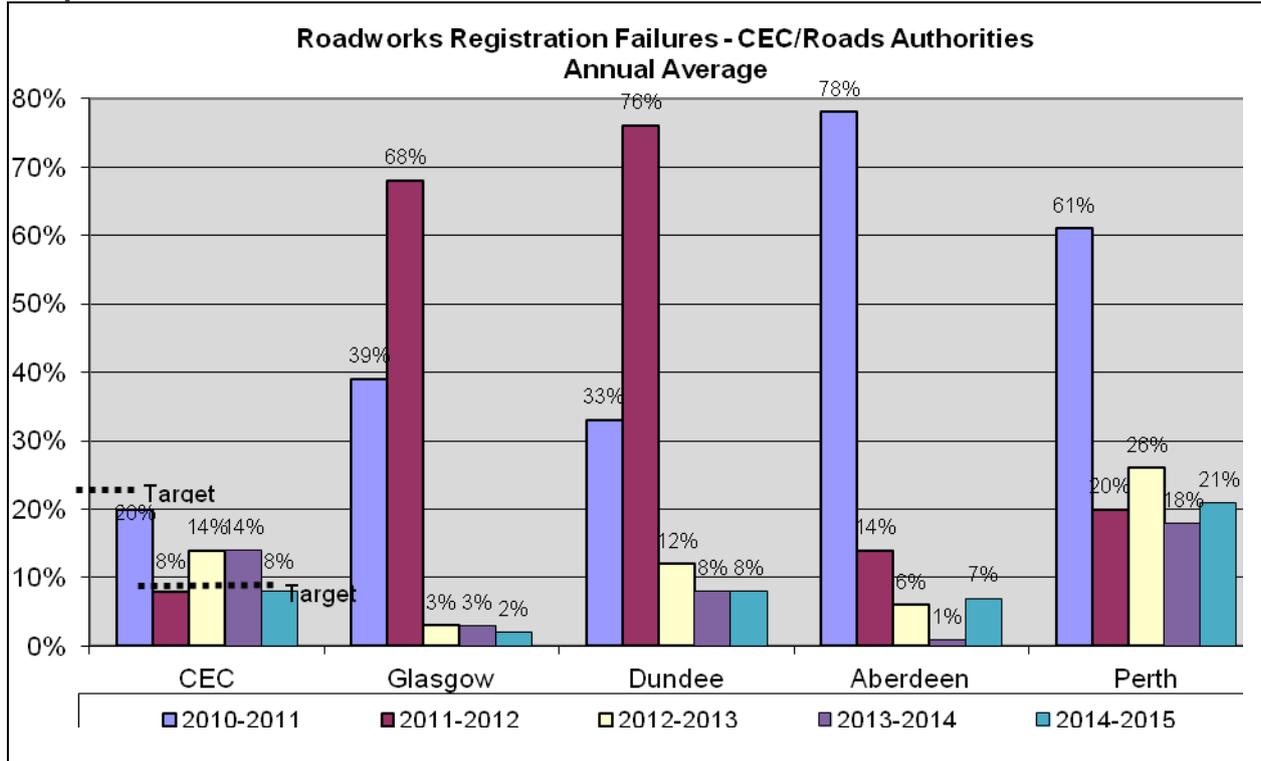
The total number of outstanding Defective Reinstatements for each quarter for each PU is shown below:

Utility	Q1 (2014/15)	Q2 (2014/15)	Q3 (2014/15)	Q4 (2014/15)	Increase Q1 to Q4
SGN	97	73	118	168	71 (73.2%)
Scottish Water	191	174	172	390	199 (104%)
Openreach	58	52	52	106	48 (82.7%)
Scottish Power	66	50	61	98	32 (48.5%)
Virgin Media	35	28	24	62	27 (77.1%)
Totals	447	377	427	824	377 (84.3%)

Graph 3.19

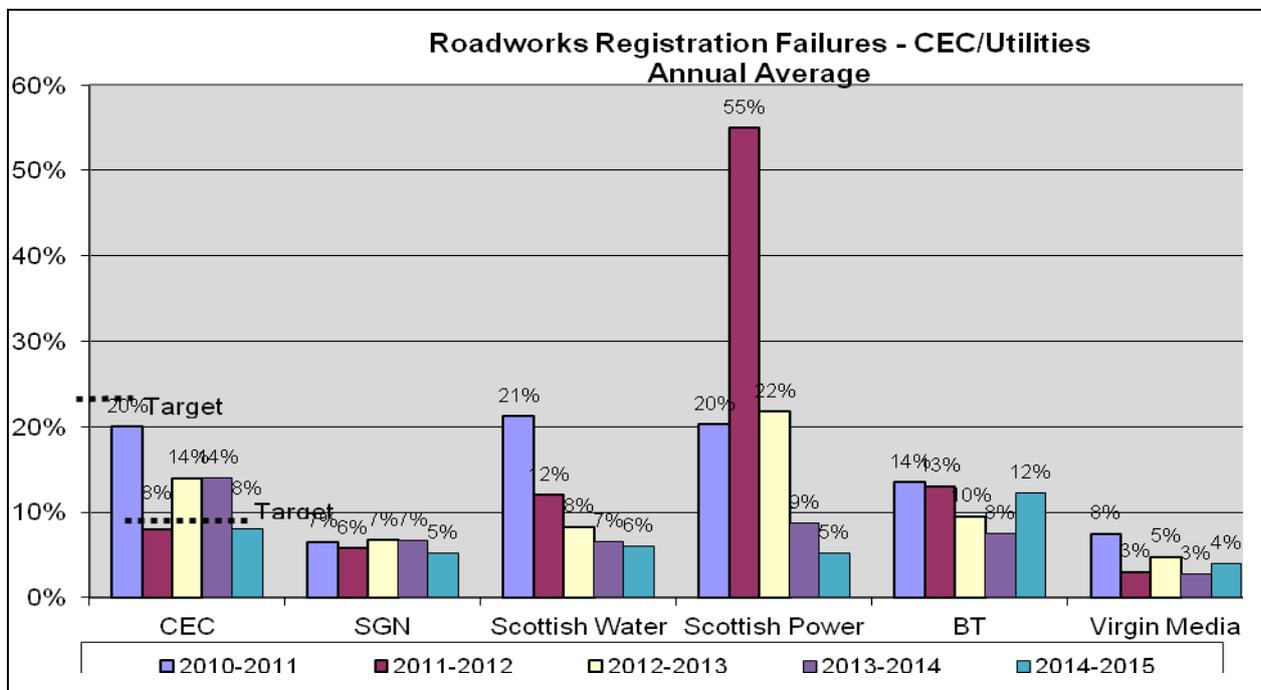
The number of outstanding or defective reinstatements has varied over Q4. Each PU has shown an increase in the number of failed reinstatements over the final three months of the year, with the exception of SGN. The improvement however is negligible when compared to the totals outstanding. As a result of this performance Stage 2 Improvement Plans have been requested.

Graph 3.23A

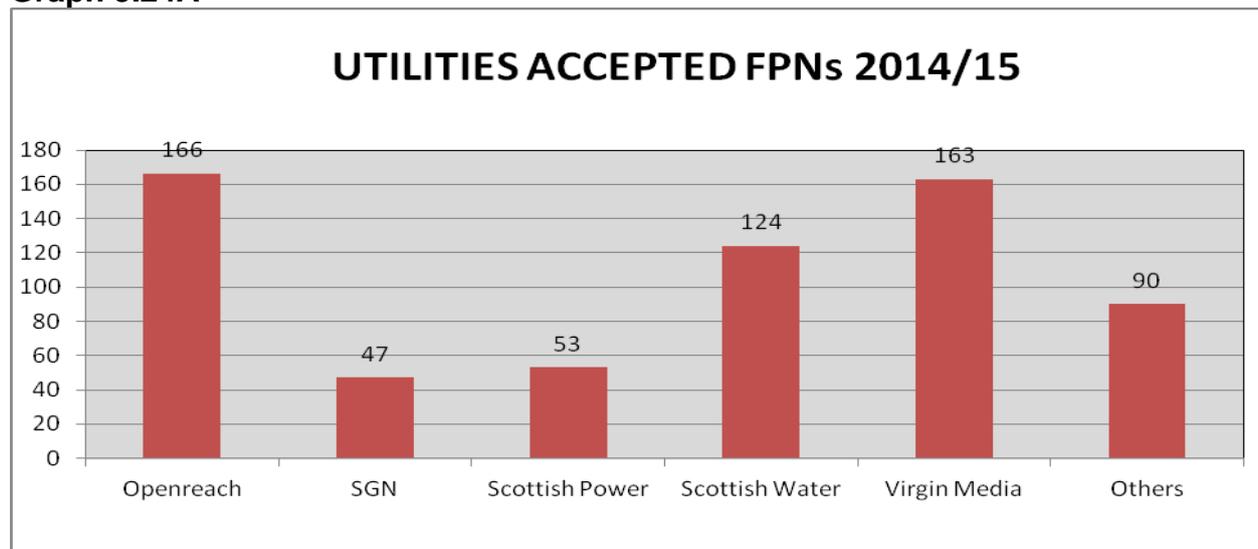


There is no target failure rate set for Roads Authorities. It is expected that their failure rate should be no worse than the average PU failure rate. CEC set itself a target rate of 9% for 2014/15. A failure rate of 8% was actually achieved at the end of the year. As a result 8% will be the target for 2015/16.

Graph 3.23B

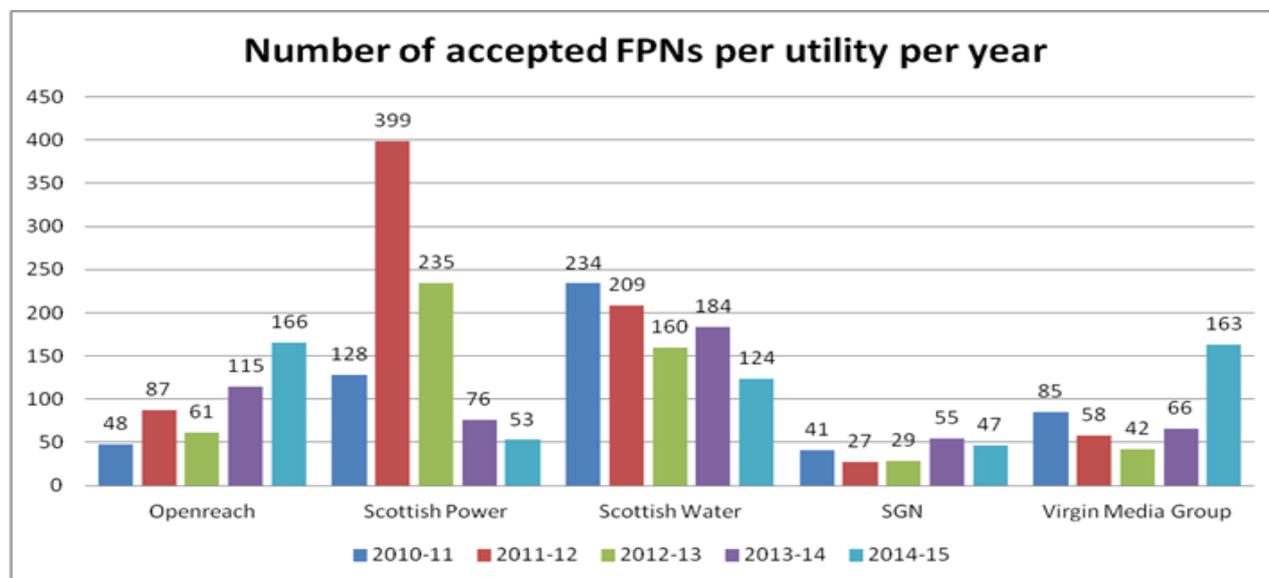


Graph 3.24A



Openreach and Virgin Media were issued with the highest number of Fixed Penalty Notices in 2014/15. 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 at their next Liaison meeting and assurances sought to ensure improvement. Improvement will be expected for the next quarterly monitoring period.

Graph 3.24B



SGN, Scottish Power and Scottish Water showed an improvement in the number of FPNs issued at the end of 2014/15. This is as a result of the discussions that took place at the Liaison meetings. Openreach and Virgin Media had more FPN's issued during 2014/15 and was 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.