

Transport and Environment Committee

10.00am, Tuesday, 7 June 2016

Public Utility Company Performance 2015/16 Quarter 3 (October, November and December 2015)

| | |
|-------------------|-----|
| Item number | 8.1 |
| Report number | |
| Executive/routine | |
| Wards | All |

Executive Summary

This report summarises the performance of Public Utility Companies (PUs) during the period October to December 2015 (Quarter 3), for the 2015/16 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.

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

Links

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

Public Utility Company Performance 2015/16 Quarter 3 (October, November and December 2015)

1. Recommendations

- 1.1 It is recommended that the Transport and Environment Committee:
 - 1.1.1 notes the report and the arrangements for securing an improved level of performance from all Public Utilities;
 - 1.1.2 notes the response to the question raised at the Transport and Environment Committee on 27 October 2015 to approach Scottish Government asking that consideration be given to increasing the fees for fixed penalty notices;
 - 1.1.3 notes that at recent meetings involving All Party Council Members and officers, senior management representatives of the major Public Utility Companies had given assurances that their performance in Edinburgh would improve;
 - 1.1.4 notes that disappointingly the latest performance figures do not demonstrate improved performance; and
 - 1.1.5 instructs that a meeting of the Edinburgh Roadworks Ahead Agreement Working Group be arranged at an early date to consider further action required in relation to these performance levels, and also how best to progress the outstanding request that all Public Utilities sign up to the Edinburgh Roadworks Ahead Agreement

2. Background

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

- 2.3 This report provides an update on developments that have occurred during the three month period between October and December 2015.

3. Main report

Performance

- 3.1 The performance of each PU is monitored daily by the Roadworks Support Team (RST), with reports compiled on a monthly and quarterly basis. The result of this monitoring is discussed at bi-monthly liaison meetings held with each PU, on a one to one basis.
- 3.2 Where a PU fails to meet the specified performance standards, as defined in the appropriate Code of Practice, the following staged procedure should be used.
- 3.2.1 The Roadwork Authority issues a Notice of Failure to Achieve Performance (NFAP). This is the first stage of action in improving performance.
- 3.2.2 The undertaker responds with an Improvement Plan – Stage 1.
- 3.3 In the event that the PU does not achieve the required level of improvement, the following actions are taken:
- 3.3.1 the Roadwork Authority issues an Improvement Notice (IN); and
- 3.3.2 the PU responds with an Improvement Plan – Stage 2.
- 3.4 Within five days of receiving the NFAP, the PU must verify and analyse the defect data (gathered from inspections and performance information), to establish appropriate improvement objectives. The PU should then prepare an outline Improvement Plan, designed to achieve the objectives, and forward this to the Roadwork Authority.
- 3.5 Following implementation of the Improvement Plan, if it becomes clear after three months that no practical improvement is being achieved, other measures may need to be considered such as:
- 3.5.1 escalation of the Improvement Plan monitoring to achieve a step change in performance;
- 3.5.2 involvement of a more senior level of management within both the PU and the Roadwork Authority; and
- 3.5.3 following an appropriate grievance and dispute process, civil and/or criminal remedies.
- 3.6 Where improvements are not achieved following a Stage 2 plan, a report, containing all relevant evidence of the PU's failure to comply with its duties under the New Roads and Street Works Act, will be submitted to the Office of the Scottish Road Works Commissioner for information.

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 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.
- 3.8 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. They involve the Council investigating all 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 8,171, with the total for Quarters 1, 2 and 3 shown in Graph 3.10A. The numbers carried out in each month of Quarter 3 are shown in Graph 3.10B. The number of inspections carried out in Quarter 3 has increased by 114% from that in the same period in 2014/15. This is a direct result of the initiative to increase inspections and the subsequent recruitment within the Roadwork Support Team, for this purpose. The cost of this is fully offset by projected income from compliance inspections.
- 3.11 The average pass rate for inspected reinstatements was 80.3%, against a target of 90%, as shown in Table 3.11. This is a reduction in performance of 1.0% from Quarter 2, and a reduction of 6.7% since the end of 2014/15.

Sample Inspections

- 3.12 The total number of sample inspections carried out in Quarter 3 was 320, with the breakdown between each inspection type shown in Table 3.12.
- 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. The target pass rate for all PUs is 90%.

Target Inspections

- 3.14 The cumulative number of target inspections carried out in Quarter 3 was 2,108, with the breakdown between each inspection type shown in Table 3.12.
- 3.15 The number of inspections carried out in Quarter 3 shows an increase of 4,348 inspections, when compared to the number carried out in the same period in 2014/15, as shown in Graph 3.15.

Utility Defective Apparatus

- 3.16 The total number of outstanding defective apparatus at the end of Quarter 3 was 638, an increase of 152 on the previous quarter. A breakdown for each PU is shown in Table 3.16. There was a reduction in the number of outstanding defective apparatus of 5% when compared to the end of 2014/15.
- 3.17 The PU with the largest number of defective apparatus continues to be Scottish Water, with 483 items, as shown in Graph 3.17. This represents an increase of 110 defects since Quarter 2 and an increase of 21 defects since the end of 2014/15.
- 3.18 During Quarter 3, Scottish Power was the only PU that improved the number of outstanding apparatus defects. For comparison, the figures for the end of the last four years are shown in Table 3.18.

Utility Defective Reinstatements

- 3.19 At the end of Quarter 3, the total number of outstanding defective reinstatements in Edinburgh was 939. A breakdown for each PU is shown in Table 3.19 and Graph 3.19. Scottish Water continues to be the PU with the largest number of defective reinstatements although this number decreased by 7% on the previous quarter. These defects are discussed at the bi-monthly liaison meetings and proposals to remedy the backlog are included in their Stage 2 Improvement Plans.

Registration and Fixed Penalty Notices (FPNs)

- 3.20 All roadworks on public roads must be registered on the Scottish Road Works Register (SRWR).
- 3.21 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 Roadwork Authority. The Roadwork Authority is then responsible for the registration of these works.
- 3.22 A comparison of the Council's registration failures is shown in Graph 3.22.
- 3.23 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 Quarter 3 is shown in Graph 3.23.
- 3.24 The total number of FPNs accepted by PUs in Quarter 3 was 284. A further 111 FPNs were accepted by other agents in relation to Road Occupation Permits eg skips, scaffolding, etc.

Improvement Plans

- 3.25 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 are 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).
- 3.26 The pass rates for each of the five PUs with staged Improvement Notices are shown in Table 3.26.
- 3.27 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.

Performance Monitoring

- 3.28 The figures and graphs referred to throughout this report are shown in Appendix A.

The Edinburgh Road Works Ahead Agreement (ERWAA)

- 3.29 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.
- 3.30 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.
- 3.31 At the time of writing this report, meetings have been held with Scottish Water, Openreach, SGN and Scottish Power. A further meeting with Scottish Water was held on 23 December 2015, to discuss the areas of the agreement it wished to amend prior to signing.
- 3.32 The meetings held to date have largely been productive with positive responses from each PU regarding its performance improvements. Each PU discussed its plans for the future including improving performance. As Scottish Water and SGN have the majority of apparatus in the roads and pavements, it was suggested that additional information is included in this report showing the proportion of defects against their total asset. It was agreed that this would be included in future reports.
- 3.33 CityFibre, SGN, Openreach and Scottish Water are the only PUs to have responded to date. CityFibre has confirmed that it is in favour of signing the agreement without any amendments. SGN has acknowledged its willingness to sign the agreement, subject to two areas of concern, which have been addressed and Scottish Water requested amendments to the agreement, which have now been made.

3.34 Scottish Water have not responded to requests from the Council, for confirmation of their willingness to sign the agreement since being issued with the updated version.

Response to Question raised at Previous Committee

3.35 A request was made, at the Transport and Environment Committee held on 27 October 2015, for Officers to approach the Scottish Government to ask that consideration be given to increasing the Fixed Penalty Notices.

3.36 Fixed Penalty Notices can only be applied to four sections of the New Roads and Street Works Act 1991. These are:

3.36.1 Failure to give advance notice of the work, Section 113;

3.36.2 Failure to issue a start date of the work, Section 114;

3.36.3 Failure to notify Emergency work, Section 116; and

3.36.4 Failure to notify of completion of work, Section 129.

3.37 These sections relate to the co-ordination of road works, as placed on the Scottish Road Works Register. Fixed Penalty Notices cannot currently be applied to poor workmanship or failed reinstatements.

3.38 A review is underway by the Scottish Government, relating to the functions of the Scottish Road Works Commissioner. A response from the Scottish Government has informed the Council that the subject of Fixed Penalty Notices has been raised with them by other Roads Authorities and through CoSLA. The Scottish Government has advised that this is something which may be looked at following the outcome and recommendations of the review. One of the areas which the review is focusing on is 'enforcement' relating to quality, which includes fixed penalties. At the time of writing this report the Scottish Government hopes to have the outcome of the review by April 2016. An update, if available, will be provided in the Quarter 4 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 Public satisfaction will be measured by contacting residents in areas where a PU has completed a major scheme of work. Customer Satisfaction cards have not been issued during Quarter 3 owing to procurement issues with the contracted supplier however information will be provided in the Quarter 4 report.

5. Financial impact

- 5.1 The revenue streams associated with sample and repeat inspections of failed PU reinstatements exceeded the budget of £177,295 for Quarters 1, 2 and 3. The total revenue from the charges levied for these activities was £246,448.
- 5.2 The cost of employing the additional Inspectors, is currently fully offset by the revenue received from the compliance inspections.

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 Services for Communities that have an involvement in roadworks or road occupation eg Lothian Buses, every Utility, Edintravel and the Tram Team.

10. Background reading/external references

- 10.1 [Quality of Utility Company Reinstatements – Item 5.16, Transport and Environment Committee, 18 June 2012.](#)
- 10.2 [Code of Practice for Inspections”, 3rd edition, approved by the Roads Authority and Utility Committee Scotland, November 2012.](#)
- 10.3 [Code of Practice for the Co-ordination of Works in Roads, version 1.0, April 2013.](#)

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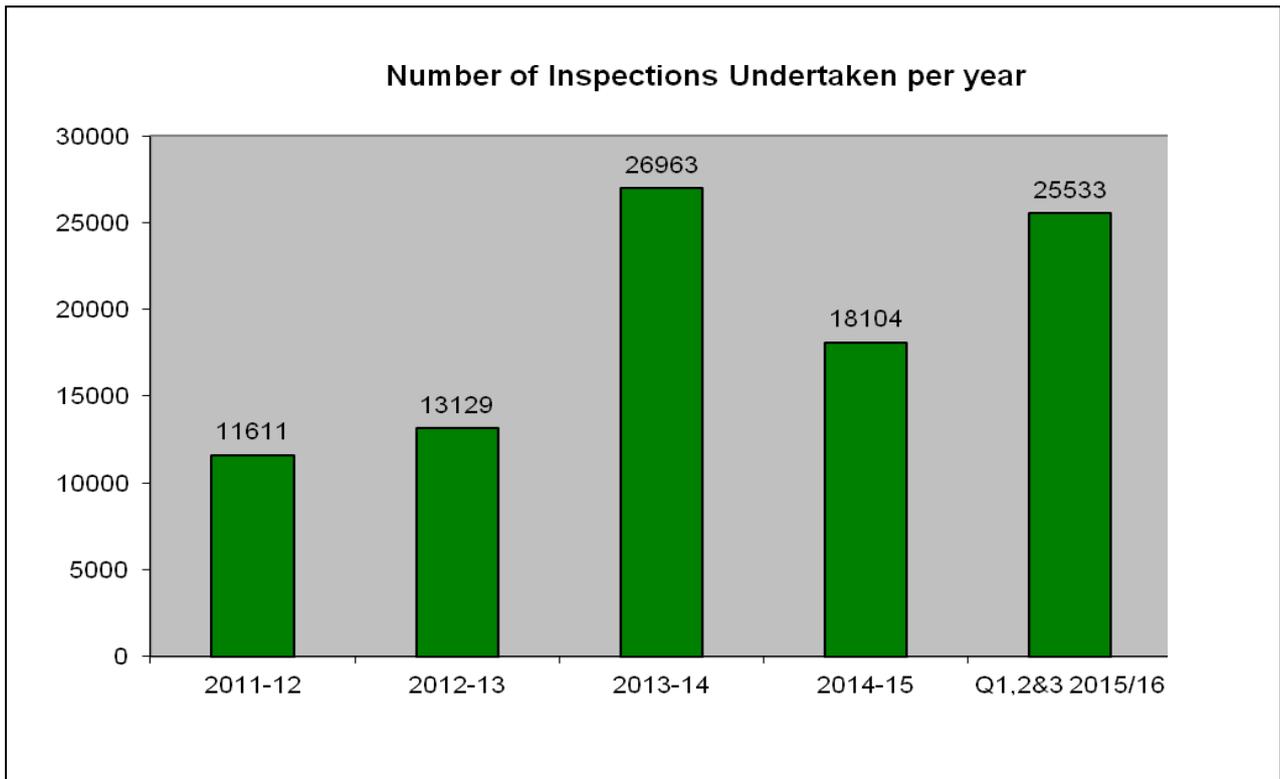
E-mail: stuart.harding@edinburgh.gov.uk | Tel: 0131 529 3704

11. Links

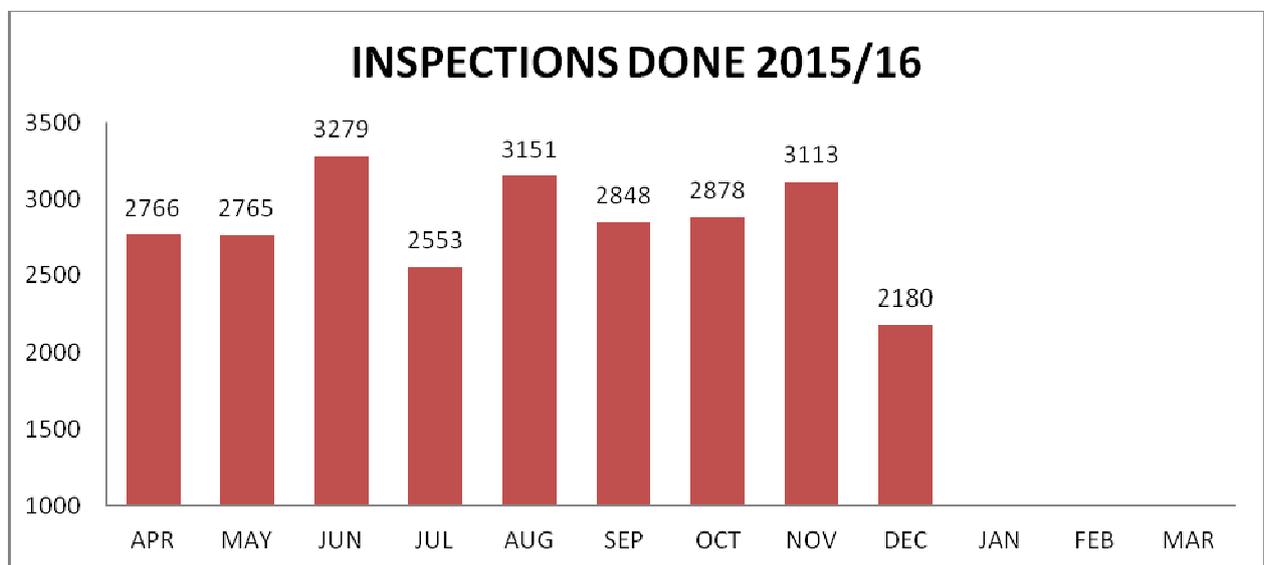
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|--------------------------|---|
| Coalition pledges | <p>P28 - Further strengthen links with the business community by developing and implementing strategies to promote and protect the economic well being of the city.</p> <p>P33 - Strengthen Neighbourhood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

APPENDIX A

Graph 3.10A



Graph 3.10B



In Quarter 3 there were 8,171 inspections carried out. The estimated target of 20,000 inspections has been exceeded this year, with 25,533 undertaken between April and December.

APPENDIX A

Table 3.11

Average pass rate for ALL PUs

| | No of Failures | % Pass Rate |
|--------------------------|----------------|-------------|
| SAMPLE INSPECTIONS | 79 / 320 | 75.3% |
| Category A | 45 / 89 | 49.4% |
| Category B | 18 / 115 | 84.3% |
| Category C | 16 / 116 | 86.2% |
| TARGET INSPECTIONS | 438 / 2108 | 79.2% |
| Category A | 47 / 181 | 74.0% |
| Category B | 222 / 987 | 77.5% |
| Category C | 169 / 940 | 82.0% |
| DEFECTIVE REINSTATEMENTS | 425 / 2158 | 80.3% |

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

APPENDIX A

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 | 89 | 115 | 116 | - | 320 |
| TARGET INSPECTION | 181 | 987 | 940 | - | 2108 |
| DEFECTIVE APPARATUS | - | - | - | 1261 | 1261 |
| DEFECTIVE REINSTATEMENT | - | - | - | 3548 | 3548 |
| INSPECTIONS RELATED TO CORING | - | - | - | 361 | 361 |
| OTHERS | - | - | - | 173 | 173 |
| TOTAL | 270 | 1102 | 1056 | 5343 | 7771 |

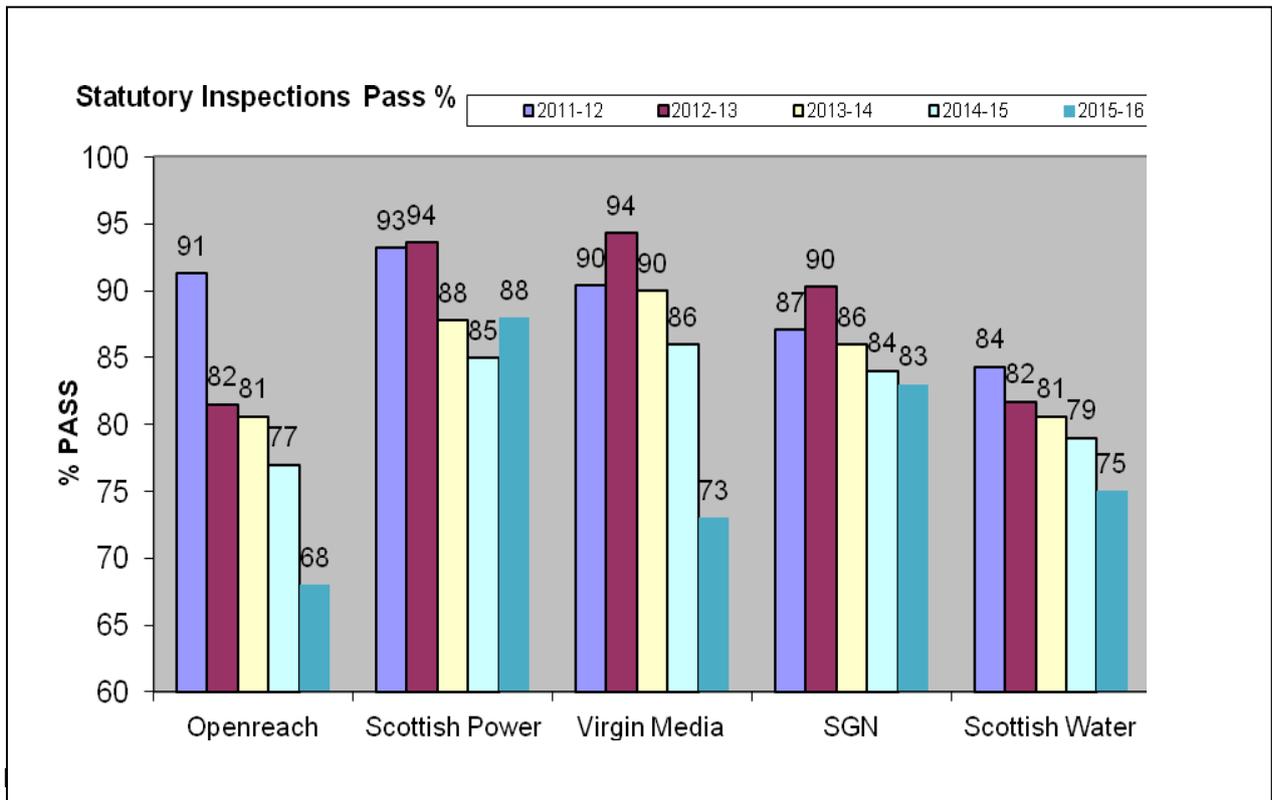
Table 3.13

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

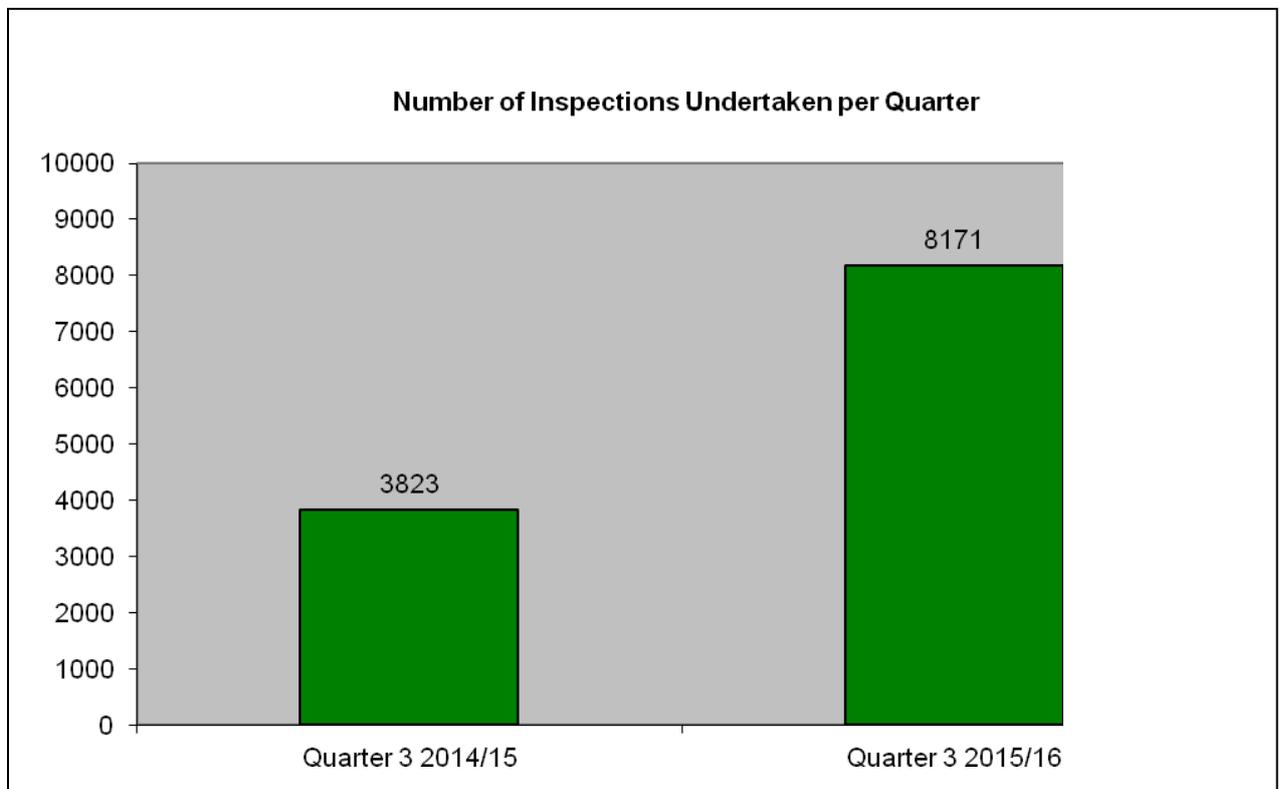
| | Openreach | Scottish Power | Virgin Media | SGN | Scottish Water |
|-----------|-----------|----------------|--------------|-----|----------------|
| Pass Rate | 68% | 88% | 73% | 83% | 75% |

APPENDIX A

Graph 3.13



Graph 3.15



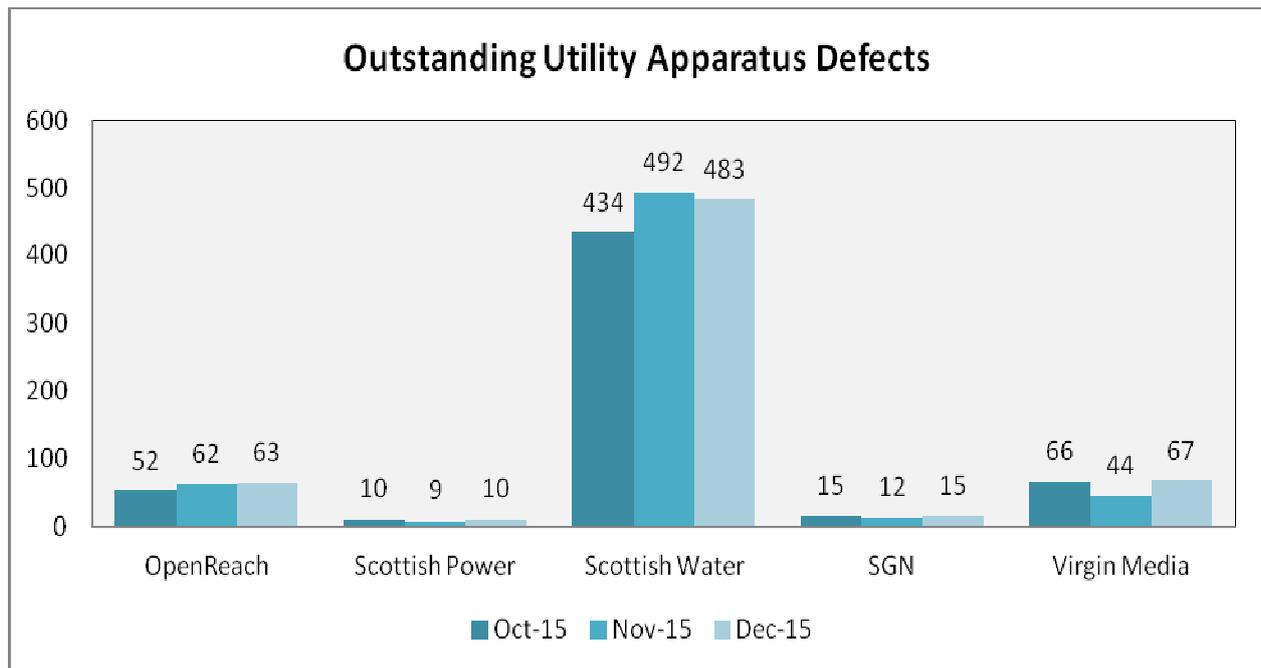
APPENDIX A

Table 3.16

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

| Utility | Q4 (2014/15) | Q1 (2015/16) | Q2 (2015/16) | Q3 (2015/16) | Difference Q2 to Q3 |
|----------------|-----------------|-----------------|-----------------|-----------------|------------------------|
| SGN | 21 | 19 | 14 | 15 | 1 (7.1%) |
| Scottish Water | 462 | 333 | 373 | 483 | 110 (29.5%) |
| Openreach | 144 | 36 | 37 | 63 | 26 (70.2%) |
| Scottish Power | 26 | 14 | 11 | 10 | -1 (-9.1%) |
| Virgin Media | 20 | 58 | 51 | 67 | 16 (31.4%) |
| Totals | 673 | 460 | 486 | 638 | |

Graph 3.17



The high number of outstanding defects for Scottish Water (at 483) is a long standing issue, which has been raised as a specific concern and included in their Stage 2 Improvement Plan.

APPENDIX A

Table 3.18

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

| PU | End of 2011/12 | End of 2012/13 | End of 2013/14 | End of 2014/15 | Q3 of 2015/16 |
|----------------|----------------|----------------|----------------|----------------|---------------|
| Openreach | 130 | 53 | 51 | 144 | 63 |
| SGN | 75 | 22 | 8 | 21 | 15 |
| Scottish Power | 47 | 8 | 5 | 26 | 10 |
| Scottish Water | 801 | 582 | 470 | 462 | 483 |
| Virgin Media | 93 | 27 | 19 | 20 | 67 |

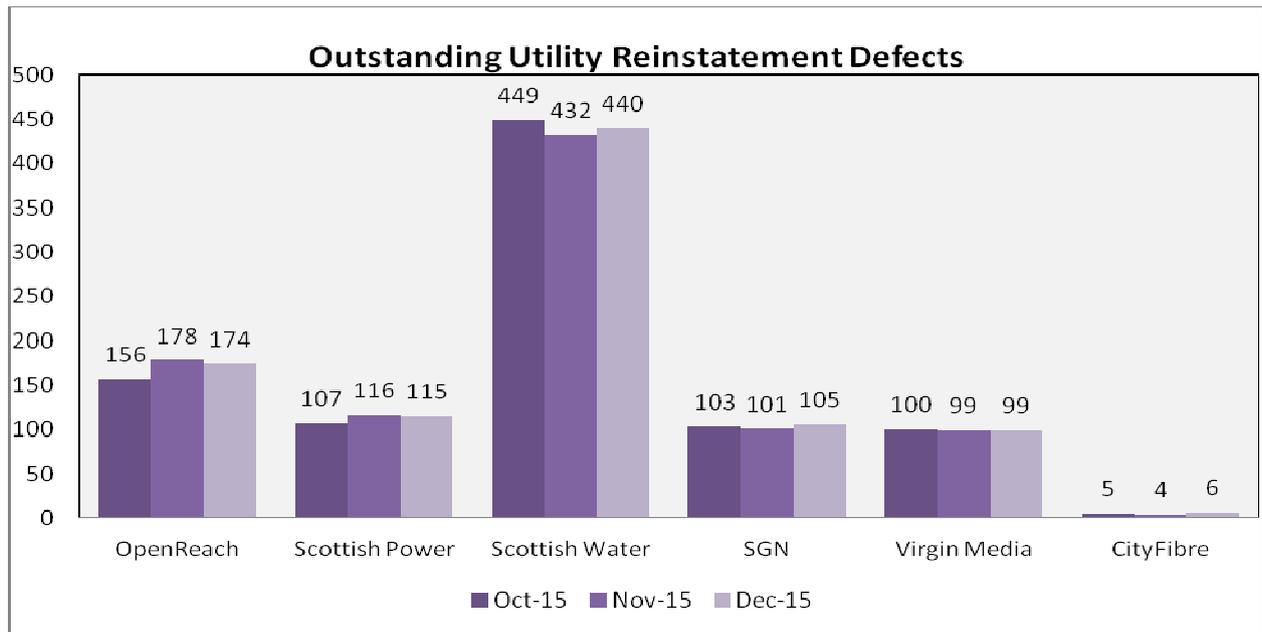
Table 3.19

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

| Utility | Q4 (2014/15) | Q1 (2015/16) | Q2 (2015/16) | Q3 (2015/16) | Difference Q2 to Q3 |
|----------------|--------------|--------------|--------------|--------------|---------------------|
| SGN | 168 | 172 | 113 | 105 | -8 (-7%) |
| Scottish Water | 390 | 527 | 473 | 440 | -33 (-7%) |
| Openreach | 106 | 135 | 135 | 174 | 39 (29%) |
| Scottish Power | 98 | 108 | 110 | 115 | 5 (3%) |
| Virgin Media | 62 | 82 | 104 | 99 | -5 (-5%) |
| CityFibre | - | - | 3 | 6 | 3 (100%) |
| Totals | 824 | 1024 | 938 | 939 | |

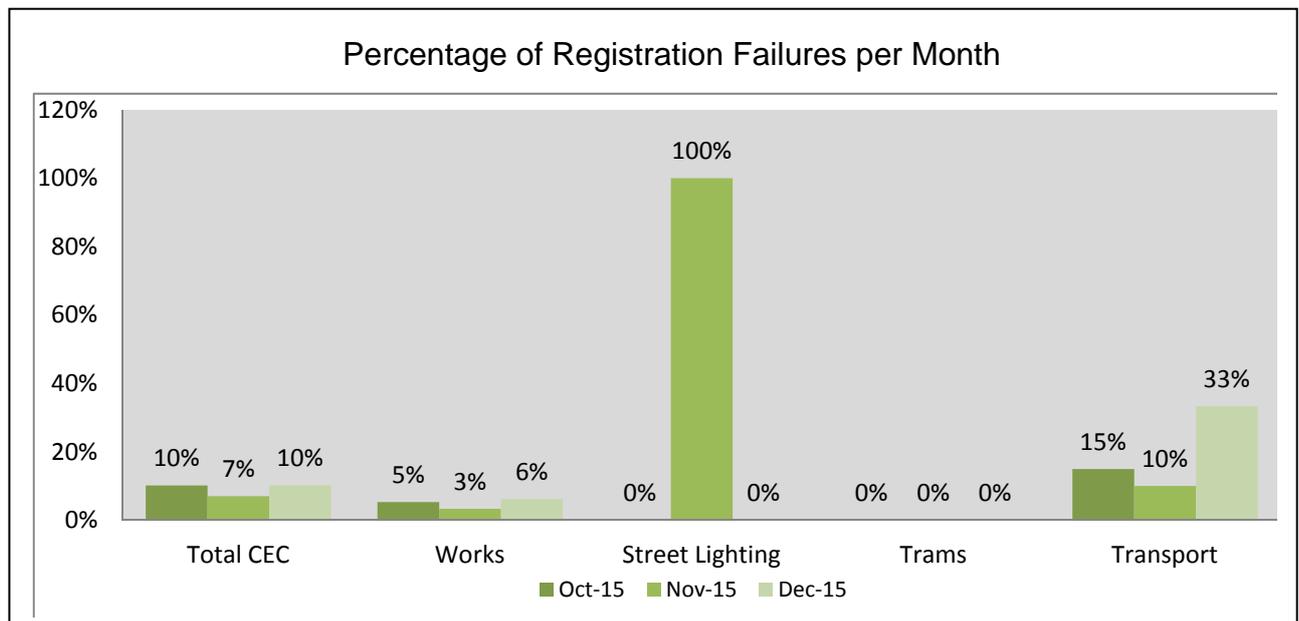
APPENDIX A

Graph 3.19



The number of outstanding defective reinstatements has increased slightly during Quarter 3.

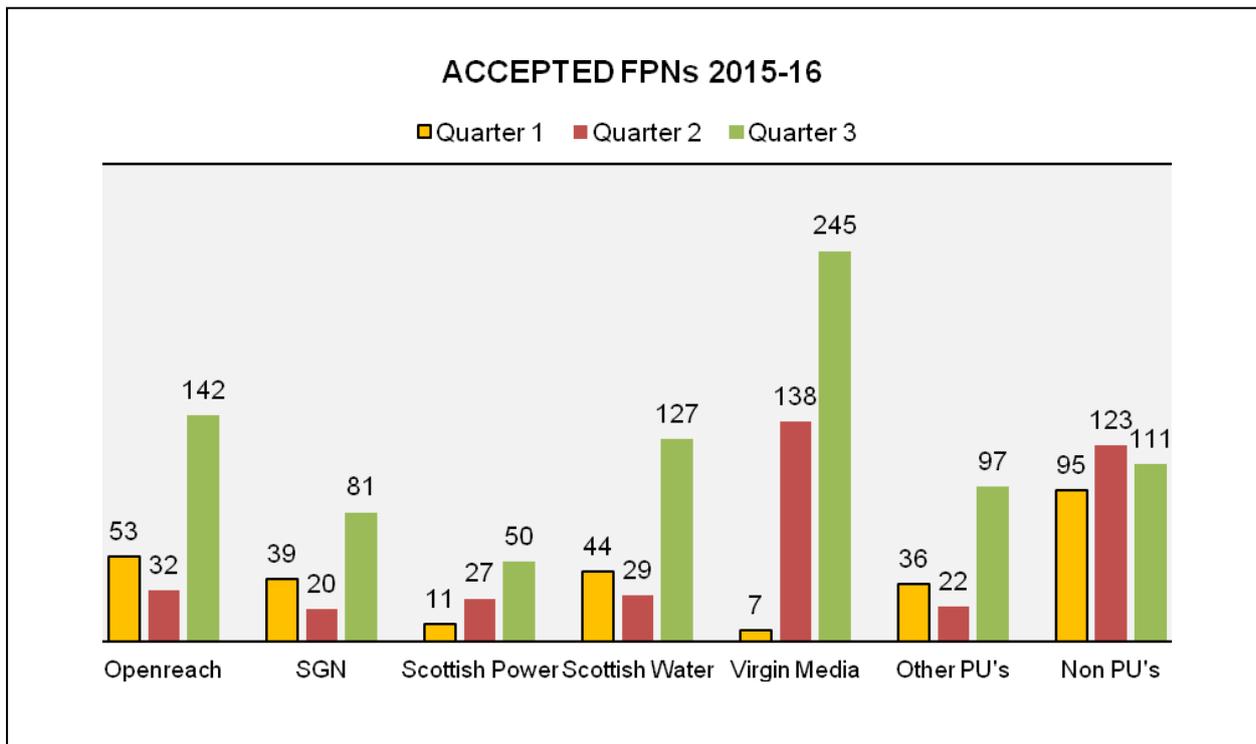
Graph 3.22



The average registration failure rate during Quarter 3 was 10%. The monthly and annual target is 8%. The failure rate, at the end of Quarter 3, is attributed poor communication from Contractors to Council Officers in relation to road work start and end dates. Street Lighting had 1 failure from 1 registration giving the 100% failure rate and was due to poor communication from a contractor. This has been raised with the contractor and has improved since the end of Quarter 3.

APPENDIX A

Graph 3.23



Virgin Media and Openreach were issued with the highest number of Fixed Penalty Notices in Quarter 3. This was due to their notices not being closed on time and/or no notice being received for their work. These recurring issues have been raised with them and the Council has received assurances that training will be carried out to address this matter.

APPENDIX A

Table 3.26

The percentage pass rate for each PU placed on to a Staged Improvement Notice.

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

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

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