

Report Title:	Review of the performance of Tivoli Contract for Grounds Maintenance
Contains Confidential or Exempt Information	No - Part I
Cabinet Member:	Councillor Coppinger, Lead Member for Planning, Environmental Services, and Maidenhead
Meeting and Date:	Communities Overview & Scrutiny Panel 18 November 2021
Responsible Officer(s):	Andrew Durrant, Executive Director of Place Services Alysse Strachan, Head of Neighbourhood Services
Wards affected:	All

REPORT SUMMARY

This report provides panel members with detail of the council's current grounds maintenance contract held by Tivoli Group Ltd, it's specification and an update on the current performance and service delivery plans for the Tivoli Contract across the Royal Borough of Windsor and Maidenhead. Tivoli will be in attendance at committee on 18 November to give a presentation, which will cover more operational detail to support the published report.

It is recognised that this contract has an important impact on the way residents view RBWM in relation to the way green spaces in the borough are maintained and that there have been significant issues with the performance of the Tivoli Contract this year, leading to increased enquiries and complaints from residents and Councillors. Negotiations between RBWM and Tivoli have been ongoing over the last year and during the pandemic but have not been fully resolved to date.

RBWM and Tivoli have more recently entered into formal contractual dispute, with the aim to work in good faith to resolve the issues raised. Officers are now in weekly negotiations with Tivoli to resolve the dispute and are reviewing the findings from the previous task and finish groups, which will set out the direction of travel for the future.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATIONS:

- i. That Communities Overview & Scrutiny Panel notes the report and associated presentation information, providing panel members with the opportunity to ask questions thereon.**
- ii. That Communities Overview & Scrutiny Panel help shape the anticipated outcomes and contract review process with associated timescales following committee.**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Options

Option	Comments
Note the report and comment This is the recommended option	None

This report recommends noting the content and seeks members views and questions arising from it. The presentation by Tivoli will also provide members with the opportunity to speak directly to the service provider about service delivery and future service delivery plans that will ultimately contribute to improved service levels for RBWM residents.

3. Grounds Maintenance Contract – Background & Context

The Royal Borough's Grounds Maintenance Contract service is one of the most visible services provided within the council. Its reliability is key to success; specifically, that grass is cut regularly, hedges and shrubs are maintained, Cemeteries are maintained, and burials undertaken, litter bins and dog waste bins are emptied regularly, play parks, open spaces and sports pitches are maintained to the required standards, aviaries are maintained and where required standards are not met, this is rectified quickly.

Any shortfalls in these aspects have an impact on how residents and visitors perceive the service and often the Royal Borough will encounter reputational damage which is hard to recover from and does not give residents the confidence that we are delivering quality services.

Since June this year when initial concerns were raised about the contract performance, service delivery has improved considerably. At the time it was agreed that a report would be taken to the Communities Overview & Scrutiny Panel to review performance.

Contract procurement took place in September 2015. At the time it was a joint procurement with Wokingham Borough Council, advertised as three separate lots:

- Lot 1 - RBWM
- Lot 2 - Wokingham BC
- Lot 3 - RBWM and Wokingham BC.

As a result of the procurement process a decision was made to award Lot 3 to ISS, who were the incumbent contractor in RBWM. A summary of key dates and events is provided below:

- Initial Term 1st April 2016 to 30th September 2026 (10.5 years)
- Extension option: 1st October 2026 – 30th September 2031 (5 years)
- Contract Price £1.2m per annum
- ISS were acquired and Tivoli group was set up and started trading on 1st June 2018.

- Novation of contract to Tivoli was signed in March 2019. Separate contract with Tivoli for grounds maintenance for schools in RBWM was signed in May 2019.

The Contract was awarded based on a partnership approach with a set amount for the contract (£1.2 million p/a), within which all work should be completed. There is flexibility within the contract to agree changes e.g. reduce frequency of cutting in some areas to increase it in others or changes to how things were managed e.g. more litter bins to reduce need to litter pick etc.

Contract Specification

The Contract defines the standard to be achieved, rather than define the precise method by which the Service Provider will be required to perform the Service. The Standard to be achieved will differ on each site, dependent on the location and the activities that are carried out on the elements that make up the site, i.e. the grass, shrub beds, hedges, etc. as well as the frequencies of those activities.

Scope of the Services

The work mainly comprises the maintenance of land and facilities in the Council's parks, cemeteries, highways and open spaces including:

- Litter collection and path/road sweeping/spraying
- Grass cutting
- Shrub and rose bed maintenance
- Spring and summer bedding – provision, planting and maintenance
- Hedges - hand and tractor cut
- Litter picking prior to maintenance operations, plus clearance of leaves and minor tree debris
- Play area inspection and maintenance
- Hard Surface weed spraying
- Spraying and general maintenance of paths and other hard surfaces, walls, features, street furniture and fence lines etc. to remove and keep down weeds and moss
- Maintenance of Sports areas including lawn tennis, cricket, football and rugby pitches
- Daily care and maintenance of birds and small animals
- Litter control including bin and dog bin emptying (the Council still retains separate bins for both)
 - i). Cemetery maintenance including grave digging and Conducting Interments
 - ii). Other miscellaneous work, e.g. edging of grassed areas, cleaning of toilets and pavilions

There are a number of outcomes that are the drivers for the contract specification:

Key Outcomes for the Service Provider to deliver

1. High quality horticultural standards on high profile sites
2. Improved resident and user satisfaction levels
3. Minimal customer complaints over the course of the contract with resolution at first point of contact (direct to Service Provider)
4. Service performed to at least minimum specified standard on every site

Key Outcomes to be shared responsibility with Client & Service Provider

- i). Partnership working and problem-solving approach to provide added value
- ii). Sustainable and minimal costs for operational activity
- iii). Improved service for specific areas, to be identified during the course of the contract, by adjusting existing resources.
- iv). Achieve savings and generate new income streams over the course of the contract term
- v). Increase community involvement and volunteering

The table below sets out the main operational tasks:

Operational Task	Area	Details
1	Grass Areas	<ul style="list-style-type: none"> • Mowing and maintaining up to standard all grassed areas within the contract. • Litter, including faeces, must be picked up prior to mowing. • Creating new wildflower and grassland regimes.
2	Hedges	<ul style="list-style-type: none"> • Pruning and maintaining, up to standard, all hedges within the contract
3	Mixed Border Maintenance	<ul style="list-style-type: none"> • To maintain shrubs, roses and other border plants in a shape appropriate to their cultivar, to keep them vigorous and to keep their beds tidy and weed free on beds within or adjacent to grass areas, and to leave them in that way after a maintenance visit on all other areas.
4	Copses	<ul style="list-style-type: none"> • Maintaining a range of woodlands, copses and thickets according to good woodland management practice, to develop and enhance biodiversity and not be a source of Justified Complaint.
5	Minor Tree Works	<ul style="list-style-type: none"> • The maintenance of the Council's tree stock, which can be reached from ground level (without use of ladders, elevated work platform or climbing equipment), will be expected to control problematic epicormic

		growth or crown raise vegetation to prevent growth which obscures signage, interferes with access and sightlines etc.
6	Spring and Summer Bedding	<ul style="list-style-type: none"> The Service Provider is required to prepare the specified flower beds and planters ready to accept bedding plants, supply and plant out displays in May and October/Nov and maintain the beds throughout the year
7	Grass Sports Pitches and Courts	<ul style="list-style-type: none"> Inspecting grass sports playing surfaces, facilities (not including buildings) and equipment and maintaining to the required standard on all such areas within the contract. This includes preparing them for play, marking out, and erecting appropriate equipment relevant to the sport (e.g. goal posts on football pitches, nets to tennis courts etc.). These activities are sport specific and may be seasonal or all-year round.
8	Mobile Cleaning	<ul style="list-style-type: none"> This term has been used to define a group of related operations within the Management Area. These include, but are not limited to, the general collection of any litter, leaves and minor tree debris from the site being visited, the removal of dog faeces and the cleaning and maintenance of toilets, pavilions, bridges, pavilions and paths and all other hard or gravelled surfaces (including tennis courts, tracks and play area safer surfacing), and the removal of graffiti.
9	Cemetery Maintenance and Attendants	<ul style="list-style-type: none"> The provision of a full and complete cemetery maintenance service
10	Play Areas and Young People's Provision	<ul style="list-style-type: none"> To visually inspect and maintain RBWM play and young people's equipment and facilities across the Borough to ensure safety and usability.
11	Aviaries	<ul style="list-style-type: none"> To maintain all aviaries and animal enclosures having due regard to the health and security of all birds, animal species and the health and safety of the public, and to ensure compliance with the Secretary of State's standards of modern zoo practice, where applicable, which will normally require 5 to 6 hours of work every day in maintaining the health & cleanliness of the birds, animals and enclosures.

4. Contract Performance Management

Contract Management is currently undertaken within Neighbourhood Services in the Environmental Services Team, which also manages waste and recycling and street cleansing. The Parks and Countryside team have also recently moved into Environmental Services, which consolidates management of this service area within one section and allows for more robust contract management. There is a Contract Manager responsible for the Tivoli, Serco, Urbaser and waste disposal contracts. Within the Parks and Countryside team there are two staff who have day to day contact with Tivoli, looking at issues with parks, cemeteries and other contractual issues. These staff carry out the monthly joint inspections with Tivoli staff, which feed into the KPIs for the contract. These are discussed along with other contract and performance issues at monthly contract meetings.

Staff within the parks and countryside team are also responsible for bookings for the sports pitches and for liaising with families and undertakers to arrange for burials in the cemeteries maintained by Tivoli.

Contract and performance management has, until recently, been irregular and has been affected by the changes to Tivoli and RBWM personnel over the past two years. Discussions have been taking place with Tivoli and task and finish groups were set up to look at the Tivoli contract with three workstreams:

- Bills of quantities
- Mapping and finance
- Performance indicators (which will start once other workstreams are resolved).

This exercise brought to light several variances between the contract specification and the assets within the Royal Borough. These variances are being discussed and resolved through the dispute resolution process set out in the contract but are creating a very difficult contract for Tivoli to deliver within the existing resources.

Regular Contract meetings have been taking place where RBWM have provided evidence of the poor service delivery experienced this year. The below details a timeline of more recent activity:

September 2021

Tivoli produced an updated recovery programme, which detailed a timeline of when the standards would be returned to contractual requirements. In addition to this, they produced works programmes for various areas to show when standards will be met although until recently, officers had little confidence in the timescales proposed. However, it is understood that standards have now returned in most areas and the normal maintenance schedules are now being followed.

Tivoli wrote to RBWM to with a Notice of Dispute highlighting two areas of dispute; inaccurate Bill of Quantities and failure to follow the variation process.

RBWM established a working group to manage the dispute process consisting of the members below:

Andrew Durrant	Executive Director of Place
Alysse Strachan	Head of Neighbourhoods
Naomi Markham	Environmental Services Manager
Elaine Brown	Head of Law & Deputy Monitoring Officer
Lyn Hitchinson	Procurement Manager
Mark Pattison	Project Management Officer

Service failures raised have been addressed in liaison with Tivoli through the normal contract management process.

October 2021

RBWM formally responded to the dispute correspondence.

There are now weekly meetings in place with Tivoli to resolve the areas of dispute in good faith. Officers are working to resolve historic payment issues that have not been formalised and reviewing the Bill of Quantities workstream. Once this position has been agreed then a decision can be made on the best course of action with the contract moving forward.

If the Officers are unable to resolve the dispute within 30 days of service, then it will be referred to a Senior Officer to resolve within a further 30 days. It has been jointly agreed to extend this initial 30 day period to enable outstanding issues to be resolved. If the dispute is not resolved then, it will move to mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure and serve an Alternate Dispute Resolution (ADR) notice. If the dispute is still not resolved within 90 days of the notice, then it will be resolved by arbitration.

The Parks & Countryside team moved under the management of the Environmental Services Manager, this has enabled closer working between the Manager and the team who monitor the performance on the ground.

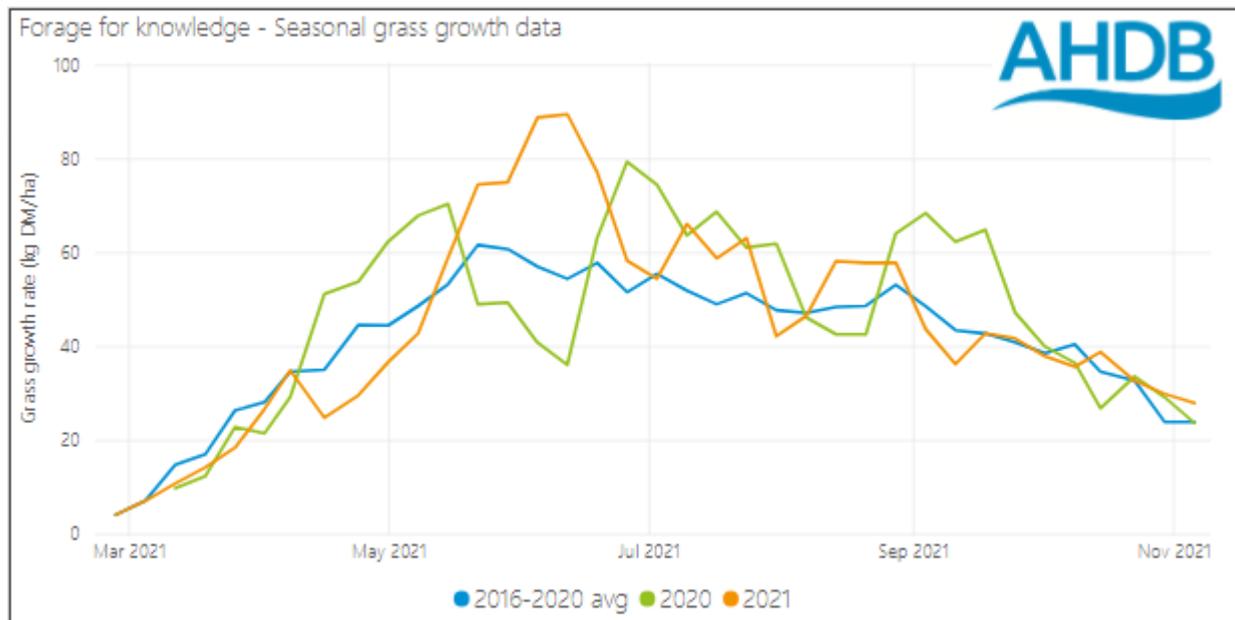
5. Local & national issues

The grounds maintenance contract has been exposed to several local issues, many of which have equally been felt across the country and within a number of similar public service contracts. This section summaries the main issues that have presented the Tivoli contract with a number of challenges to maintain expected standard.

Growing season - The continued growing season this year is the worst in over a decade. This year has presented several challenges for grounds maintenance contractors across the country. The rate at which the grass plant grows depends on the climatic conditions; this season has been particularly hot and wet which results in grass growing quickly and therefore needs to be cut more regularly to meet the contract specifications.

Indicatively the below graph (orange 2021) shows the conditions experienced on the ground and from June onwards the hot and wet conditions continued. Normally grass would 'burn off' during the summer months when Tivoli would tackle weeds and

hedging. This year this it has not been possible, with the teams focusing on keeping on top of the grass cutting which has been a struggle due to the aggressive nature of the growth. In “normal” times, Tivoli would get additional seasonal staff but this has been difficult due to labour shortages.



Labour shortages – Tivoli have been facing the challenges that most blue-collar industries have had recently, in recruiting and retaining a workforce at close to the minimum wage caused by Brexit/Furlough and the competition from Distributors/Hospitality etc for staff. In answer to these issues, Tivoli have undertaken 3 targeted actions:

- Rolled out Skills Based Pay (SBP) at a cost to of £500k this year to reflect people’s skills and increase retention. It also includes a North and South pay differential to recognise cost of living.
- Onboarded a significant number of sub-contractors
- Looked at short term labour solutions for the summer to get seasonal staff in, which are normally in abundance. Again, this at a significant cost i.e. base labour under Skill Based Pay is around £9.50 per hour in the South versus in certain hot spot areas where they are having to pay agency costs of around £16.00 per hour to tackle these shortages.

The pandemic – less so this year than last but Tivoli have experienced on several contracts whole teams go down following the isolation rules; thankfully no major cases of Covid have occurred but operationally it is difficult to manage especially when dealing with the first two points. Tivoli have experienced staff shortages from Covid with staff having to recover, self-isolate or care for family members.

Machinery – Tivoli have experienced several breakdowns with vehicles and have employed an additional mechanic to mitigate the delays caused by machinery failures. There have been problems with the supply of parts caused by ongoing supply chain issues with European factories not producing the required parts or the parts being delayed by transport issues.

Performance against Contract

Recognising the current issues detailed above, the priority this year has been to maintain parks to a high standard to allow for outdoor socialising while Covid restrictions remained in place and as people chose to spend time meeting friends and family outdoors. There are also certain parts of the contract such as burials which are time critical and must be carried out on schedule. There have sadly been a higher number of burials than usual this year, taking more time to complete the associated tasks as a result. Other parts of the contract such as management of the aviaries at Ray Mill Island, opening and closing of gates, opening and closing and cleaning of public toilets with parks and inspections of play equipment and emptying of litter and dog waste bins are regular tasks requiring daily action which cannot be left for longer periods.

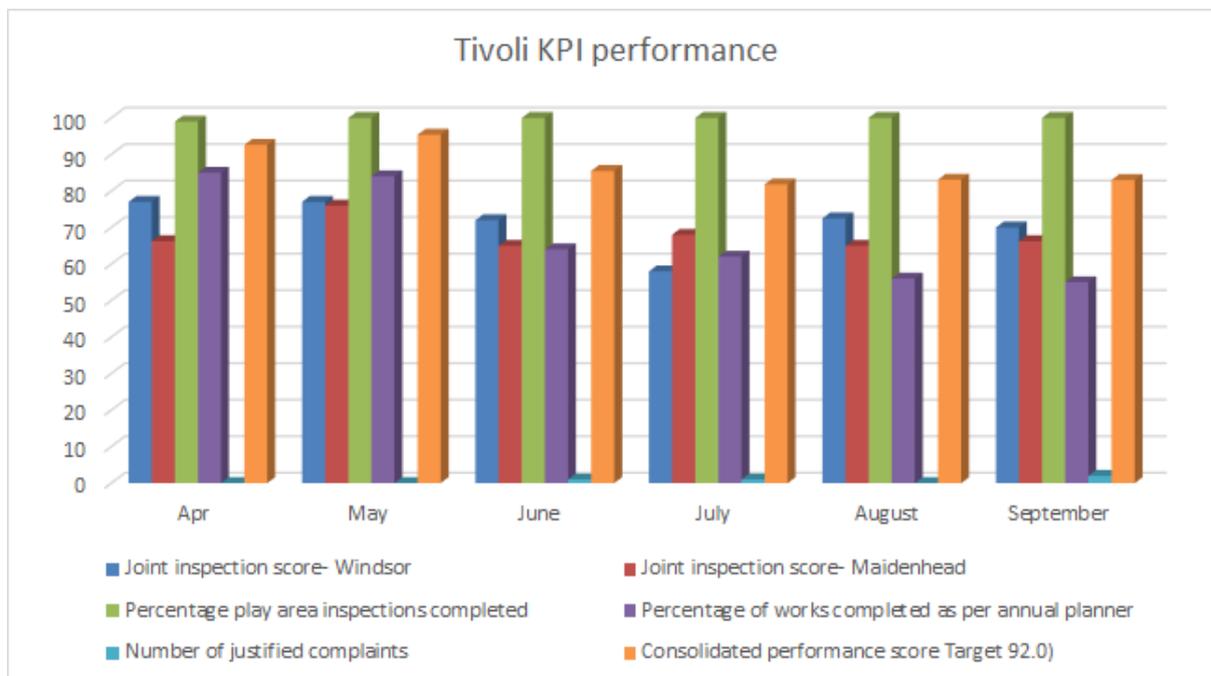
This means that the main areas of concern have been around cutting of highways verges, shrub bed maintenance and management of vegetation, which have been, by necessity, a lower priority this year. Combined with the difficult growing season, this has led to some areas which have fallen below the required standard. It should, however, be noted, that some areas of complaint regarding overhanging vegetation are not covered by the Tivoli contract. There is an overhanging vegetation process in place where the vegetation is coming from land adjacent to the highway. However, this is not a quick process as it involves contacting the owner or occupier of the land and requesting they cut back vegetation and then following this up with more formal action within set timescales where this does not happen.

KPIs

There are six KPIs by which to measure the service provider’s performance and to measure the way in which the outcomes are being delivered.

The below graph shows the KPI performance for April to September 2021. KPIs focus on the scores from joint inspections of parks and cemeteries, which are carried out on a selection of representative sites on a monthly basis by RBWM officers and Tivoli staff. The KPI measures are the percentage of play area inspections completed, the percentage of the work programme completed in year to date and the number of justified complaints about the contract performance, which result in a consolidated performance score. The target for the consolidated performance score is 92. The scores this year have been as follows:

Apr	May	June	July	August	September
92.64	95.40	85.49	81.81	83.08	83.01

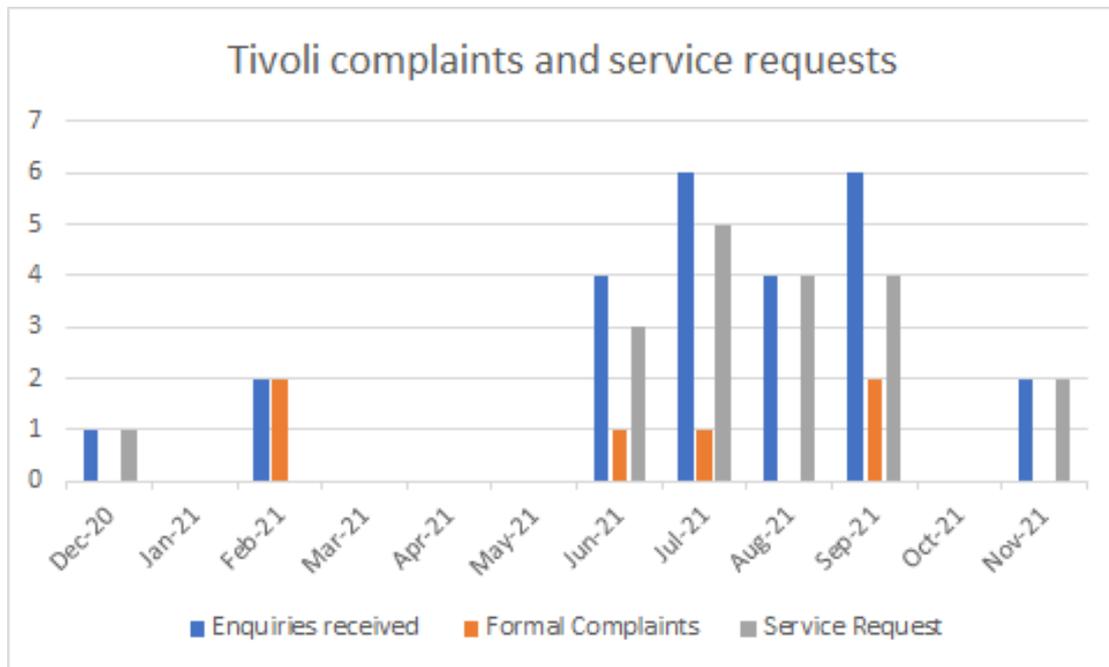


The joint inspections have broadly shown the areas surveyed to be in a generally good state with some minor issues, such as weeds in shrub beds, or small areas of grass not cut to the required standard. None of the inspections have resulted in a poor score of an individual site, and generally, the actions noted by the inspections as requiring improvement, have been actioned within a reasonable timescale.

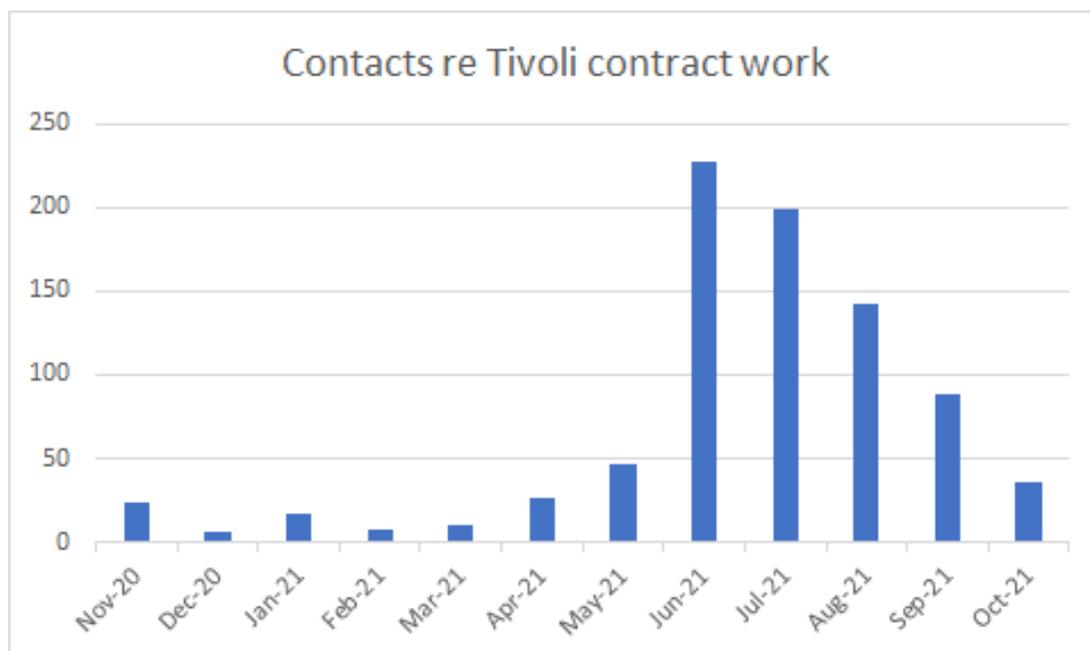
The number of formal complaints about the contract has been low and play area inspections have been completed on schedule on almost all occasions, with the monthly percentage completion being 99% or 100% in each month.

The area resulting in a reduction of the scores has been the percentage of the work programme completed. This relates to delays in grass cutting, vegetation management and shrub bed maintenance, which have been affected by the difficulties in the growing season, staff shortages and machinery breakdowns more than other areas of the contract. These areas were deemed a lower priority than other areas due to considerations around more outdoor socialising this year.

When assessing the performance of the council's contracts it is also important to look at the number of complaints and service requests received through the formal complaints route about the services being provided and the overall number of contacts received about the services. For the services provided by Tivoli the number of formal complaints and service requests through the complaints team is very low, although there has been an increase between June and September 2021; this is shown in the graph below:



The number of contacts received to the council resulting in a request to Tivoli is shown in the table below. This includes Report it forms received as well as emails and phone calls into the council:



As can be seen in the graph, the level of contacts is generally fairly low but has peaked during the summer period which reflect the decline in performance and is in line with the difficult growing season and heavy use of parks and open spaces. The number of contacts is now dropping back to more normal levels as the growing season slows and work is caught up.

Members, including Panel Members, Parish Councils and Residents were encouraged to provide relevant examples of issues with the performance to the Clerk ahead of the meeting on 18 November. This has demonstrated that a minority of enquires are still to be resolved despite having been raised some time ago. However, whilst investigating the other issues, it brought to light that some had not

been reported via the Report it function and had therefore not been captured on the complaints management system. There were also examples of enquiries, although valid, being reported that were not the responsibility of Tivoli but other contractors.

6. NEXT STEPS

Officers will continue to follow the dispute resolution process as detailed in the Contract; both RBWM and Tivoli are committed to resolving the dispute/s in good faith. As part of this process, RBWM and Tivoli will work together to resolve any variances highlighted by the task and finish groups. Officers can report back to the panel with the findings in April 2022 as suggested in the scoping document with a further review after the next growing season. In parallel to this, RBWM will continue to closely monitor the agreed level of performance specified in the contract.

Members and residents are encouraged to report any further issues via the Report it function on the website, this will ensure that the enquiries are captured and can be monitored through to resolution.

It is recommended that the Communities Overview & Scrutiny Panel note the contents of this report and the presentation by Tivoli and consider whether any further scrutiny of the performance of the Contract is required.

7. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
Andrew Durrant	Executive Director of Place	05/11/21	10/11/21
Elaine Browne	Head of Law (Deputy Monitoring Officer)	08/11/21	10/11/21
Naomi Markham	Environmental Services Manager	08/11/21	10/11/21
Lyn Hitchinson	Procurement Manager	08/11/21	10/11/21
Mark Pattison	Project Management Officer	10/11/21	10/11/21

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