

COUNCIL

11 April 2022

REVIEW OF OVERVIEW AND SCRUTINY ARRANGEMENTS

Report of the Monitoring Officer

Strategic Aim:	All	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr O Hemsley, Leader and Portfolio Holder for Policy, Strategy, Partnerships, Economy and Infrastructure	
Contact Officer(s):	Marie Rosenthal, Interim Deputy Director for Corporate Governance (Monitoring Officer)	01572 827347 mrosenthal@rutland.gov.uk
Ward Councillors	N/A	

DECISION RECOMMENDATIONS

That Council approve the recommendations of the Constitution Review Working Group that:

1. The Council relaunch the Scrutiny function, championed by the Scrutiny Commission, the Leader of the Council, and the Chief Executive, with a Rutland Scrutiny Improvement Plan setting out the ambition and expectations for the function based on a partnership of mutual respect, transparency, and constructive challenge.
2. The Council should move away from the existing 3-committee and commission system for overview and scrutiny to a single Strategic Overview and Scrutiny Committee as outlined in 4.2.3 and detailed in Appendix A.
3. There will be a review and report back to Council on the effectiveness of the Strategic Overview and Scrutiny Committee in the early summer of 2023 after a full municipal year's operation.
4. The Monitoring Officer be authorised to make the necessary and consequential changes to the Constitution as part of the pending review of the Constitution.

1 PURPOSE OF THE REPORT

- 1.1 To propose a revised scrutiny function following the review requested by the Council on 13 December 2021 and conducted by the Constitution Review Working Group (CRWG) as part of their wider review of the Constitution.

2 BACKGROUND

- 2.1 The purpose of Scrutiny is to provide a means to hold decision makers to account and to investigate and inquire into issues of interest and relevance to local people. Overview and scrutiny committees were introduced in 2000 as part of new executive governance arrangements to ensure that members of an authority who were not part of the executive could hold the executive to account for the decisions and actions that affect their communities.
- 2.2 Overview and scrutiny committees have statutory powers to scrutinise decisions the Executive is planning to take, those it plans to implement, and those that have already been taken/implemented. Recommendations following scrutiny enable improvements to be made to policies and how they are implemented. Overview and scrutiny committees can also play a valuable role in developing policy.

3 REVIEW OF RUTLAND SCRUTINY FUNCTION 2021/22

- 3.1 Following the publication of statutory guidance in May 2019 and the terms of reference for a review of the Constitution agreed by Audit and Risk Committee on the 30 November 2021 and full Council on the 13 December 2021, the Monitoring Officer was asked to review how the Council currently operates scrutiny and to advise on improvements that would build on the statutory guidance and assist the Council to deliver on its objectives.
- 3.2 The review began in November 2021 with an all-member survey and during subsequent months was conducted via a series of remote interviews with the Scrutiny Commission, the CRWG, members, and senior officers, and included a desk top analysis of past agendas, minutes, the volume of meetings, other council arrangements and Rutland Task and Finish Group outputs.
- 3.3 The CWRG met on the 12 January, 9 February and 23 March 2022 to consider the Scrutiny review. At its meeting on 23 March 2022, it agreed to recommend that the Council should move away from the existing 3-committee and Commission system for overview and scrutiny to a Single Strategic Overview and Scrutiny Commission as outlined in 4.2.3 and detailed in Appendix A of this Report.
- 3.4 Members recognised the significance of the proposed change and if Council approved the proposal, there should be a comprehensive review of its effectiveness after a full municipal year's operation.
- 3.5 The CRWG are scheduled to report back to the Annual Meeting of Council on 8 May with recommended changes to the Constitution to ensure that it is up to date and fit for purpose. If Council agrees the proposed changes to the scrutiny function, these will be included in the report for approval.

4 OVERALL CONCLUSIONS AND RECOMMENDATIONS

4.1 CONCLUSIONS

- 4.1.1 The conclusions and recommendations are drawn from the detailed findings set out in Section 5.
- 4.1.2 The overwhelming view is that there is a strong case for change. Most members responding to the all-member survey did not believe the current arrangements were

effective in providing Value for Money.

4.1.3 The evidence suggests:

- 1) A lack of shared understanding of the role across all Members – a view echoed by Members, SMT and the Monitoring Officer.
- 2) There are a significant number of meetings given our scale and these led to very few recommendations that have resulted in service improvement or that have helped to achieve corporate or partnership priorities.
- 3) That while the Members' Survey suggested members did not believe the current arrangements were effective in providing Value for Money, there are examples from SMT of where it can be done well.
- 4) The number of meetings is not helping to focus or prioritise work and Members are asking for alternative structural options.
- 5) There is limited evidence of public involvement.
- 6) There has not been sufficient training or development for Members.
- 7) Some members view the quality of the chairing of meetings to be mixed.
- 8) Agenda setting is not driven by Scrutiny objectives or a forward view and can be very reactive or follow the Cabinet agenda.

4.2 RECOMMENDATIONS

4.2.1 This review provides an opportunity to reinvigorate and strengthen the overview and scrutiny function at Rutland. The Council could develop a principles-based approach to reset and drive scrutiny, adopting an improvement plan reflecting the principles of good scrutiny embedded in the 2019 statutory guidance:

- Effective overview and scrutiny should provide constructive 'critical friend' challenge;
- Amplify the voices and concerns of the public;
- be led by independent people who take responsibility for their role; and
- drive improvement in public services.

4.2.2 The delivery of a comprehensive member development programme will be key to support scrutiny chairs in better chairing and leadership of the scrutiny function and to ensure all scrutiny members aware of their roles and responsibilities and the powers available to them as scrutiny committees.

4.2.3 There should be a radical change moving from three service scrutiny committees to one strategic body with commissioning powers to set up small Working Groups, Task and Finish Groups, Single Issue Panels and /or Inquiries to undertake detailed challenge work within their respective remits – detailed in Appendix A.

4.2.4 There should be a focus at each meeting on a limited number of substantive items, which reflect priorities for the members concerned. A focus on performance results

to identify successes and areas for development or future work, supporting the successful delivery of the Corporate Plan.

- 4.2.5 There should be more public involvement in identifying topics for review and giving evidence and items for 'noting' or 'comments' should either be directed elsewhere or consider later in the meeting when the priority items have been discussed.
- 4.2.6 There should be established an informal joint meeting between the Cabinet and the Scrutiny Commission, to suggest topics where cabinet would welcome an in-depth study from overview and scrutiny and to discuss the proposed scrutiny work programme.
- 4.2.7 Greater use of virtual meetings technology and, where appropriate, social media to engage the public, service providers and external partners and encourage elected member active participation.
- 4.2.8 Virtual technology, in-house training and briefings should be used for scrutiny Chairs and members on appointment and on-going, including subject updates as required and skills development.
- 4.2.9 Committees should conduct an annual self-evaluation to be accountable to the council and the public.

5 REVIEW OF EFFECTIVENESS DETAILED FINDINGS

5.1 The Scrutiny Commission review

- 5.1.1 The Scrutiny Commission met on the 18 January and 1 March 2022 to consider the Member Survey and to carry out an informal review of the effectiveness of the scrutiny function by discussing the strengths and weaknesses of the current arrangements.
- 5.1.2 The Commission considered that scrutiny is well managed and runs well with hard working members and excellent support from Governance. There are high levels of officer support and engagement, and Task and Finish groups are effective and satisfying for members.
- 5.1.3 The Commission identified several areas for improvement. These included:
 - no shared understanding about the purpose of scrutiny.
 - a weak Induction process for new scrutiny members.
 - a level of member complacency and a resistance to change.
 - the need to engage better with the public and to follow up on recommendations for action; and
 - making better use of existing constitutional provisions (for example, call-in procedures or inviting the portfolio holders to give account at scrutiny).

5.2 Monitoring Officer Review

- 5.2.1 The Centre for Governance and Scrutiny (CFGs) suggest several measures to evaluate scrutiny effectiveness. These are:

- The presence of at least 70% of scrutiny recommendations accepted and implemented within the last three years (noting that the national average is 62%).
- Whether respondents recognise a constructive relationship between the executive and scrutiny.
- Whether respondents consider that scrutiny has a positive impact.

5.2.2 The CFGS state “Councils demonstrating any one of these single characteristics is a sign of scrutiny’s effectiveness, but these characteristics in combination form our ‘effectiveness measure’ and make a very convincing case for scrutiny working successfully within a council. It is difficult to establish conclusively that scrutiny in such councils is always more effective, but we continue to explore effectiveness as we work to better understand political culture and the practical impact of scrutiny work.”

5.2.3 An analysis of scrutiny recommendations by Committee over the last two years reveals that over 90% of the reports that went to the Scrutiny Committees were to be noted or similar with little evidence that they led to recommendations that have resulted in service improvement or that have helped to achieve corporate or partnership priorities.

5.2.4 It was interesting to note Members themselves were unable to point to much constructive work despite the number of meetings held. The volume of meetings over during 2021/22 averaged two a month as per the table below.

MEETING	No. of Meetings Held in 2019/20	No. of Meetings Held in 2020/21	No. of Meetings Held in 2021/22	TOTAL
Adults & Health Scrutiny Committee	5	4	7	16
Children & Young People Scrutiny Committee	5	6	6	17
Growth, Infrastructure & Resources Scrutiny Committee	8	6	7	21
Scrutiny Commission	7	2	6	15
Biodiversity Task and Finish Group	6	0	0	6
Primary Care Task and Finish Group	0	0	3	3
TOTAL	31	18	29	78

5.2.5 The evidence suggests that is not the number of meetings or opportunities that hamper effective Scrutiny but something else. Clearly, having meetings that do not contribute substantially is not a good use of resources.

5.2.6 There are problematical aspects of the range of activities undertaken by the three scrutiny committees in the way they operate. There is also a low-key approach to policy development and performance review. The way in which topics for in depth ‘task group’ scrutiny is selected would benefit from more evidence-based rigour. The Committees also need to review how they allocate their time amongst the various potentially beneficial activities they could carry out:

- policy development (i.e., where no policy currently exists) including the budget
- policy review (of an extant policy)
- performance monitoring and review
- effective ‘critical friend’ challenge to executive decisions or decision intentions

- external scrutiny (i.e., scrutiny of topics for which the council does not hold the primary responsibility)
- contributing to budget formulation

5.2.7 Under all these headings, although there have been achievements (often reflecting the work of ‘task groups’), there is a good deal of scope for improvement.

5.2.8 Does the current structure help or hinders effective Scrutiny? 20 years after the introduction of executive government, the Rutland scrutiny committees are still operating in a similar fashion to the traditional ‘service committees’ which they replaced. Agendas, settings, and functions are similar, in a way which is inappropriate, given the fundamentally different role of overview and scrutiny committees.

5.2.9 The main danger with an overview and scrutiny structure which matches departmental responsibilities is that overview and scrutiny activities tend to become focused predominantly on the statutory responsibilities of the council, at the expense of wider issues of community concern which do not fit conveniently into the span of responsibilities of the scrutiny committees.

5.3 **Senior Management Team Review**

5.3.1 The Senior Management Team met on 2 March 2022 to discuss the scrutiny review. Their views can be summarised as follows:

5.3.2 “It feels like there is a lack of member understanding of what the Scrutiny role is about. This is reflected both in the agenda items and the nature and style of questioning.

5.3.3 In more recent times, there is a tendency for agendas to “shadow” whatever Cabinet is doing or planning to do and there have been a number of reports “to note”. This doesn’t feel like best use of the time. There is no reason why Scrutiny should not have its own agenda driven by issues it wants to investigate not always driven by Cabinet.

5.3.4 There have been several Task and Finish Groups – it appears that they invariably suffer from a lack of sustained commitment from Members involved. The Poverty review was a particular example. Participating in such groups should mean investing time in research and engaging with relevant stakeholders to bring something back into topics. Turning up to meetings is not enough.

5.3.5 Being challenged and held to account is part of life as an Officer. The way this is done is often unhelpful and meetings can often be quite hostile which is unnecessary.”

5.3.6 That said all Directors have found Scrutiny helpful in talking through ideas and issues in relation to initiatives and Policy Development. They agreed that using the experiences and skills of Members is something that we should do more of.

5.3.7 The Directors pointed to several examples where they thought Scrutiny added real value. These included:

- Launch of MyAccount - a session was held with Members to get a view on its functionality and design. Subsequent to the Scrutiny meeting itself, officers

invited one of the panel members in with expertise in the area to give further input which shaped the end product. From an officer viewpoint, using the experience pool of Members was really helpful in getting feedback and giving a different perspective.

- The Rutland Family Hub - This will allow families to access face-to-face and digital support from public, private, and voluntary organisations at a single place. Scrutiny offered constructive comments on how to deliver this. Scrutiny was also helpful, in relation to the Children's Services Offer.
- Waste re-procurement - Scrutiny helped identify areas to be explored through the public consultation process and considered the issues and implications of the Environment Act's requirements for new waste collections services.
- Parking Strategy - Scrutiny worked with the Portfolio Holder prior to the development of the parking strategy to identify key issues for residents and communities that should be considered and addressed,
- Minerals and Waste Contract - whilst it would have been valuable for Scrutiny to have considered the issue earlier in the process it did make a number of recommendations regarding the monitoring and management of the contract.

5.4 CRWG Review

5.4.1 At its meeting of 9 February 2022, the CRWG considered the outcome of the review. It noted that the Member Survey had revealed dissatisfaction with the current arrangement especially in relation to value for money. During the discussion on the 9 February, the following points were noted:

- Councillor Waller expressed concerns that the authority was not currently doing what it should be and encouraged a change was needed with Scrutiny. Councillor Waller's preference would be to have one Overview and Scrutiny Committee meeting 11 times a year. The Constitution would need to be clear what the roles and responsibilities of the Group were.
- Councillor Oxley felt Scrutiny needed to be made more open and transparent and to allow non-executive Members to feel they could make a positive contribution to the running of the Council.
- Councillor G Brown acknowledged Scrutiny was not working, he raised concerns about the Charing and what aspects were put forward to be discussed. Members needed to be made more involved in discussions and given much more detail.
- Councillor Baines concurred with other Members that Scrutiny needed a radical change. He went on to say he felt a single Committee would work better or the option of two Committees merely splitting between People and Places to allow for Member's strengths and interests to be used in the correct areas.
- Councillor R Powell agreed a change needed to be made with Scrutiny, she suggested looking at what output the Council wanted from Scrutiny and how to make sure it did its job properly.
- Councillor Waller stated Members are not clear what Scrutiny's function is. She

stated two committees with a Policy development and Performance basis split might be more suited for the authority.

- The Governance Manager, Tom Delaney mentioned that one Committee could work well with Task and Finish groups to support the Committee more in non-formal ways.
- Councillor Oxley asked for more options on how other smaller authorities were working their Scrutiny function.
- Councillor Hemsley asked the Monitoring Officer to explore further examples and models for the Group to look at.
- The Monitoring Officer advised she would write a more detailed report recommending a single committee. The report would be brought to the 23rd of March meeting.
- Councillor Oxley enquired about how the Political Balance would work within the model. The Monitoring Officer would explore this in the report.

5.4.2 On 9 February 2022, the CRWG concluded that the scrutiny function would benefit from consideration of structural change and invited the Interim Monitoring Officer to outline possible options for change based on the review findings.

5.4.3 The CRWG met on the 23 March 2022 to consider the revised proposals for structural change of the overview and scrutiny function set out in this report. The CRWG agreed to recommend the proposals to Council for adoption in time for the Annual Meeting of Council on 8 May 2022 and subject to a review of effectiveness during 2023/4.

6 FINANCIAL IMPLICATIONS

6.1 The single scrutiny committee may involve some reduced clerking and administrative costs depending on the volume of activity.

6.2 There may also be an impact in terms of allowances payable, but this can be determined when arrangements are agreed and the membership of any future committee resolved.

7 LEGAL AND GOVERNANCE CONSIDERATIONS

7.1 As detailed in the Report.

8 ALTERNATIVE OPTIONS

8.1 As set out in Appendix A

9 DATA PROTECTION IMPLICATIONS

9.1 A Data Protection Impact Assessments (DPIA) has not been completed because there are no risks/issues to the rights and freedoms of natural persons.

10 EQUILITY IMPACT ASSESSMENT

10.1 An Equality Impact Assessment (EqIA) has not been completed.

11 APPENDICES

11.1 Appendix A – Alternative Structures

12 BACKGROUND PAPERS

12.1 Council Constitution

12.2 Centre for Public Scrutiny – Good Scrutiny Guide

12.3 Overview and scrutiny: statutory guidance for councils and combined authorities.
Published 7 May 2019

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.

APPENDIX A – ALTERNATIVE STRUCTURES

1 THE SCRUTINY COMMISSION

Some of the issues identified in the Report could be remedied if the Scrutiny Commission played a more proactive role with increased powers to sponsor specific task and finish work and consult more widely with the cabinet and the public on work programming. The role of the Scrutiny Commission is limited as specified in the Constitution at Procedure Rule 193 set out below. It has no powers to establish task and finish work. Its current role is:

- 1) To approve an annual scrutiny work programme, including the programme of any Sub Committee appointed by a Scrutiny Committee, to ensure that there is efficient use of all Committees' and sub-Committees' time, and that the potential for duplication of effort is minimised.
- 2) Where matters fall within the remit of more than one Scrutiny Committee or Sub-Committee, to determine which of them will assume responsibility for any issue, and to resolve any issues of dispute between Scrutiny Committees.
- 3) To receive requests from the Cabinet and/or the full Council for reports from Scrutiny Committees and to allocate them if appropriate to one or more Scrutiny Committees.
- 4) To put in place and maintain a system to ensure that referrals from scrutiny to the Cabinet, either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution.
- 5) At the request of the Cabinet, to make decisions about the priority of referrals made in the event of reports to the Cabinet exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business.
- 6) To have the powers of a Scrutiny Committee in relation to Cabinet decisions made but not implemented as set out in section 21(3) of the Local Government Act 2000, as do all other Scrutiny Committees. See Procedure Rule 206 (Call-In of decisions).

The Scrutiny Commission needs to improve liaison with the Leader and cabinet and be given more wide-ranging powers if it is to continue to ensure that the Scrutiny Committees are held accountable for their roles and responsibilities.

2 ALTERNATIVE OPTIONS

- 2.1 Overview and scrutiny legislation recognises that councils are democratically elected bodies who are best placed to determine which overview and scrutiny arrangements best suit their own individual needs. This gives the Council flexibility to decide which arrangements to adopt. The only mandatory requirement is that there must be at least one committee responsible for the function.
- 2.2 Whatever structure is adopted, the Council needs to ensure that scrutiny has a clear role and focus and can clearly demonstrate how it adds value as a strategic function of the Council. This means that the scrutiny function concentrates on

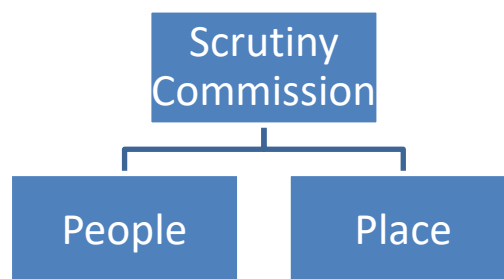
delivering work that is of genuine value and relevance to the work of the wider Council and is not stuck in unnecessary bureaucracy and meetings.

- 2.3 Structural change is not always the solution, but it can reinvigorate arrangements which have become unproductive. Because of the problems associated with the directorate/committee link there is merit in a serious consideration of alternative overview and scrutiny structures. However, these will only succeed if there is a closer alignment with what overview and scrutiny is seeking to achieve.
- 2.4 As alternatives to the status quo, two options are identified and discussed below. They are all based on the evidence that there is a trend across the country with smaller authorities towards more streamlined structures, with fewer committees. One of the main reasons for this trend being the realisation that if a Council wishes to have more than one scrutiny committee, there will always be a need to co-ordinate the various committees' work to make best use of the total resources available.
- 2.5 The other reason is the size of the Council with 27 members. Up to 10 can form the cabinet leaving 17 members not all of whom will wish to be active in overview and scrutiny. The rule of thumb on the optimum numbers for a committee is 9 which means Rutland has insufficient members to form more than 2 effective scrutiny committees alongside the remaining standing committees of Planning and Licensing Audit and Risk, Employment and Appeals and the Conduct Committees.
- 2.6 On that basis it is suggested that there are two options for change, modify the existing arrangement or move to one overarching committee. These are explored in more detail below.
- 2.7 **Option 1 - The Single Scrutiny Committee (recommended option)**
- 2.7.1 This would be a more radical change moving from three service scrutiny committees to one strategic body with commissioning powers to set up small Working Groups, Task and Finish Groups, Single Issue Panels and /or Inquiries to undertake detailed challenge work within their respective remits.



- 2.7.2 Membership could be all non-executive members who wished to involve themselves in overview and scrutiny or a specified number of 9 members on a politically proportionate basis. This would result on current proportionality with 4 Conservative, 2 Independent, 1 Lib Dem and 1 Non-aligned, and 1 seat leftover for groups to agree. It should be chaired by a member of an opposition group to ensure independence from the administration and proper scrutiny of the executive.
- 2.7.3 This model provides a high degree of flexibility and avoids creating an overly bureaucratic system. It needs to be coupled with a work programme of activity designed to enable Councillors to participate according to personal motivation, interest and perhaps prior or current expertise.
- 2.7.4 The single Committee would need to take particular care to involve the statutory co-optees for educational matters: (Diocesan Representatives and Parent Governor Representatives). More work would need to be done to ensure proper focus on the statutory responsibilities for Crime Prevention and Health Scrutiny as part of the Council's wider responsibility in relation to health improvement and reducing health inequalities for their area and its inhabitants.
- 2.7.5 The Single Committee would also be responsible for key decision call ins, Councillor Calls for Action, performance review.
- 2.7.6 This single Committee would be responsible for devising a meaningful overview and scrutiny programme which could, include Working Groups, Task and Finish Groups, Single Issue Panels and/or Inquiries. This new approach would result in more satisfying roles for scrutiny councillors to get under the surface of issues and gain deeper and better understanding of the subject resulting in better and clearer recommendations to cabinet and other partner organisations.
- 2.7.7 Working Groups are not required to be politically proportional and should instead be any 3-5 non-executive members with a particular interest in the subject matter. That way Members beyond those on the Scrutiny Committee could become more involved.

2.8 **Option 2 - Modified status-quo**



- 2.8.1 The role of the Scrutiny Commission would be strengthened. It would encompass the current Resources/Finance functions of the GIR Scrutiny Committee. It would have lead responsibility for performance review, (including the performance of partnerships) a more explicit link with the Cabinet and a strengthened capacity to commission external scrutiny reviews, and a more explicit responsibility to ensure that overview and scrutiny in Rutland operates consistently and effectively.
- 2.8.2 It is recommended that the Scrutiny Commission is comprised of nine members including the Chairs and Vice Chairs of each of the two new overview and scrutiny

committees, but that the Commission's Chair and Vice Chair should not hold other scrutiny chairing responsibilities.

2.8.3 The Scrutiny Commission would ensure scrutiny has a profile in the wider community especially during the work planning stage and more generally over the municipal year.

2.8.4 Part of its new role would also include communicating scrutiny's role and purpose to full Council on a regular basis. The Scrutiny Commission should decide when it would be appropriate to submit reports for wider debate in this way, considering the relevance of reports to full Council business, as well as full Council's capacity to consider and respond in a timely manner. Such reports would supplement the annual report to full Council on scrutiny's activities and raise awareness of ongoing work.

2.8.5 It is suggested that the strengthened Commission would work with two new standing committees with more specific briefs:

- People comprising seven members working on Children and Families with Health and Social Care – This would cover all the council/public services in Rutland which are delivered and experienced personally – e.g., education, child protection, social housing, action on homelessness including physical health and the need for social care.
- Place would also comprise seven members and have similar responsibilities to the GIR Scrutiny Committee but would have a strengthened profile in relation to Crime and Disorder issues.

2.8.6 Another alternative considered, but not recommended as it will create more committees would have been to refocus the committees across the 5 priorities within the new Corporate Plan. These are:

- 1) A Special Place: Sustaining a vibrant rural county that harnesses the enterprise of its businesses, the ambition and creativity of its residents, and the passion of its local communities.
- 2) Sustainable Lives: Living sustainably and combatting the climate crisis through the power of choice, the removal of barriers, and real collective action.
- 3) Healthy and well: Promoting health, happiness, and well-being for people of all ages and backgrounds.
- 4) A county for everyone: Celebrating diversity and ensuring everyone can live well, be heard, and overcome any challenges they may face.
- 5) A modern and effective Council: Transforming the way we work to deliver services fit for the future

ENDS