



**Ministry  
of Justice**



**HM Courts  
& Tribunals  
Service**

# **Response to consultation on proposed changes to listing arrangements for Bedfordshire & Hertfordshire Magistrates' Courts**

## **Bedfordshire Listing Arrangements**

**A response produced on behalf of the Justices' Issues Group for Bedfordshire  
by HM Courts & Tribunals Service, part of the Ministry of Justice**

**Date: 10<sup>th</sup> February 2014**

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## Introduction

This document is the post-consultation report for the consultation paper, “Consultation on proposed changes to listing arrangements for Bedfordshire & Hertfordshire Magistrates’ Courts” issued on behalf of the Bedfordshire Justices’ Issues Group

It will cover:

- the background to the report;
- a summary of the responses to the consultation;
- conclusions to the proposals in the consultation paper; and
- the next steps following this consultation.

Further copies of this response and the consultation paper can be obtained by contacting:

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(Please enter “**Bedfordshire & Hertfordshire Listing Consultation**”  
in the subject field)

## Foreword

The Justices' Issues Groups (JIGs) for Bedfordshire and Hertfordshire and Her Majesty's Courts and Tribunals Service are committed to running an efficient, effective and accessible court system which enables the delivery of timely justice in accessible buildings with suitable facilities for all court users. The JIGs & HMCTS are under an obligation to keep under continuous review how best to achieve this objective within the resources available.

The JIGs have responsibility, under section 30 Courts Act 2003 and directions given by the Lord Chancellor, to determine listing policies for the distribution of work within their local justice areas (LJAs). The legislation and directions enable the JIG to agree that cases can be listed in a court outside of their LJAs for purposes such as:

- the consolidation of cases for the same prosecutor;
- enabling efficient management of all court accommodation;
- ensuring an efficient distribution of work between local justice areas;
- taking account of the needs of witnesses;
- consolidating cases raising similar issues;
- the need to deal with cases of a specialist nature.

The proposals set out in the consultation paper were to centralise:

- Bedfordshire adult and youth crime, local authority civil (non-family) and crime cases and probation cases at Luton Magistrates' Court
- Bedfordshire family work at Luton County Court and Bedford Shire Hall
- Hertfordshire adult and youth crime requiring services of duty solicitor and probation services at St Albans Magistrates' Court and Stevenage Magistrates' Court
- Hertfordshire family work at Watford County Court and Hertford Shire Hall
- Road traffic work at either i) a single courthouse within the cluster of Bedfordshire and Hertfordshire or ii) at county level in Luton and Stevenage/Watford

In addition we sought views about whether the geographical local justice arrangements for Hertfordshire remain appropriate for the listing and distribution of work into the future and whether there are other alternatives that should be considered.

## **Summary of Decisions of the Justices' Issues Groups**

Following consideration of the responses to the consultation and the guiding principles of listing set out in the directions the JIGs have reached the following decisions:

- Bedfordshire adult and youth crime, local authority civil (non-family) and crime cases and probation cases should be listed at Luton Magistrates' Court (although active consideration will be given to listing local authority work which does not require a duty solicitor or probation support at Bedford if it is feasible to consolidate this work with other suitable private prosecution work)
- Bedfordshire family work, including maintenance, will be listed at Luton County Court and Bedford Shire Hall under the single family court
- Hertfordshire adult, SDVC, local authority and youth crime requiring services of duty solicitor and probation services and trials will be listed at St Albans Magistrates' Court and Stevenage Magistrates' Court (consideration will be given to listing local authority civil work at Hertford and Watford if councils can consolidate their work into a suitable list)
- Fluctuations in work between the two Hertfordshire local justice areas can be managed by the listing of work from the Welwyn/ Hatfield/Borehamwood area in Stevenage rather than St Albans if needed
- Hertfordshire family work will be listed at Watford County / Magistrates' Court and Hertford Shire Hall
- Road traffic work will be listed at Watford Magistrates' Court for Hertfordshire and Luton Magistrates' Court for Bedfordshire
- Cases involving defendants or witnesses from the Sandy and Biggleswade area of Bedfordshire may be tried at Stevenage Magistrates' Court
- In the light of the agreements to provide a level of flexibility in listing across the two local justice areas within Hertfordshire the Justices' Issues Group has determined that there is currently no need to further consider merger of the local justice areas.

The Bedfordshire JIG is satisfied that these arrangements provide court hearings in courthouses with suitable facilities within a reasonable commuting distance for all court users. The arrangements will make the most efficient use of court and justice agency resources to maximise effectiveness and timeliness of hearings.

A summary of the responses and the Bedfordshire JIG's rationale is set out in the rest of this document.

## **Rationale**

The proposals put forward look to the future and how, within resource allocations, we can best deliver justice in a suitable environment whilst maximising effectiveness and timeliness of hearings. The proposed sittings allocation is consistent with HMCTS, CPS and probation staffing levels. The reduction in courts should enable the CPS to direct sufficient resources to court preparation with the aim of improving effectiveness of hearings.

The consultation was precipitated by reductions in workloads (particularly trials) and the JIGs commitment to improve the delivery of timely and effective justice to defendants and witnesses through better utilisation of diminishing CJS agency resources. In addition the JIG has had regard to the commitment of the Ministry of Justice to maximise the use of digital technology, and the need to support the creation of a single family court within Bedfordshire and Hertfordshire.

The uncertainties of our clientele and workload are such that listing is considered an art rather than a science - it is a constantly moving and as such the ability to list as many courts as possible on one site creates the greatest flexibility and better chance of being able to provide full and effective court lists. The schedule we propose provides the optimum for our allocation. Both Bedfordshire and Hertfordshire have seen significant reductions in trials – 15% in Hertfordshire and 23% in Bedfordshire and this requires a significant adjustment to our current listing practices with the reduced number of courts required. The benefits of the ability to list more than one trial court on a day are obvious; it increases the ability to safely double-list as work can be moved around up to and including on the day - something not possible when trial courts are split across sites. Single trial courts are inherently risky – which is why we either double-list and risk ineffective hearings because both trials are effective and the court cannot deal with both; or single-list and risk ineffective and cracked hearings which create unproductive time for magistrates, legal advisers and prosecutors - as well as delay in listing of other trials. We also need to be able to regularly accommodate custody trials and multi-day trials - something that is also difficult across split sites. The JIG is committed to listing cases in a way which provides a high level of certainty that cases will proceed on the day, properly supported by legal advice and probation services and that provision is made to support victims and witnesses in accord with the Code of Practice for Victims of Crime.

Of course all of this needs to be balanced with the issues of attendance, accessibility and facilities for defendants and witnesses - something which as local judiciary we are well placed to assess. The challenge is to put in place a schedule within the number of court sessions allowed which will maintain or improve the timeliness and effectiveness of trials that we currently enjoy.



The JIG having considered the representations on the consultation is satisfied that the proposals to list cases in centralised courthouses, with good facilities, within the LJA provides a good balance of accessibility and flexibility maximising effective use of courthouse and agency resources to enable the delivery of timely justice to witnesses and defendants.

However, the JIG is clear that the listing changes should not be regarded as irreversible; and have recommended that the new arrangements should be reviewed by its successor body, the Cluster-based Judicial Business Group (JBG), at the end of 2014, in particular to examine their impact on witness and attendance levels and our effective, ineffective and cracked trial rates.

## Statistical Summary of Responses

In total, 71 responses to the consultation were received, although one was subsequently withdrawn as the respondent had interpreted the consultation questions incorrectly.

Of the 70:

- Three commented upon the whole proposals (i.e. both Bedfordshire & Hertfordshire);
- 37 commented upon the Bedfordshire proposals only; and
- 30 commented upon the Hertfordshire proposals only (listing and LJA).

Of the 70:

- 22 were supportive of the revised listing proposals (including most of the key criminal justice agencies who responded);
- 35 were not;
- 11 expressed both negative and positive feedback about the proposals; and
- 2 expressed no view about the listing plans at all (focusing solely on LJA issues).

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Of the 40 responses which commented upon the Bedfordshire proposals:

- 9 were supportive;
- 27 were not; and
- Four expressed both negative and positive feedback about the proposals.

Of the 33 responses which commented upon the Hertfordshire proposals:

- 14 were supportive;
- Nine were not; and
- Eight expressed both negative and positive feedback about the listing proposals; and
- Two expressed negative feedback about the 'one LJA suggestion.

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While not the main focus of the consultation, the document also invited views on whether the current geographical LJAs remain appropriate to the workload or whether there would be merit in creating a single LJA within Hertfordshire. Out of the 70 responses received:

- Six were in favour of a single LJA
- 16 were against a single LJA and felt that the two current LJAs were appropriate;
- 47 made no comment; and
- One expressed inconclusive views.

## Detailed analysis and comment upon responses relating to proposed listing pattern changes in Bedfordshire

The consultation set out the following proposals for Bedfordshire:

**Luton Magistrates' Court** – to operate as a centre for listing of all

- Bedfordshire adult and youth crime prosecuted by the CPS
- Bedfordshire local authority crime and civil proceedings and private prosecutions
- breach proceedings instituted by the National Probation Service or Youth Offending Services (YOS)

**Bedford Magistrates' Court** – to operate as a co-located single family court without a crime workload providing the flexibility to move cases between tiers of judiciary (including magistrates) as needed.

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Of the 27 responses which were not in support of the proposals:

- One was from a criminal justice system agency (Victim Support);
- Two were from/on behalf of criminal practitioners;
- Six were from local authorities/local authority representatives;
- 15 were from magistrates/magistrate representatives;
- One was from a local MP; and
- Two were from 'others' (namely the local trades union representative and the High Sheriff of Bedfordshire).

The responses which were not in support of the suggested listing changes raised a number of common concerns and/or issues about the proposals, namely:

- Implications for victims and witnesses, in particular increased costs/inconvenience (if required to attend), leading to an increased likelihood of non-attendance and the consequential impact on court business;
- Travel and transport implications for defendants, leading to an increased likelihood of non-attendance and the consequential impact on court business;
- Travel and transport implications for defence advocates and the consequential impact on court and their business;
- Travel and transport implications for magistrates;
- The loss of local justice; and
- The future for Bedford Shire Hall should the proposals be implemented.

## **General**

An initial general point to make is that centralising business in fewer venues inevitably results in some people needing to travel further to reach court. The guiding principles contained in the directions under section 30 of the Courts Act 2003 acknowledge that locality of the court to either offence, offender or witness, whilst important, is not the sole consideration in making decisions to facilitate efficient use of court time and the delivery of justice. In a great number of cases there is no need to attend court at all (for example, for minor road traffic offences).

Research commissioned by the Ministry of Justice was carried out in 2010 (through an independent Omnibus survey) into the frequency of use of court services and the transport used to get there. It found that 87% had not visited a court of any kind for any purpose in the last five years. Of those who had, 65% had used their own transport or were taken by a friend or family member. Only 18% had used public transport. This does not mean that public transport routes and times should be disregarded, just put into perspective.

Having considered the profile of defendants and their locations the JIG is satisfied that the travel times by car or public transport to Luton for defendants across the County are reasonable particularly given the flexibility of HMCTS, the police and other prosecutors to list hearings at either 10am or 2pm. To assist those defendants and witnesses from the Biggleswade and Sandy area agreement has been reached with the Hertfordshire JIG that those cases can appropriately be dealt with at Stevenage. Given Bedford Magistrates' Court will remain within HMCTS estate, and in active use for county court work, it will remain possible to list individual cases in Bedford should there be particular circumstances justifying its use. We recognise that for the few users living in exceptionally rural areas it will involve a more difficult journey. However, many people living in rural areas will be accustomed to travelling further afield for work and for other amenities, such as banks, hospitals, schools or supermarkets, which they visit more often and, in many cases, will have their own arrangements in place to do so.

There will be travel implications for some professional court users resulting from implementation of the proposals; however, many solicitors currently provide services on a regular basis at Luton Magistrates' Court given the centralised overnight court. Travel from Bedford to Luton is a common commuter route and the JIG is satisfied that it is not an unreasonable distance to travel.

There will be a financial impact on those court users who may, before the listing changes, have been able to walk, cycle or bus to court but this is regarded as reasonable both because of the limited number of court users likely to be in this position and the actual costs

involved. However we can find no evidence of adverse impact that would be severe or disproportionate for one group more than another and there is no evidence to suggest discrimination on the basis of protected characteristics.

The Justices' Issues Group considered the possibility of maintaining a split of criminal workloads between the two courthouses whilst seeking to maintain two trial courts being listed in one site at any one time. However, given the variability of the workloads in the courts it was considered that there were compelling benefits from listing all work in the one building facilitating a better flow of work throughout the week and minimising the risk of fluctuations with courts either being under-utilised or too heavily listed with the other courthouse unable to assist. The JIG considered that certainty that cases could proceed on the day listed was an important issue for the delivery of justice to witnesses and defendants. The JIG accepted that there were real benefits from having CPS, probation, witness service and court support facilities available on one site providing greater resilience and service on a day to day basis - this would support effective hearings and certainty for those attending that cases would proceed and if possible finalised on the day. This was a view shared in the CPS and probation responses.

The JIG also noted that on the whole Luton Magistrates' court provided a more suitable environment for those using the court. The Justices' Issues Group noted the physical deficiencies and constraints of the Shire Hall – its age and layout created difficulties with limited mobility, proper gaoler facilities and security as well as engagement by the bench with court users and youths in particular. Its listed status severely restricts the ability of HMCTS to cure these deficiencies and also introduce digitisation of court processes.

The JIG considered that the concentration of available facilities in one courthouse would provide greater flexibility and a better service on a day to day basis than if resources, and business, were spread thinly across two courthouses. Centralisation of criminal work will also have administrative benefits (such as in/near-court resulting and more focused court support), although these are not the main drivers for change.

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In terms of the specific themes raised by the respondents, our responses are as follows:

### ***Victims & Witnesses***

The Justices' Issues Group has had the interests of victims and witnesses as a key principle in reaching its decision. The reduction in workload and particularly trials in Bedfordshire has necessitated this review. The 23% reduction in the number of trials listed for the year ending December 2013 compared to the previous year has meant that the number of trial courts

needed is significantly reduced. The implication of the reduction without centralisation at Luton would result in single trial courts being listed on each site. With only 30% of trials originally set down proceeding on the day, single-listed courts would inevitably result in wasted court, staff and judicial time and delays and double-listed trial courts would seriously risk cases being adjourned through lack of court time. Both delay and uncertainty are inimical to the interests of witnesses and victims who are at the heart of the justice system.

Centralisation of trials at Luton will improve the ability of HMCTS and other agencies to meet commitments under the Code of Practice for Victims of Crime. It will provide greater certainty for witnesses about where trials will be heard, support familiarisation visits, the reading or playing of victim personal statements and speedy resulting of cases and notification of decisions to victims and witnesses. Luton Magistrates' Court is well equipped for witnesses providing a separate entrance and a secure waiting area supported by videolink.

There appears to be no empirical evidence supporting the assertion that the absence of a local magistrates' court inhibits the reporting of crime or discourages witnesses from giving, or attending court to give, evidence. However, we have made it clear that the listing changes should not be regarded as irreversible; and have recommended that the new arrangements should be reviewed by its successor body, the Cluster-based Judicial Business Group (JBG), at the end of 2014, in particular to examine their impact on witness attendance levels and our ineffective and cracked trial rates.

Travel costs incurred by victims and witnesses to attend court to give evidence are paid by the Crown Prosecution Service. There are limits as to what can be claimed but bus and train fares (standard fare) are normally paid in full. Travel by private vehicle is paid at a rate by mile and taxi fares are allowed for those who are infirm or have a disability where public transport is not accessible.

While Luton is likely to be within reasonable travelling distance for the vast majority of witnesses who will be expected, and able, to attend in person, applications for special measures (in cases involving vulnerable witnesses) and 'Live Links' applications (on the grounds of the efficient or effective administration of justice) may be made. Where grounds are accepted, the court may direct that the witness gives evidence from a location other than where the trial is being heard. In appropriate cases, therefore, applications may be made for witnesses to give evidence from Bedford Magistrates' Court (or other courthouse or premises with suitable secure video connectivity) to the trial court in Luton. HMCTS is progressing the creation of improved witness facilities at Bedford which will enable victims and witnesses to provide evidence remotely if granted by the court. HMCTS will also be

discussing the possibility of using other accessible venues with the Witness Service and the Police and Crime Commissioner. It will remain possible for Bedford Magistrates' Court to be used for specific cases where the particular needs of the case justify it albeit it is expected that this should be rare.

One response to the consultation raised questions about the adequacy of witness support facilities at Luton and the effective operation of remote witness video equipment if the Witness Service presence at Bedford reduces/stops. HMCTS is already in discussion with the Witness Service and it has been agreed that 'footfall' of witnesses, for both prosecution and defence, will be kept under regular review and the accommodation provision expanded should this prove necessary. We also recognise the logistics of providing effective witness support from a location remote to the trial centre but we know that such arrangements operate elsewhere across the country to good effect; HMCTS will therefore be working with the Witness Service over coming months to put processes in place that will ensure that any witnesses who are permitted to give evidence remotely are well supported both before and during their period of attendance.

### ***Defendants***

In addition to the general point about travelling times and distances made above, recent postcode analysis of the home addresses of all defendants who appeared in both Bedford and Luton courthouses in November and December 2013 confirms that the vast majority of defendants who appeared in Bedford MC lived in areas readily accessible to the mainline train to Luton, either by foot or public transport.

The JIG also noted that a significant number of defendants listed before the court in Luton do not live in the area, indicating that defendants travel and commit offences in the area and also make arrangements to attend court. An analysis of warrants issued for failure to appear at both Bedford and Luton also confirms that the majority of warrants are issued for defendants who live local to the issuing court; this suggests that motivation rather than ability to attend court is a more significant reason for failure to attend. The JIG does not anticipate an exceptionally adverse impact on attendance levels or court business as a result of the decision to centralise work at Luton.

The JIG paid particular attention to the implications of the move for youth defendants, young witnesses and the Youth Justice Service. The JIG did not consider the journey for youths unreasonable and generally youths are more reliable in their attendance at court due to parental support. Given the expectation is that the youth court would sit all day it would be feasible for youths from the Bedford area to be bailed to appear at 2pm rather than 10am if that facilitated travel arrangements. The JIG noted that the Youth Justice Service already

undertakes work at Luton in supporting the overnight court on a regular basis. Whilst consideration was given to maintaining the youth court at Bedford regardless of the decision on adults the Justices' Issues Group also considered that the formality of the courtrooms was not ideal for youth work and proper engagement with youths and parents.

The JIG also noted the problems with security of docks, gaoler facilities and provision.

The JIG considered the option of combining the police led road traffic court with Hertfordshire but determined that for the time being the Bedfordshire work should be listed in Luton.

As for witnesses and court users the Justices' Issues Group is satisfied that the travel distances proposed are reasonable particularly given the intention that the proposals will assist with effectiveness and timeliness of hearings.

In addition to the move of work to Luton the JIG considered the needs of defendants and witnesses resident in the Sandy / Biggleswade area. The JIG is amenable to these cases being listed at Stevenage Magistrates' Court on a case by case basis where it would be of benefit and the Hertfordshire JIG has agreed to accept this work.

### ***Local Authority Work***

Both Bedford Borough Council and Central Bedfordshire raised specific concerns about the impact on local authority prosecutions of a move of work to Luton. It should be noted that council tax cases for each council are listed once or twice per month. The amount of court time required is small for liability orders (10 mins) but the pull on resources is substantial as there are often many people who attend and are interviewed by staff in advance of the hearing so almost all matters are resolved out of court. Because the amount of court time is minimal these cases have to vie for court time with other business and this can mean a wait, particularly if 'competing' with CJSSS cases or trials.

Whilst the JIG is satisfied that it would not be unreasonable for people to travel to Luton for these hearings the JIG considered whether it would be possible to accommodate local authority needs at Bedford on an occasional basis. As a result we will engage with the local authorities with a view to co-ordinating these case with the other local authority and private prosecutions, not requiring duty solicitor support or probation input, in specific sessions so that they have their own half day minimum allocation at Shire Hall, Bedford. HMCTS is confident that appropriate listing arrangements can be put in place.



### ***Defence advocates***

Defence advocates properly highlighted their concerns for the interests of defendants and witnesses which have been covered above. Defence advocates also raised concerns about the impact on their businesses, ability to provide legal services to the local community and the excessive travel times which would result from the move of work to Luton. Defence solicitors already provide services to Luton Magistrates' Court on a regular basis both for the overnight court and general court lists. The JIG appreciated that their decision would impact on some advocates but was of the view that travel to Luton from Bedford is a short commute compare to many who live in the area who regularly commute to London or beyond. For those travelling by car to Luton there is ample car parking nearby.

In addition it was proposed in the light of government intentions around legal services contracts that the Justices' Issues Group should delay a decision pending the outcome of the contracts. The Justices' Issues Group was of the view that there would be greater benefits to those determining contracts and bidding to know in advance what the court set up was likely to be and consequently it was not appropriate to delay for that reason.

### ***Magistrates***

It is accepted that some magistrates may incur additional travelling costs as a result of these changes and some less; however they should not be financially disadvantaged as the Justices' Allowances Regulations 1976 allows for reimbursement of travelling costs incurred in the performance of justice's duties. It is acknowledged however that some magistrates may suffer the inconvenience of additional travelling time. The directions for magistrates provide for half day sittings where it is not reasonable to expect magistrates to sit for a full day and also enable transfers to other benches where that provides a more convenient location to undertake duties. The inconvenience of longer travel times for some will be mitigated to some extent by expected improvements to the productivity of court time and consequent reduction in court sittings. In addition by centralising work at Luton there should be greater flexibility to move work and enable a varied diet of work to be available across the week

### ***Local justice***

The provision of summary justice for small geographical areas is increasingly atypical when compared with the national picture. It is also in contrast to the provision of other jurisdictions where users of Crown, County and Family Proceedings Courts travel greater distances. For people today the concept of what is local goes far beyond what was considered local in the past. Vastly improved methods of communication and transport have changed the way we live our lives. It is now common for people to commute long distances to work each day

which would have been inconceivable in the past. Local justice is no longer achieved solely by having a court in every town or borough indeed there is no requirement for residency within the local justice area for appointment as a magistrate. Since the creation of the single local justice area magistrates from across the county have been sitting in both courthouses without deterioration in the quality of justice which is delivered through consideration of the evidence presented in open court using sound judgment and social awareness.

### ***Shire Hall***

A number of responses made the suggestion that Bedford Magistrates' Court should be used for more business not less, and that it was not "*right to abandon this for the sake of greater efficient use of courts in Luton*". There were concerns about the loss of the facility in Bedford as the County town. These comments do not fully reflect the reduction and balance of workloads across the county and the deficiencies of the Shire Hall in terms of being able to deal with the widest range of magistrates' court business, and custody/criminal work in particular.

We know that cells facilities and custody arrangements at the court are not adequate and the Group has also been informed that a recent security audit (undertaken 17 December 2013) highlighted deficiencies with the security of the main courtrooms there.

The planned increased use of technology in criminal proceedings, particularly in-court technologies to be rolled out as part of the Criminal Justice System Efficiency programme, has also been taken into account.

In other words, while the architectural importance of the Shire Hall is one of its aesthetic strengths, it is also one of its greatest operational disadvantages. Its listed building status makes it difficult, if not impossible, to meet the needs of modern magistrates' court business, especially improvements to custody facilities, court security and installation of in-court technologies. The JIG does not regard it as acceptable to expect victims, witnesses, defendants and other users to enjoy one level of facility and service in one location and another, lesser service, elsewhere. Centralisation of all criminal business at Luton would enable the full range, and benefits, of appropriate facilities and in-court technology to be enjoyed by all.

As the Shire Hall will remain an active part of the HMCTS estate it will remain available for use if required.

**Other**

One suggestion, made in a number of co-ordinated responses, was that rather than move work from Bedford consideration should be given by HMCTS to increasing its workload through moving work from Milton Keynes to Bedford and selling the Milton Keynes site.

Whilst any proposal to close a court would be a matter for Ministers the Justices' Issues Group concluded that it would not be appropriate for it to pursue this idea for a number of reasons:

- It is understood that the workload at Milton Keynes which serves a wide area of Buckinghamshire for both crime and family work is larger than that of Bedford
- The facilities for court users at Milton Keynes are better than those at Bedford and are more compatible with future demands for increased use of technology.
- Whilst travel by car is slightly quicker than from Bedford to Luton there is no direct train link.

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**Implementation**

There are a number of practical steps to implement the revised listing arrangements for June 2014. Key stakeholders will be fully involved in this process.