

Right to Control Trailblazers Equality Impact Assessment

WWG ODI Right to Control

Equality Impact Assessment for the Right to Control Trailblazers

1. Purpose and Aims of the Right to Control Trailblazers

The Right to Control is designed to contribute towards the commitments embedded in the Department for Work and Pensions' (DWP) Structural Reform Plan. The Right to Control is a key action of Departmental Priority 5 (Achieving Disability Equality) which aims to ensure that disabled people have the same opportunities as non-disabled people to succeed in life and fully participate in society.

1.1 Background

1.1.1. Disabled people may not have the degree of choice and control over their lives that non-disabled people take for granted. This is partly explained by the fact that because of their support needs, many disabled people rely on resources made available by the State. As a result, public servants are more likely to decide what support will be provided. Too often, services are structured in a way that reinforces dependency, instead of providing support in a way that enables disabled people to achieve their aspirations and access the same opportunities as non-disabled people. 'The Experiences and Expectations of Disabled People' study for the Office of Disability Issues reported that level of choice and control is positively correlated with satisfaction with services but that a third of disabled people reported that they do not always or usually have choice and control over what happens in their lives.

1.2 Legislation

1.2.1. In response to the concerns of disabled people Section 41 of The Welfare Reform Act 2009 provides legal powers to make regulations enabling the exercise of greater choice and control over the delivery of certain services to a disabled person aged over 18.

1.2.2. Section 44 of the Welfare Reform Act 2009 provides legal powers to make regulations enabling pilot schemes to be set up for a limited period of time. The regulations include the precise scope of the pilots, the areas which

will participate in the scheme, services which will be included, the need to prepare a support plan, the possibility of making available cash payments rather than services when appropriate, reviews of decisions and sharing information.

1.2.3. Regulations have now been laid and it is intended that the pilot scheme will run for two years in seven Local Authority areas in England known as the Right to Control Trailblazers. Five pilots start in December 2010; two will follow in Spring 2011.

1.3 The Right to Control Trailblazers

1.3.1. The Trailblazers were selected from 36 submitted proposals, and assessed against criteria set out in a published prospectus. A panel of experts in areas related to the Right to Control made the final selection, agreeing a diverse spread of Trailblazers to match the requirements of the evaluation.

1.3.2. After extensive consultation the following funding streams have been included within the Right to Control; Access to Work, Work Choice, Independent Living Fund, Supporting People (non-statutory housing related support), and Disabled Facilities Grant. The Right to Control will also be aligned with Adult Social Care. Thus the Right to Control brings together a wide range of support including employment, housing, social care, community equipment and facilities.

1.3.3. Bringing together funding streams from more than one agency will enable a much more streamlined approach, with scope to simplify or integrate processes such as assessment, support planning and reviews. The aim is for a disabled person to only have to 'tell us once' and for there to be seamless provision of self directed support.

1.3.4. The Welfare Reform Act 2009 places a legal duty on Local agencies delivering the Right to Control to:

- notify the disabled person about their Right to Control
- work with the disabled person or their appointed representative to develop a support plan
- take into account the wishes of the disabled person as they work together to develop a support plan
- include specified details in the support plan
- provide services and/or direct payments in accordance with the support plan
- conduct regular reviews of support plans.

1.3.5. Regulations will give those who lack capacity the right to have someone else, not just the public authority, make decisions for them based on their needs.

[Whilst there will be a legal duty for Trailblazers to deliver the right in the pilot areas, individuals do not need to exercise the right unless they wish to. Having been notified of their right an individual can decide not to exercise it, and to remain with their existing package of services.]

1.4 The Trailblazer Evaluation

1.4.1. The Trailblazers will test the most effective ways of delivering choice and control to a wide range of disabled people, including those with learning disabilities or mental health support needs. An independent research team has been selected to conduct an in-depth evaluation of the Trailblazers. The results will inform decisions about if and how the Right to Control should be rolled out nationally.

2. Consultation and Involvement

2.1 Co-production

2.1.1. We are committed to consulting widely on the details of how the Right to Control will work and disabled people have been engaged since the initial stages of the project. Throughout the development of the Right to Control policy and legislation we are involving an Advisory Group made up of disabled people, representatives from organisations with an interest in disability issues and officials from across central and local government. The Right to Control Advisory Group has worked closely with us since its inception in May 2008 and helped to shape our green and white papers.

2.1.2. The Advisory Group consists of the project's key external stakeholders and is chaired by Baroness Campbell. Advice from the Group feeds directly into policy and design. Also represented on the Advisory Group is Equality 2025, the UK advisory network on disability equality whose aim is to be the conduit for the voices of disabled people. In this way, we are ensuring that we feed in the views of disabled people, service providers and other stakeholders.

2.1.3. Trailblazers are expected to embed co-production with disabled people into the development and implementation of the Right to Control, and co-production was one of the minimum criteria for selecting the Trailblazers. Throughout the trailblazing period national and local user-led organisations will continue to give support and advice for designing and delivering the Right to Control.

2.1.4. The Advisory Group has non-executive representation on the Project Delivery Board which is the senior decision-making body for the project as well as holding individual strand leaders to account for delivery.

2.2 Policy Consultation

2.2.1. A national consultation entitled 'Making choice and control a reality for disabled people: Consultation on the Right to Control' ran from June 2009 to

September 2009. This enabled all interested parties to give their views on how the Right to Control should be delivered.

2.2.2. There were 176 written responses submitted by individuals, disabled people's organisations, service providers, public bodies and third sector organisations. We hosted two launch events each attended by over 100 people and we supported a further 34 events held across the country during the consultation period. The feedback received has helped to shape development of the Trailblazers and legislation, ensuring that the views of all stakeholders have been considered. The response to the Consultation was published in December 2009.

2.3 Regulations Consultation

2.3.1. The Right to Control Trailblazer regulations under which this new policy framework will be implemented are fully intended to put the disabled person at the centre of the process. A 13 week consultation on the draft regulations ran from 25 February to 26 May 2010. We received 34 responses from a wide range of user-led and third sector organisations. This consultation was another means by which people could comment and have their say on how the Right to Control should work in practice.

2.3.2. The Advisory Group helped to shape our consultation documents and the subsequent responses. It has now turned its attention to the implementation of the Right to Control

3. Impact of the Right to Control Trailblazers

3.1 Overview

3.1.1. The Right to Control will change the delivery model for particular funding streams but will not change who is eligible to access those funding streams. This change to how services are delivered will apply to all eligible disabled adults, irrespective of their disability, age, gender, race, sexual orientation or religious beliefs. We will monitor access to the Right to Control and the impacts across all the equality strands of choice and control, independent living and empowerment to participate in social and economic life. We will also monitor to ensure the Right to Control does not create unlawful discrimination or harassment for any of the equality strands

3.1.2. Between 2005 and 2007 the Department of Health piloted Individual Budgets. The funding streams included in this pilot were Adult Community Care Services, Disabled Facilities Grants, Access to Work, Independent Living Fund, Integrated Community Equipment Services and Supporting People. Adult Community Care Services were the gateway to accessing an Individual Budget. Eligible people could either take a direct payment, allow authorities to arrange services on their behalf or take a mixture of the two.

These pilots were evaluated through the Individual Budgets Evaluation Network (IBSEN) and the findings have been used to inform the Right to Control Equality Impact Assessment.

3.1.3. The Individual Budget Pilots evaluation did not find any evidence that the different equality strands were differentially affected by the introduction of choice and control, although the evaluation did not routinely break down the results by the equality strands. We are exploring with the Trailblazer authorities and the evaluation team how best to design the sample and the evaluation of the initial phase of the Trailblazers in order to provide further evidence on the differential impact on the different equality strands. An equality impact assessment after the evaluation will help to identify if there were any unintended consequences for any of the groups.

3.2 Disability Impact

3.2.1. The Life Chances report sets out a vision for disabled people to have equal opportunities and choices. A commitment to pursuing strategies that promote independent living, including moving towards individual budgets, was a central pillar for achieving this. The cross-Government Independent Living Strategy, which was co-produced with disabled people, stated that choice and control over support is integral to disabled people's access to equal opportunities.

3.2.2. The Experiences and Expectations of Disabled People study found that choice and control is important to disabled people and is positively correlated with an individual's overall satisfaction with services. 36 per cent of disabled people who responded in the study felt they did not always or usually have enough control over what happens in their lives. 26 per cent of those who had aids or adaptations said they never had any choice in deciding what they got. Of those who received support from formal sources 26 per cent had no choice over who provided their support and 25 per cent had no choice over the times at which they received the support.

3.2.3. The Right to Control will apply only to disabled adults. It aims to shift power from the state to the individual and close the gap in equality between disabled and non-disabled adults by breaking down barriers to disabled adults having the same choices and control over their lives as non-disabled people.

There is no evidence that the Right to Control risks creating unlawful discrimination or harassment, but we will monitor this during the testing phase.

3.2.4. There is evidence to suggest that the Right to Control will increase flexibility of support and experiences of choice and control but that not all disabled people will feel the benefits of the policy uniformly. In the individual budget pilot younger people with physical impairments and those with mental health difficulties tended to have better experiences of using individual budgets. For people with learning disabilities and older disabled people, individual budgets had a mixed impact on outcomes and some people found

the experience stressful. The design of the evaluation will take into account these findings. Individuals will be able to choose to allow the public authority to arrange the support, to receive a direct payment, or to use a mixed approach. Furthermore, the disabled person can choose whether to exercise the right. It will not be an obligation.

3.2.5. Disabled people eligible for the Right to Control in trailblazing areas will be included regardless of their impairment and we will monitor any adverse impacts on particular groups, for example people with learning disabilities. We will ensure that having a Right to Control does not discourage disabled people from participating in making decisions about their own lives. All groups will have fair and equal access to the Right to Control but some will need more support than others to decide how to exercise their right. That is why the draft regulations stipulate that Trailblazers must ensure disabled people are provided with the information and assistance they need to understand their choices and take optimum advantage of their Right to Control.

3.2.6. A 2009 evidence review looking at access to independent advocacy showed that disabled people using independent advocacy services regarded these services positively. However some disabled people reported the activities undertaken did not always result in the outcomes the disabled person wanted. The Office for Disability Issues will be working closely with the Trailblazers to ensure that they develop and support advocacy services, working with User Led Organisations, for those people who are eligible for the Right to Control.

3.2.7. User-led organisations will play an important role in providing the advice and support that some disabled people will need to exercise the Right to Control. In 2009/2010 the Office for Disability Issues provided funding of around £730,000, in conjunction with funding provided by the Department of Health in 2008/10 of £1 million to the English regions to build the capacity of user-led organisations in their localities.

3.2.8. Access to information is essential for ensuring that no eligible disabled people are excluded from the Right to Control. All information provided, beginning with notification of eligibility, will be in an appropriate, accessible format. This will be closely monitored during the Trailblazer period.

3.2.9. Where an eligible disabled person lacks legal capacity, we plan to put in place regulations to ensure that a suitable person can exercise choice and control on their behalf. This includes the suitable person putting in place a support plan and/or taking a direct payment on behalf of a disabled person. The Right to Control regulations will place a duty on local authorities to ensure that the wishes and aspirations of the disabled person are taken into account in their support plan, and that carers or representatives of the disabled person are fully consulted. This will be monitored in the Trailblazers to ensure disabled people without legal capacity are adequately supported.

3.2.10. The Right will empower disabled people to make choices in their own lives and increase their opportunities to take part socially and economically. They will do this by taking charge of their own support with greater flexibility to choose how resources are used to meet their needs and aspirations. They will have increased opportunities to find employment and access independent living. We will monitor the impact on disabled adults' participation as active citizens during our evaluation.

3.3 Gender and gender reassignment impact

3.3.1. There is no evidence to suggest that changing how funding streams are delivered would affect male and female claimants differently. There is also no evidence to suggest that increasing choice and control over services will adversely affect transgender people. We will monitor and evaluate the impact of the Right to Control throughout the Trailblazer phase, including by gender.

3.3.2. 56 per cent of the Individual Budgets sample were women. In that evaluation although older people and physical disability client groups were more likely to be women, the quantitative results on outcomes were not broken down by gender and there was no qualitative evidence that gender affected these groups' experiences of individual budgets. As part of implementing the Right to Control in the Trailblazer areas, we will monitor and evaluate from the earliest stage whether there is a differential gender impact and, if necessary, take steps to mitigate any negative effects.

3.3.3. Any impact on carers would have a disproportionate effect on women as they represent 73 per cent of the people receiving Carers Allowance and 62 per cent of informal carers. An evaluation of the impact of the individual budget pilot on carers, published in February 2009, found that the impact was generally positive and carers supporting someone with an individual budget had a statistically significant higher quality of life. This may represent an opportunity to promote gender equality.

3.3.4. The individual budget pilot involved additional roles for some carers in helping to plan what package of care a person required. The evaluation suggests that some carers supporting people with learning disabilities found the process more problematic, especially where there were delays in agreeing and implementing a care plan. We will monitor the impact on carers who may be affected by a Right to Control. The operation of the Trailblazers will attempt to mitigate any adverse impacts or additional burden on carers by ensuring there is adequate support in place for disabled people at all stages of the process as they exercise their Right to Control.

3.3.5. The Right to Control allows greater flexibility for disabled people of both genders to secure the package of support and the arrangements to manage it that suits them best. The individual budgets pilots showed that a significant minority, around 40 per cent, chose non-mainstream services and that many of those took the opportunity to employ their own personal assistant. There was some qualitative evidence from the individual budget pilot that having an

individual budget gave disabled people more flexibility over payments and rewards to recognise the value of the support provided by their informal carers.

3.3.6. There is no evidence that the Right to Control will create any unlawful gender discrimination or gender related harassment. We will monitor this situation throughout the Trailblazer period.

3.4 Race Impact

3.4.1. In the individual budget pilots, people from ethnic minority groups represented 8 per cent of the sample; this compares to 6 per cent of the population nationally. The people from ethnic minority groups were spread evenly across the client groups covered. Due to the small sample size, the report does not break down the results by ethnicity. There was no qualitative evidence that different ethnic groups had different experiences of self-directed support thus there is no evidence to suggest that people from these groups will gain less benefits or be adversely affected by a Right to Control. However we will monitor this during the pilot.

3.4.2. As part of designing how the Trailblazers operate and evaluating the impact of a Right to Control on outcomes, we will take steps to ensure that the needs of ethnic minority groups are taken into account and monitored during the Trailblazers. We will ensure Trailblazers work with user-led organisations to develop culturally-sensitive advocacy and support services.

3.4.3. Information provided to disabled people accessing the Right to Control, including notification of eligibility, will also be culturally-sensitive and in an accessible format. For example, where English is not a disabled person's first language, they will be notified in an appropriate format.

3.4.4. A Right to Control will allow service users more choice and control over the support they receive. Users that have found traditional services not to their liking will have the opportunity to move to services that better achieve their outcomes. Whether or not this promotes equality will be explored in the Right to Control evaluation, in conjunction with input from disabled people from diverse ethnic groups.

3.4.5. There is no evidence that giving disabled people the Right to Control will create any unlawful racial discrimination or do anything to harm good relations between people of different races.

3.5 Age Impact

3.5.1. The Right to Control is intended to apply to adults only. The Department for Education (DfE) is leading an Individual Budget Pilot for disabled children. The pilots will run for two years until early 2011 and we will review their evaluation to analyse any implications there may be for a Right to Control.

3.5.2. The Right to Control will allow disabled adults of all ages the chance to exercise the degree of choice and control over their support that they wish reflecting their equal right to opportunities to access independent living.

3.5.3. The Individual Budget pilots evaluation found that older people and people with learning disabilities fared less well with Individual Budgets and some found the process stressful.

3.5.4. 45 per cent of older people who were Individual Budget holders were at risk of psychological ill health compared to 28 per cent of older people in the control group (a statistically significant difference) and the Individual Budget holders had systematically lower aspirations. Responses often highlighted that older people found taking control of money or employing staff an additional burden. Similarly, although people with a learning disability did report feeling more in control (a statistically significant difference), there was some evidence that both the individual user and their carers found the Individual Budgets process stressful, generally because support plans took time to implement.

3.5.5. The Individual Budget pilot also assessed the impact on social care recipients aged over 65. This group found the change most difficult. There was evidence that increased choice and control, or at least the way in which the new arrangements were introduced and implemented, could reduce the psychological well-being of recipients. The results suggest lower levels of well-being and higher levels of anxiety might be more prevalent among older people unable to respond in the interview in that higher levels of anxiety appear to have been systematically attributed to more vulnerable older people who had proxy respondents. The evaluation could not distinguish whether this reflected the concerns of more vulnerable older people, less able to respond on their own behalf, or of their relatives (the most frequent proxy).

3.5.6. The Right to Control is not an obligation, and we will seek to avoid the risk that older people may be adversely affected by the additional burden of planning and managing their own support. People will be free to choose whether and how they want to exercise their Right to Control. Disabled people who have a Right to Control will not be obliged to take their support as a direct payment but if they do, they will be able to nominate a third party to manage the arrangements for them. Alternatively they may choose to continue to receive services from their local authority. Some may choose a combination of these options. The Right to Control regulations place a requirement on Trailblazers to ensure that there is adequate support in place for all disabled people to be fully supported to make decisions about the services they receive.

3.5.7. The Trailblazers will evaluate the outcomes for older people and their carers of having the Right to Control. The evaluation will also explore whether people's experience of the Right to Control depends on whether they are new or existing users of support. This element enables a more detailed evaluation of whether the experiences for older people reflect the impact of the policy, or are due to other changes in their lives.

3.6 Sexual Orientation Impact

3.6.1. There is no evidence that increasing choice and control over services for disabled people will adversely affect people because of their sexual orientation. We recognise that there are cultural issues associated with disability, and we expect Trailblazers to seek input from disabled people from other diversity groups to inform the implementation of the Right to Control.

3.7 Religion or Beliefs Impact

3.7.1. There is no evidence that increasing choice and control over services for disabled people will have unequal impacts on people of different religions or beliefs. Details of an individual's religion or belief will not be routinely collected for the purposes of the Right to Control but disabled people will be invited to share their views and personal experiences in feedback which contributes to the Trailblazer evaluation.

4. Monitoring and Evaluation

4.1.1. The Welfare Reform Act 2009 sets out the purpose of Right to Control and provides powers to make regulations to enable disabled people aged 18 or over to exercise greater choice and control over the way in which services are provided to them. We have now laid secondary legislation which will remove administrative barriers to promoting equality and diversity and place a legal duty on Trailblazer authorities to deliver the Right to Control according to the principles outlined above in paragraph 1.3.4.

4.1.2. A panel of experts in areas related to the Right to Control, including representatives of disability organisations, made the final selection of Trailblazers. One of the minimum criteria for Trailblazer selection was that co-production was a significant element in shaping the individual bids.

4.1.3. Individual Trailblazers and/or funding streams have their own procedures for reviewing decisions and for dealing with complaints, including diversity-related complaints.

4.1.4. Each Trailblazer has produced a detailed action plan with outlined activity to be completed prior to go-live in December to April 2010. Each site submits the minimum of a monthly highlight report to the ODI, which identifies the progress of the project against generic and site specific agreed milestone and core deliverables. Equality Impact Assessment completion and review are incorporated as core deliverables for each Right to Control Trailblazer.

4.1.5. This process is facilitated and monitored by the Office for Disability Issues (ODI) with specific interventions including:

- Co-production and dissemination of non-statutory guidance to support the customer journey.
- Procurement of consultancy support to assist Trailblazers to develop customer-focused action plans for delivering the Right to Control.

Feedback from the consultants enables us to address any identified gaps or potential shortfalls.

- A dedicated Trailblazer field support team which will continue to engage with the Trailblazers until the project completes.
- A communities of practice website through which good practice is shared and learning networks created.

4.1.6. Governance for the Right to Control project is run according to the Business Change Lifecycle. The roles of the Advisory Group and the Project Delivery Board are as outlined in section 2.1, and further detail is contained within the Stakeholder Management Plan.

4.1.7. Weekly checkpoint meetings bring together views from all external stakeholders engaged with Trailblazer sites and any issues / risks / slippage or concerns are documented as are any agreed actions or interventions.

A summary of progress, issues, risks and slippage are reported monthly to both the Project Delivery Board and the Advisory Group.

4.1.8. In the run up to go-live The Right to Control Project Team will work with the independent evaluation team to ensure that equality monitoring information is recorded and monitored as part of the implementation of the Right to Control. An analysis of the current trends for each equality strand across each funding stream will be base-lined in each Trailblazer area to ensure identification of any changes to these trends for the duration of the Right to Control programme.

4.1.9. The evaluation will look at whether the Right to Control has beneficial effects on disabled peoples lives and increases choice and control and what, if any, financial impacts there are on the public authorities involved.

5. Next Steps

The Equality Impact Assessment will continue to be developed as the Right to Control delivery processes are designed and implemented and more evidence emerges of the potential impacts on equality. It will be reviewed at least twice yearly and particularly at milestone dates during the trailblazing phase.

6. Contact Details

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Annex 1 – List of Reference Documents and Websites

ODI 2008 : 'Experiences and Expectations of Disabled People: A research report for the Office for Disability Issues'

<http://www.officefordisability.gov.uk/docs/res/eedp/eedp-full-report.pdf>

(last accessed 19 July 2010)

Welfare Reform Act 2009

http://www.opsi.gov.uk/acts/acts2009/ukpga_20090024_en_1

(last accessed 12 July 2010)

ODI 2009: 'Making choice and control a reality for disabled people: Prospectus for potential Trailblazers'

<http://www.officefordisability.gov.uk/docs/wor/rtc/rtc-prospectus.pdf>

(last accessed 12 July 2010)

ODI 2009: 'Making choice and control a reality for disabled people: Consultation on the Right to Control'

<http://www.officefordisability.gov.uk/docs/wor/rtc/rtc-consult-standard.pdf>

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ODI 2009: 'Making Choice and Control a Reality for Disabled People: Government Response to the consultation on the Right to Control'

<http://www.officefordisability.gov.uk/docs/wor/rtc/rtc-gov-s.pdf>

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ODI 2010: 'Making Choice and Control a Reality for Disabled People: Consultation on the Right to Control Trailblazer Regulations'

<http://www.officefordisability.gov.uk/docs/wor/rtc/rtc-consultation-trailblazer.pdf>

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Prime Ministers Strategy Unit 2005 'Improving the life chances of disabled people'

www.cabinetoffice.gov.uk/media/cabinetoffice/strategy/assets/disability.pdf

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ODI 2008, 'Independent Living: A cross government strategy about independent living for disabled people',

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<http://www.officefordisability.gov.uk/docs/res/iar/iar-full-pdf>

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DWP 2009: Carers Allowance, Cases in Payment, Work and Pensions Longitudinal Survey May 2009

Economic and Social Data Service 2008: 'Family Resources Survey 2007/08'

<http://www.esds.ac.uk/findingData/snDescription.asp?sn=6252>

(last accessed 16 February 2010)

University of York and University of Kent 2009: 'Individual budgets pilot projects: impact and outcome for carers', available at

www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_095420

DCSF 2007: Aiming high for disabled children-National Service Framework for Children

<http://www.dcsf.gov.uk/everychildmatters/resources-and-practice/IG00067/>

(last accessed 30 July 2010)

ODI 2010: Good practice guide for delivering the Right to Control –guidance for front line staff, available at

<http://www.officefordisability.gov.uk/docs/wor/rtc/rtc-good-practice.pdf> (last

accessed 30 July 2010)