



Chapter 3

An empowering welfare state

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Summary

This chapter sets out our intention to devolve power in welfare to allow us to draw on the expertise of the providers of employment support, on local communities and individuals.

Building on the Green Paper proposals, delivering on the recommendations from the Freud Report and developing the Department's Commissioning Strategy, this White Paper confirms our intention to:

- explore new ways of ensuring that providers offer increased support to those with the greatest needs;
- develop a single employment programme which meets the needs of job seekers and others with a more personalised support path;
- recycle benefit savings to finance more effective support – the 'invest to save' model, as proposed by David Freud; and
- develop the Right to Bid for contracts to provide innovative services.

This chapter confirms our intention to devolve power to communities. It sets out the role of local providers and Jobcentre Plus in developing local delivery arrangements and contains a commitment to working with the devolved administrations. We set out in this chapter the three levels of local devolution that we intend to develop.

This White Paper also confirms our intention to devolve power to individuals, to allow them to design services that fit their needs, not the needs of the system. We confirm that we intend to legislate for a right to control for disabled people. This would allow individuals to make informed decisions about how to use the money available for their support. From 2010 we will pilot the right to control in a small number of trailblazing public authority areas.

This new focus on an empowering welfare state will mean that we can deliver the support that people need more effectively and efficiently. Our providers know their business – they will have the opportunity to deliver a better service for people looking for work. Communities all face different challenges: they must be part of the solution. And giving control to individuals will help them to move more quickly on the path to independence and, where this is right for them, work.

- 3.1 As we noted in our Green Paper, *No one written off: reforming welfare to reward responsibility*, the Government has increasingly delivered services through a wide variety of providers. By drawing on the expertise and experience of the public, private and voluntary sectors, we have improved the quality of service, given individuals more control over the services they receive and achieved better outcomes. This approach has been particularly effective in helping some of the Department's more vulnerable customers, through the provision of specialised and tailored services, to help them overcome particular barriers to work.
- 3.2 Too often in the past, the welfare state has provided a centralised, one size fits all system of support. Not only has this failed to address the more complex and localised sources of disadvantage, it has also tended to stifle innovation. This White Paper confirms our intention to accelerate the devolution of power in the welfare system. We intend:
- to devolve power to providers, drawing on their expertise and innovation to step up the quality and scope of the back-to-work support that we offer to people on benefits;
 - to devolve power to communities, drawing on the understanding of local labour markets and opportunities to provide enhanced support for people returning to work; and
 - to devolve power to individuals, giving disabled people the right to control budgets used for their support and the chance to choose how best to achieve their aims and aspirations, with trailblazers in selected areas.

Devolving to providers

- 3.3 We are determined to harness the best of all sectors, making full use of the world class service offered by Jobcentre Plus and also using skills agencies, innovative local authorities and private and voluntary organisations. In February 2008, the Department for Work and Pensions published its Commissioning Strategy, which set out our vision for modernising and strengthening the welfare-to-work market. It opens the way for larger, longer contracts with providers rewarded for their success in helping more people into sustained work; where customers receive a more personalised and flexible service; and where delivery of employment support is integrated into local services. These principles are already shaping the commissioning for Phase 1 of the Flexible New Deal, which starts in October 2009.

3.4 We now want to go further. So we will:

- look at whether these principles can help us draw together from providers a single employment programme for people claiming both the Employment and Support Allowance and Jobseeker's Allowance;
- test whether we can increase funds for improving delivery of services by allowing providers to use the benefit savings through their success in helping people into work; and
- explore how we can more effectively align or combine funding pots across government through shared commissioning.

Greater need: greater support

- 3.5 People who responded to the Green Paper, *No one written off: reforming welfare to reward responsibility*, welcomed the flexibility and opportunity for innovation offered by our commissioning proposals. But there was concern that providers would 'cherry pick' the people who might be easiest to help back into employment and ignore those with the most barriers to work.
- 3.6 We believe that widening the range of providers, and using their specialist expertise, will help improve back-to-work services for everyone. Furthermore we believe we can successfully discourage parking by designing programmes and funding models to properly incentivise providers. We are already doing this in flexible New Deal contracts.
- 3.7 The quality and range of services should also be improved through larger and longer contracts which will attract a broader range of providers. Competition for and within contracts will give them an incentive to drive up performance and the number of people they plan to get into work. The Department for Work and Pensions, in turn, will ensure that providers keep to their commitments, as well as requiring potential suppliers to show how they will provide support for all our customers.
- 3.8 Contract managers will also monitor progress and use customer experience to check on the standards of delivery. There will also be improved customer choice, informed by the experience of earlier participants in the programmes. This will ensure that providers offer a personalised and responsive service to customers.
- 3.9 In addition to increasing support and conditionality, we also want to ensure that support is tailored and flexible. There is good evidence that focusing contracts on their success in getting people back to work helps provide this personalised and flexible service.

3.10 The policies outlined in this chapter will allow us to go further in enabling customers and the local community to work with providers to shape effective support. They will encourage greater investment by providers in their staff and in the infrastructure of their organisation. They will go further than ever in ensuring we make maximum use of the expertise and innovation of the private and voluntary sectors to help more of our customers into work.

Next steps

3.11 In this White Paper we set out four approaches to using contracted providers to do more to get more people into work:

- (a) trialling a single employment programme for combined client groups and exploring the feasibility of developing an innovative 'accelerator' funding model which, instead of giving providers the same payment for each person they help into work, pays providers more for each individual success as more individuals from particular cohorts of claimants find work;
- (b) testing whether it is cost effective to reinvest benefit savings when people are helped back into work to improve services through the 'invest to save' model, as proposed by David Freud;
- (c) aligning or combining more effectively government funding for employment and skills support to see if it is more effective in helping the most vulnerable overcome the barriers to work; and
- (d) supporting innovation through Right to Bid, which will provide an opportunity to test new approaches to the delivery of provision which, if successful, we would scale up.

3.12 We also set out three levels of devolution to local communities. These levels represent progressively greater flexibility and discretion to tailor services to meet local needs. Level 1 involves improved influence over contract specifications, full use of the flexibility available within contracts and improved communication between providers and other local bodies. In level 2, funding streams may be arranged in innovative ways to support shared commissioning of services. During this stage of devolution, we would be trying to develop new partnerships to test and improve these provisions.

3.13 Level 3 goes further and could include devolving contracting responsibility to local (or sub-regional) partnerships. At this level, money and control would be given to the locality with the Department for Work and Pensions and other parts of central government specifying only the outcomes to be achieved.

- 3.14 This devolution, which is described in more detail later in this chapter, will facilitate efforts to join up services and enable the Department's contracted employment programmes to respond to local needs. We will take this forward through implementation of our published commissioning strategy.

A single personalised employment programme

- 3.15 The Gregg Review said the vast majority of people claiming out-of-work benefits should be on a path which could lead them back to work. It describes why personalised support needs to be based on individual needs rather than the benefit they are receiving, which is often the case now. Through the Pathways to Work and Flexible New Deal programmes, we are moving towards this approach and now want to see how it can be extended.
- 3.16 As we begin to develop proposals for a simpler benefit system and new personalised conditionality and support, we need to ensure that existing employment programmes evolve to underpin them. Where possible, programmes should aim to remove barriers that providers face in delivering support to people with complex needs. This would allow them to deliver a more personal approach to getting people into work. For example, many young people leaving care, and former offenders, will often need help with 'soft skills' like expectations of workplace behaviours and interpersonal relationship management before they are able to effectively make the transition into employment.
- 3.17 This is why we plan to test a new employment programme from March 2011. This programme will combine Pathways to Work and the Flexible New Deal. It will deliver a single, integrated, flexible employment programme for people claiming both Jobseeker's Allowance and the Employment and Support Allowance. We will also explore whether the proposals for lone parents with children aged three to six can also be tested in this programme. The pilots will enable us to trial the conditionality framework recommended in the Gregg Review, alongside his central recommendation that support should be personalised depending on need rather than the benefit someone receives.
- 3.18 We believe this approach will provide a greater range of support to both groups. It will allow providers greater opportunity to innovate and tailor support to meet the needs of the individual. This will particularly help those with multiple barriers and more complex needs, such as job seekers with health conditions. We will explore ways of more closely aligning this programme to other specialist support such as Progress2Work and the new specialist disability employment programme discussed in Chapter 5. We will ensure that providers continue to take an integrated approach to both employment and skills, working closely with local partners and agencies.

- 3.19 The Gregg Review concluded that concerns that a single programme would see efforts concentrated on the easiest to help could be overcome by contracts which reflect and reward the additional time and money needed to support those with the greatest barriers to work. It suggested that an 'accelerator/escalator' model was the most attractive. This would pay providers more for each individual success as more individuals from particular cohorts of claimants find work. This works because people who find work later are likely to be those who have needed to overcome bigger barriers to getting into work. We will explore the feasibility of using this funding model for these multi-client contracts.
- 3.20 We envisage that the pilots would run in two areas and we will work with local partners to ensure that, as far as possible, the test programme reflects local needs. The lessons we learn will help us to inform the design of employment support for all customers as we move forward with welfare reform in the future.

Testing innovative approaches for longer-term incapacity benefit claimants

- 3.21 For new claimants, we have already replaced Incapacity Benefit with the Employment and Support Allowance. Between 2010 and 2013, we will transfer all existing IB claimants to ESA. Everyone will get access to support to get better and back in to work, through the Pathways to Work programme. But we want to continue to improve and deepen the support we give, particularly to those who have been out of the labour market for a long time.
- 3.22 So we will:
- take forward the pathfinders for the innovative approach recommended by David Freud to support long-term claimants back into employment, funded using a new financing agreement;
 - seek better to understand and meet the needs of people with mental health conditions; and
 - ensure that we are working together across government to help those facing multiple barriers.
- 3.23 Testing radical new approaches is crucial to break cycles of benefit dependency and to support those who need it most. We are committed to provide ground-breaking, effective support to those who have been claiming incapacity benefits for a number of years. This drives us in the direction advocated by the Gregg Review, exploring new and more effective possibilities for personalised, integrated, individual support, not only for those who are easiest to help, but for all.

- 3.24 David Freud's report¹² to the Department for Work and Pensions in March 2007 recommended harnessing the innovation of the private and voluntary sectors to deliver this personalised support. He proposed using the future benefit savings achieved from supporting claimants back into work to reward those providers. This would allow the Department to reward providers for each extra customer they successfully support into sustainable employment, while also allowing the providers greater freedom to innovate in their methods of support.
- 3.25 We believe that the approach proposed by David Freud could deliver a new level of more effective support, helping to make sure that no one is written off. We will implement his recommendations. As he advised, we will pilot his proposals before rolling them out. This will start in March 2011 with five regions. We expect that these new, primarily outcome-based contracts, by offering the prospect of greater returns, should encourage providers to invest more of their own capital and be more innovative in the way they deliver their support. We will look to use the pathfinders to test the Gregg Review's vision of personalised conditionality for existing customers.
- 3.26 The pathfinders will be underpinned by an innovative 'invest to save' financing agreement between the Department for Work and Pensions and HM Treasury. It is this agreement that will allow the Department to fund payments under these contracts using the benefit savings achieved.
- 3.27 Most longer-term existing customers on incapacity benefits who are in the pathfinder areas will receive this new support after they move across to the Employment and Support Allowance. Those in the Support Group will have the opportunity to take part if they wish but, in keeping with their general treatment in the Employment and Support Allowance, will not be required to take part. The pathfinders will take place in five regions of the country commencing from March 2011. The initial three areas were announced in the Green Paper, *No one written off: reforming welfare to reward responsibility*:
- Greater Manchester;
 - Norfolk; and
 - Lambeth, Southwark and Wandsworth.

¹² Freud D. (2007). *Reducing dependency, increasing opportunity: options for the future of welfare to work*. Corporate Document Services.

Right to bid

- 3.28 The Green Paper proposed the establishment of a 'Right to Bid', to reverse our traditional tendering approach, so that outside organisations could bid for contracts where they thought they could improve our services. This will enable bidders, including those who already work with the Department for Work and Pensions and those who do not, to put forward ideas to help improve services for which the Department for Work and Pensions is responsible.
- 3.29 Any innovative proposals which provide evidence to support their success will be considered for piloting.
- 3.30 We expect that, following the launch of the Green Paper, the majority of early Right to Bid applications will focus on improving aspects of welfare-to-work delivery, but it is not restricted to that sector and may relate to any area of our business.
- 3.31 A Bidder's Guide for organisations wishing to develop proposals was published on the Department for Work and Pensions' website on 17 October. The Bidder's Guide outlines the Right to Bid approach and process, and seeks the engagement and commitment of providers. We expect to receive the first proposals in January 2009 and will look to identify the best of these through spring 2009.
- 3.32 Our aim is to make the most effective use of the experience, knowledge and perspectives of the public, private and voluntary sectors in realising our ambitions.

Devolving to communities

- 3.33 Just as no individuals have the same needs and ambitions, neither do communities. And just as the best way of tailoring advice and support to the needs of individuals is to ensure they play a full part in decisions, so we need to make use of local knowledge and experience wherever possible.
- 3.34 The Green Paper, *No one written off: reforming welfare to reward responsibility*, set out our ambitions to devolve more decision-making and responsibility wherever possible locally and to build new partnerships which will have the chance to innovate to meet local priorities.
- 3.35 We have proposed three levels of devolution which would progressively increase influence and accountability at a local level. We believe that this approach will support activities to better align funding streams and allow local priorities to be met.

Role of providers, Jobcentre Plus and local partners

- 3.36 Jobcentre Plus is well placed to play a pivotal role to promote and facilitate this better engagement and collaboration between partnerships and providers. Jobcentre Plus District Managers are already included as full partners throughout our commissioning process, and we intend to continue to make full use of their local expertise.
- 3.37 We now want to extend the high level of local consultation, which has been developed through the Pathways to Work and the Flexible New Deal contracting process, to shape the way that we approach all contracting. However, we also are looking for some significant enhancements, building on the proposals set out in the Pre-Budget Report to devolve a comprehensive range of powers and freedoms to city-regions.
- Offering involvement in the Department's commissioning processes from specification design, through to tender evaluation and performance management.
 - Enabling local partners to clearly identify which elements can be targeted to local needs and priorities.
 - The continuing involvement of Jobcentre Plus Districts in identifying the overall needs of local customers and particular areas or problems that need to be addressed.
 - Ensuring the involvement of local partners in all areas – not just those with a City Strategy Partnership.

Implementing change with local partners

Level 1

- 3.38 Our new contracting arrangements will give contracted providers both the flexibility and the incentives to develop appropriate tailored solutions to meet individuals' needs. This is a new approach and we believe that we will see the impact of these arrangements over time as contracts 'bed in'.
- 3.39 We will do more to improve our communications with City Strategy Partnerships and other partnerships on the detail of our commissioning processes and involve them in discussions on the performance of Department for Work and Pensions' contracts.

- 3.40 We want the level of consultation which has been developed through the Pathways to Work and Flexible New Deal contracting process to be seen as business as usual across all our employment programme contracting, but with some enhancements.
- Setting out clearly the timeline for future commissioning and our longer-term 2015 vision, so that partners can see the direction of travel: we intend to share this early in 2009.
 - Offering a clear end-to-end process for involvement in the Department for Work and Pensions' commissioning.
 - Making localisation a part of specifications for employment programmes. This will allow local partners to see which elements are part of the national spine and which can be changed locally. This will also make clear to City Strategy Partnerships, Jobcentre Plus, other partnerships and potential bidders the level of involvement in performance management that City Strategy Partnerships and Jobcentre Plus will have.
 - We want providers to play a full role within the delivery of employment and skills plans worked up by City Strategy Partnerships, Multi-Area Agreements, and Local Area Agreements, working closely with Jobcentre Plus within that partnership. We will develop a process and appropriate guidance that makes this clear to all parties.
 - Finally, we want to expand our coverage to ensure we can involve local partners in all areas, not just those with a City Strategy Partnership.
- 3.41 We will look specifically at how our vision fits with the devolved administrations in Scotland and Wales.
- 3.42 From discussions with a number of City Strategy Partnerships and Multi-Area Agreement areas, we believe that being clear about what we expect will deliver much of what many local partners are looking for at level 1. In particular, this will allow a genuine influence and a clear stake in local provision, and a real impact on the services offered to individuals.

Level 2 – wraparound services within Department for Work and Pensions' contracts

- 3.43 The prospect of local and sub-regional partnerships adding value to the Department's contracted provision through better alignment of existing funding streams offers considerable scope to develop solutions appropriate to local circumstances. We believe there is real opportunity here to align at a more local level the various funding streams which focus on employment, skills and individual support more closely to Department for Work and Pensions' commissioned provision, including resources from the Working Neighbourhoods Fund (where this is available and in England only).

- 3.44 There are many ways in which level 2 devolution can be delivered. We have experience of developing shared commissioning (sometimes known as 'co-commissioning') in delivering skills provision. We described this approach in *Work Skills*:¹³ bringing together in England resources from the Learning and Skills Council, the Flexible New Deal and local authority funding. We intend to use the understanding gained from this work to inform future development of shared commissioning. Specifically, we will build on the experience to explore with appropriate City Strategy Partnerships shared commissioning in Phase 2 contracts for the Flexible New Deal.
- 3.45 If we are to proceed with a shared commissioning proposal, we will expect it to be clearly based on evidence. It will need to be actively supported by a credible business case, a firm co-funding offer and robust evidence of a track record. We will also expect clear performance indicators, demonstrable added value and a strong focus on performance management and accountability.
- 3.46 We have already announced in *Work Skills* that we will develop this commissioning approach in a limited number of areas. We are extending these areas to include City Strategy Partnership Areas. In the future, we will expand the approach to include other contracting rounds and developing partnerships such as Multi-Area Agreements. We want to see level 2 devolution, with better joining up of services, better alignment of funding and possible joint funding arrangements operating successfully in a number of areas by 2010 and fully embedded by 2015.

Level 3 – devolving contracting responsibility to sub-regional partnerships

- 3.47 Level 3 will take this much further, handing over money and responsibility for delivering outcomes to the locality, and will be dependent upon local partners demonstrating further progress against the outlined criteria. The Department for Work and Pensions and other government partners would become a partner in a local procurement exercise, specifying the outcome requirements, but possibly devolving the commissioning, funding and contract management arrangements to a local partner or joint commissioning body.
- 3.48 We intend to move towards level 3 on a managed basis. In discussions, few local partners have asked for level 3 devolution on those terms, and we believe that in the majority of cases level 1 and level 2 devolution will meet the demands of partners and make a real difference to delivery on the ground.

¹³ Department for Work and Pensions and the Department for Innovation, Universities and Skills. (2008). *Work Skills*, Cm 7415.

3.49 We are committed to experimenting with a more radical devolution where this will improve outcomes and will work with level 2 areas and within appropriate partnerships to explore their ability and appetite for working in a level 3 model environment. The 2008 Pre-Budget Report announced our proposals for devolution to city-regions and aims for us to agree at least two forerunner city-regions at Budget 2009. In addition, we want to have a number of areas operating successfully at this level by 2015, but we expect to have some partnerships working at this level earlier.

3.50 In summary we will:

- Integrate level 1 devolution into all future Department for Work and Pensions' commissioning activities and, for areas without a City Strategy Partnership or developing Multi-Area Agreement, we will look to establish, by 2010, a process that will allow this influence and consultation.
- Work with named joint commissioning trials announced in Work Skills, City Strategy Partnerships and developing Multi-Area Agreements on activities to join up provision more effectively – level 2 – gradually expanding this approach over time. This will allow the benefits of new contracting arrangements to be better understood and allow existing partnerships to develop the relationships and track records we will require to go further, with our plans to devolve even greater influence over the Department's programmes. We want to see some areas operating at this level by 2010 and for this to be embedded by 2015.
- In the short-term, look to experiment, where this is manageable, with greater devolution (level 3). We have already said that we are interested in testing this approach within the developing Fit for Work pilot areas, but with the clear intent to work with City Strategy Partnerships and the developing Multi-Area Agreements/city-regions so that over time these areas can progress to level 3. The 2008 Pre-Budget Report announced our proposals for devolution to city-regions and aims for us to agree at least two forerunner city-regions at Budget 2009. We would like to see a number of areas operating at level 3 by 2015, but we expect to have some areas working at this level earlier.

Adviser discretion

3.51 As we noted in the Green Paper, *No one written off: reforming welfare to reward responsibility*, the current Jobcentre Plus adviser regime, based on regular contact with customers, is effective. Advisers already have a considerable degree of freedom and discretion to help their customers but, as the Gregg Review makes clear, we could do more to use their expertise to improve and personalise services.

- 3.52 We have already started to learn from pilot schemes, underway since September in Derbyshire and South West Wales, how we can give advisers increased discretion across the system. These pilots will teach us a lot, and we agree with the Gregg Review that we would benefit from knowing whether increased discretionary funding for Jobcentre Plus advisers during the 'supported jobsearch' stage (between the 6 and 12 month stage) of a Jobseeker's Allowance claim could drive better outcomes. We intend to move quickly to test this concept, but we accept Gregg's recommendation that we should build our evidence base first to understand where increased resource could be deployed effectively to improve performance.
- 3.53 We need to start laying the groundwork for this test as soon as possible. We will therefore extend the current Jobcentre Plus pilots immediately. This will enable us to develop the evidence base on what dimensions of flexibility are important. We will then, as resources allow, build on these pilots to test if additional Jobcentre Plus funding during the 'supported jobsearch' stage of a Jobseeker's Allowance claim, together with an appropriate accountability and contestability framework, could improve the quality and reduce the cost of our provision.

Devolving to individuals

- 3.54 Empowerment is at the heart of our welfare reforms. We must give individuals control over their lives if we are to free them from a life trapped on benefits. This White Paper confirms that we intend to make progress by:
- legislating for a right to control for disabled people, which will be piloted in trailblazing areas; and
 - developing a right to choose between providers for people on employment programmes.

A right to control

Background

- 3.55 As we described in our Green Paper, many disabled people do not have the sort 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 often in a position to decide how support will be provided. Too often, services are structured in a way that can reinforce 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.
- 3.56 In response to the concerns of disabled people, the Government has committed to providing greater choice and control over the support they receive from the State. Several models have been tested.
- Direct Payments, which have been in place for over a decade, allow users to take a cash payment in lieu of social care services. The 2001 Health and Social Care Act changed the status of Direct Payments, introducing a duty for local authorities to provide social care services as Direct Payments where this is requested by the service user. This means that users have more control over how their support needs are met.
 - Personal budgets originated as an alternative method of providing choice and control over social care funding. Personal budgets allow individuals entitled to social care funding to choose whether they take their budget as a Direct Payment or allow councils to commission services for them, or a mixture of the two, whilst choosing how and by whom their needs are met. Where necessary, users can be supported to make decisions on how to use the budget to which they are entitled. Personal budgets allow individuals to take a wider view of their needs and choose the support they require to meet them. The Department of Health (DH) envisages that by 2011 the majority of people in receipt of social care will have the opportunity to have a personal budget. There are also plans to pilot personal health budgets from 2009.
 - Individual budgets widen the scope of choice and control to include more funding streams. In an individual budget, different funding streams to which a person is entitled are aligned or integrated, allowing the user greater flexibility about how resources are used. As with personal budgets, users can choose to take this monetised budget as cash, services or a mixture of the two. The flexibility of individual budgets allows individuals to tailor the support they receive to meet their needs as a whole, rather than being provided with compartmentalised and fragmented support. The Department for Children Schools and Families and the Department of Health are shortly to begin piloting individual budgets for disabled children.

- 3.57 Recent studies of personal and individual budgets have shown that when disabled people have control over the services they receive it can have benefits for the individual.
- In Control¹⁴ has undertaken evaluations of personal budget schemes for people with learning disabilities and other people receiving social care. In its analysis of users' experiences between 2005 and 2007 it found that over three-quarters of participants felt they had a better quality of life than before they had a personal budget. In addition, 72 per cent believed that they were now more in control of their lives.
 - For two years (2006 to 2007), 13 local authorities took part in an Individual Budget pilot, focusing on users of Adult Social Care. The pilot was led by Department of Health (DH) and also included services funded by the Department of Communities and Local Government (CLG) and the Department for Work and Pensions. Participants included older people as well as working age disabled people with a range of different needs. The evaluation report shows 'individual budgets have the potential to improve outcomes for people without increases in costs, and with increased cost-effectiveness'.¹⁵ Additionally, 67 per cent of individual budget holders reported that they now had higher aspirations. Some groups, however, did not benefit as much as had been hoped from individual budgets and the report also highlighted administrative and legislative barriers to integrating funding streams. The report also found that more evidence is needed on whether the benefits of individual budgets outweigh the costs¹⁶.
- 3.58 The models and pilots described above focused on users of adult social care. We recognise, however, that the question of choice and control for disabled people extends beyond the fields of social care and health. Many disabled people access a wide range of state funding and services in the course of their everyday lives. Our recent Independent Living Strategy¹⁷ makes clear that independent living involves a wide range of outcomes and that choice and control matter in all aspects of disabled people's lives. It is therefore important that neither social care nor any other service should be the sole 'gateway' to choice and control.

¹⁴ *In Control*, an organisation set up by the Department of Health and Mencap in 2003, is an organisation supporting local authorities to deliver Self-Directed Support.

¹⁵ Department of Health. (2008). *Moving Forward: Using the Learning from the Individual Budget Pilots - Response to the IBSEN evaluation*. Available at: http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_089505

¹⁶ Glendinning C. *et al.* (2008). *Evaluation of the Individual Budgets Pilot Programme*. Social Policy Research Unit, University of York.

¹⁷ Office for Disability Issues. (2008). *Independent Living: A cross-government strategy about independent living for disabled people*.

- 3.59 We also need to do more to enable effective alignment or integration of different services and funding streams, within an approach that offers choice and control. Our aim is to avoid the fragmentation of support too often experienced by disabled people.

Case Study – How the right to control will work

Martin (26) has Attention-Deficit Hyperactivity Disorder (ADHD). He left school at 16 with three GCSEs and has had a series of jobs (mainly working in supermarkets and warehouses), none of which lasted very long because of his poor attendance and challenging behaviour. Martin's main interest is maintaining his motorbike and he has expressed a wish to become a motorbike mechanic.

Martin is told by his Disability Employment Adviser (DEA) that he has the right to control some of the support he receives. The Disability Employment Adviser helps him to write a Support Plan. The Support Plan is broken down into the steps that Martin, helped by his Disability Employment Adviser, thinks need to be taken in order to achieve the overall outcome of achieving sustainable employment. The initial steps are for Martin to use his budget to:

- get help with his behaviour from a cognitive behavioural therapist;
- sign up for an accredited course in motorbike maintenance, using some of his budget to pay for the equipment required; and
- pay the bus fares into town so he can use the internet at the Library (Martin does not have internet access at home) in order to participate in a discussion board for adults with Attention-Deficit Hyperactivity Disorder. This helps him to feel less isolated.

The next stage of his Support Plan will set out what support Martin requires to get and sustain employment.

Why create a legal right to control?

- 3.60 In our Green Paper, we asked for views on the ways in which disabled adults could exercise more choice and control over the support they require to go about their daily lives. We have consulted on what form provisions could take and whether legislation would be needed.
- 3.61 Consultation responses favoured the creation of a legislative right for disabled adults to have control over the services they receive from the state. Respondents told us that a right to control would help to ensure that the support disabled

adults require is based on their own needs and ambitions, leading to more satisfactory outcomes. There was a recognition that this is not about changing an individual's entitlement to support, but rather about changing the control people have over how support is delivered. As such, it would represent a shift in the balance of power from the State to the individual, empowering disabled people to take control over their own lives.

- 3.62 As a result of the consultation, our intention is now to create a right to control, rather than a right to request control over funding. It was felt, especially by disabled people receiving state support, that a right to request control would not ensure choice and control for disabled adults, since there would be no obligation on public authorities to honour such a request. However, as affordability and sustainability of services are essential, public authorities will take these into account when making decisions about the availability of the right to control, to ensure public funds are safeguarded.
- 3.63 The intention of the legal right to control is to reflect the fact that a disabled individual is the expert in his or her life. The Government wants to empower disabled people and ensure that choice and control are recognised as a right, not a privilege.
- 3.64 Legislation will provide clarity for both public authorities and disabled people and, in the event of wider roll-out, would help ensure universal and consistent application of the right to control principles.
- 3.65 The Office for Disability Issues report, *Experiences and Expectations of Disabled People*, found that choice and control is important to disabled people, and is positively correlated with an individual's overall satisfaction with services.¹⁸ When disabled people do not have choice and control over the additional support needed to go about their daily lives they can find it difficult to achieve their individual aspirations, or to participate in, and make a contribution to, family life and the wider community. Individual autonomy and the freedom to make one's own choices is one of the guiding principles of the UN Convention on the Rights of Persons with Disabilities. Choice and control is also important to a number of the Convention's provisions.¹⁹ The introduction of a right to control for disabled adults will make an important contribution to ensuring that disabled people's rights are fully recognised and respected.
- 3.66 Authorities taking part in the individual budget pilots reported that they faced legislative barriers to integrating certain services or funding streams. We will consult widely on whether there are legislative barriers that may affect the outcome of the right to control trailblazers, and will take steps to address them where necessary.

¹⁸ Office for Disability Issues. (2008). *Experiences and Expectations of Disabled People*, pp. 184-185

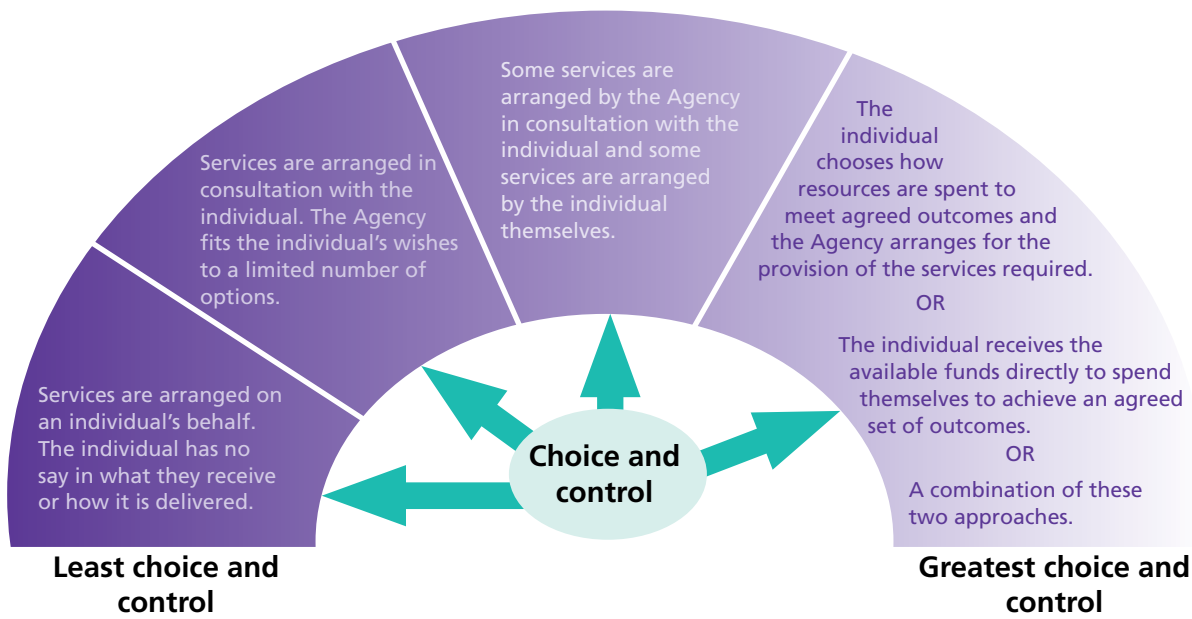
¹⁹ UN Convention on the Rights of Persons with Disabilities, Articles 3, 19, 20, 24, 27, 29 and 30.

3.67 Before making a decision on whether to roll out the right to control nationally, we will test it in trailblazing public bodies. From 2010, we will test how the right will work, how it can deliver the best outcomes for disabled people, and what the costs and benefits are to public authorities. Only if we are satisfied that these pilots work will we take powers to roll out the right to control nationally.

How will the right to control trailblazers work?

3.68 Disabled adults who take part in the right to control trailblazers will be told how much they are eligible to receive in support and will be able to choose how that money is used to achieve outcomes agreed with the State.

3.69 In the right to control trailblazers, disabled adults will be able to choose degrees of control over the monetised support they receive. The diagram below illustrates the varying degrees of choice and control that could be offered.



3.70 The individual will be able to receive a direct payment, continue to allow the public authority to arrange their support, or use a mixed approach. There will be no compulsion on disabled people to take state funding as cash; if individuals wish to continue receiving services commissioned on their behalf then they will be able so to do.

3.71 The right to control will not change entitlement criteria for funding streams. Rather, it is about a disabled person being able to control the support they receive more flexibly, in order to work towards outcomes agreed with the State. If a funding stream already has outcomes set out in legislation these will feature in the individual's agreed outcomes.

- 3.72 Initially, we will pilot the right to control in a small number of trailblazing public authorities. These trailblazers will be used to build the evidence base on the costs and benefits of individual budgets and a right to control. We will encourage innovation and work closely with public authorities, providers and other key local stakeholders to investigate how the right would work on the ground. The Department for Work and Pensions will take steps to ensure that the trailblazers are accessible for disabled adults and include those with moderate to severe learning disabilities and mental health conditions. This will ensure that the trailblazers include a range of disabled people. Evaluation of the initial phase, taking into account a variety of factors, including outcomes and cost-effectiveness, will be used to inform a government decision about wider roll-out.
- 3.73 The initial test phase will take place in England only, but the right to control has the support of the Scottish Government, who will be involved in any subsequent plans for wider roll-out. We are also working closely with the Welsh Assembly Government in looking at whether and how the right could be implemented in Wales.
- 3.74 The right to control would include a range of support and services offered by different UK government departments and public authorities.
- 3.75 However, a right to control will only apply to selected funding streams. Therefore, for the trailblazers, we are developing a set of criteria that could be applied when considering whether funding streams should be included under the right to control. We will consult further and refine these criteria, but our current thinking is that a funding stream should be considered for inclusion if it is accessed by disabled adults and meets criteria including:
- (a) the focus of the funding stream is to enable individuals to overcome barriers associated with illness or impairment;
 - (b) the funding stream seeks to address the additional needs and difficulties experienced by disabled people, thus enabling disabled people to fully participate in all aspects of their lives, including at home, at work and in the community; or
 - (c) inclusion of the funding is likely to have a positive impact on the lives of disabled people and will enable more efficient delivery of services administered by public authorities.

- 3.76 Funding streams will not be included under the right to control either in pilots or in any subsequent extension if:
- (a) the funding stream is paid as a cash benefit, there is little advantage to including benefit payments within the right to control as they are already cash payments; or
 - (b) the funding stream is for a universal service where eligibility is not determined by an individual needs assessment, such as defence, primary and secondary education, public transport, refuse collection, or libraries.
- 3.77 We intend that the funding streams or services to which the right to control applies at any one time will be set out in secondary legislation.
- 3.78 It is important that a right to control should not disadvantage those disabled people who would not want to exercise choice or control over the support they receive and/or who wish to continue to use existing services. The needs and interests of all disabled people will therefore be taken into account when implementing the changes required to operate the trailblazers, evaluate their effectiveness and decide next steps.
- 3.79 Although only disabled people will be entitled to exercise the right to control, services accessed by both disabled and non-disabled people could also potentially be eligible for inclusion. Where a funding stream is accessed by both disabled and non-disabled people, additional criteria will need to apply to that stream to define which users would be entitled to exercise the right. We will consult on what these criteria should be.
- 3.80 Before we commence the trailblazers, the Department for Work and Pensions will consult widely with disabled people, service providers and other stakeholders to establish the best way to achieve the objective of providing choice and control whilst safeguarding and improving services. Stakeholders will be consulted on how Department for Work and Pensions funding, particularly Access to Work, the Independent Living Fund and elements of our specialist disability employment programmes, could be included in the initial trailblazers. The inclusion or alignment of other government services, including the Disabled Facilities Grants and Adult Social Care, will be considered during this phase.
- 3.81 We will consult locally and nationally ahead of the trailblazers to investigate which other sources of support could be included. We will want to enable public authorities to work innovatively, identifying locally administered funding streams that, if necessary, we would then bring within the scope of the pilot through our legislation.

- 3.82 Over time, the right to control framework could enable more funding streams and services to be included. This would be an ongoing process allowing disabled people and public authorities to play a role in suggesting funding streams for inclusion. However, additional funding streams to be included in the right to control would have to be agreed by the Government and defined through a legislative process.
- 3.83 During the trailblazers, it will be important that all disabled people who are entitled to a right to control, including those with limited capacity to take decisions, have choice and control over the support they receive. We also recognise that disabled people choosing to exercise the right to control will be taking on additional responsibilities. Responses to consultation have emphasised the importance of support to enable everyone entitled to a right to control to exercise their right.
- 3.84 In the 2007 cross-sector Concordat *Putting People First* the Government committed to the provision, by 2011, of a universal information, advice and advocacy service both for people who need services and for their carers, including personal advocates for people who require support to articulate their needs and/or to utilise their budget.²⁰ The Department of Health is also committed to ensuring that, by 2010, each locality has a user-led organisation, and these organisations will play an important role in providing the advice and support that some disabled people will need. We will be working closely with the Department of Health, the Office of the Third Sector and user-led organisations to develop and support advocacy services for those people who access the right to control during the trailblazers.
- 3.85 We recognise that not everyone will want the responsibility of organising and controlling their own support. The right to control trailblazers will enable disabled people to have control over resources but will not require them so to do.
- 3.86 Under the right to control, the presumption should be that public authorities will enable an individual to exercise their right to control except in defined circumstances. Given the need to ensure the sustainability of services and safeguard public funds, these circumstances will include when the right is not affordable. We will consult on other circumstances that should be included.
- 3.87 We will also consult on appropriate mechanisms to enable individuals to seek a review of decisions about the right to control.

²⁰ HM Government. (2007). *Putting People First: A shared vision and commitment to the transformation of Adult Social Care*.

The right to choose between providers

- 3.88 Customer choice is important, not only for individuals, but also as a means of driving performance and quality. We have plans to include a 'customer experience measure' to help customers choose between different providers of employment programmes. We are starting to develop this by undertaking research to explore what is important for our customers in choosing help to get a job.
- 3.89 We will provide information on provider performance, including success in delivering sustained employment and customer experience to help customers make an informed choice. Initially, this will be in some areas where the Flexible New Deal is operating customer choice after the contracts have been operating for 12 months and we have a track record to report.
- 3.90 We have already developed and tested the Star Rating model for Employment Zone contracts and we published the first results in June 2008. We will introduce a Star Rating system for the Flexible New Deal that will measure the performance of each Flexible New Deal contract (and all new programmes in the future).

Conclusion

- 3.91 Governments cannot personalise services by themselves; instead they need to devolve power to people and providers so they can work out how to meet individuals' needs together. This is why we have increasingly worked with external providers to deliver the specialised and local services that can make a real difference to many of the people who rely on the support of the Department for Work and Pensions. To achieve our objectives, we will need to work with a wide range of providers, including those who already work with the Department for Work and Pensions, along with others from the UK and overseas who have the capacity and skills to deliver high quality provision. We intend to publish further details of our specific engagement strategies over the coming weeks.
- 3.92 We will look at how best to encourage providers to offer greater support to those with the greatest need. We will experiment with broader and more inclusive programmes and pilot recycling money saved in benefit spending to finance better employment services.
- 3.93 We are also devolving power to communities, with three levels of devolution planned for the future. And we recognise that individuals are experts in their own lives. Given power to choose, they can put together a better package of support than the service provided on their behalf. This is why we propose trailblazing a right to control for disabled people, allowing them to make informed decisions about how to use the money available for their support, in the way that suits them.