



# Coversheet: Withdrawal of KiwiSaver due to life-shortening congenital conditions

<b>Advising agencies</b>	<i>Ministry of Business, Innovation and Employment</i>
<b>Decision sought</b>	<i>Policy decisions relating to the creation of a new early withdrawal category in the KiwiSaver Act 2006</i>
<b>Proposing Ministers</b>	<i>Minister of Commerce and Consumer Affairs</i>

## Summary: Problem and Proposed Approach

### Problem Definition

#### **What problem or opportunity does this proposal seek to address? Why is Government intervention required?**

People with life-shortening congenital conditions (a condition a person is born with) can join KiwiSaver to save for their retirement but, under current settings, cannot access their savings before the age of 65. Having such a condition means a person may not live until 65 years old. This means that either:

- people with life-shortening congenital conditions are not joining KiwiSaver because they are aware it is unsuitable for them as a retirement savings product, or
- people with life-shortening congenital conditions have contributed money to KiwiSaver and cannot withdraw their money.

In both of these cases, people with life-shortening congenital conditions cannot use KiwiSaver to save for their retirement and so are missing out on the particular benefits associated with KiwiSaver that do not come with other privately-run retirement savings schemes.

The withdrawal settings are dictated by the KiwiSaver Act 2006 and supporting regulations. Changes to the Act would be required to allow people with life-shortening congenital conditions to access their savings to support their financial wellbeing in retirement.

### Proposed Approach

#### How will government intervention work to bring about the desired change? How is this the best option?

We propose a new withdrawal category in the KiwiSaver Act allowing people with life-shortening congenital conditions to withdraw their savings at a time they choose to retire.

Allowing people to establish their own retirement date under this new category should almost guarantee that people with life-shortening congenital conditions will be able to access their KiwiSaver to support a positive retirement.

Giving people discretion to choose a withdrawal date acknowledges that there is a wide range of life expectancies associated with certain conditions, depending on the severity of the condition and other associated medical conditions.

A set list of conditions in regulations would trigger withdrawal, providing clarity and certainty about the new category in the majority of cases. An alternative process would also be established where a person whose congenital condition is not on the set list could apply to their KiwiSaver provider for withdrawal, with supporting medical evidence. We consider the process for withdrawal outlined above provides:

- certainty about who the new category will apply to
- flexibility for (perhaps rare) conditions that have not been caught by the set list.

## Section B: Summary Impacts: Benefits and costs

### Who are the main expected beneficiaries and what is the nature of the expected benefit?

The main beneficiaries will be people with life-shortening congenital conditions as KiwiSaver will now be an appropriate retirement savings vehicle for them. They will be able to access the specific benefits available through KiwiSaver that do not come with other retirement savings schemes.

### Where do the costs fall?

In order to qualify for withdrawal under the new category we are proposing that people will have to supply medical certification (and perhaps other medical evidence if required) in support of their application. There will be costs to the individual in obtaining this information.

There will be administration costs for KiwiSaver providers in processing these applications.

### What are the likely risks and unintended impacts, how significant are they and how will they be minimised or mitigated?

The proposal to create an early withdrawal category in KiwiSaver for people with life-shortening congenital conditions for the purpose of early retirement seeks to address an existing inconsistency between people that have life-shortening congenital conditions and people that have a normal life expectancy.

In seeking to address an existing inconsistency in KiwiSaver, a new inconsistency is generated and questions could be raised about how people with non-congenital life-shortening conditions are treated in terms of KiwiSaver withdrawal.

There is an existing serious illness category in the Act that can be relied upon in cases of imminent death (guidance produced by the KiwiSaver industry takes this to be that a person would have 12 months or less to live) or permanent incapacity to work. However the serious illness category does not capture situations where a person may want to retire early due to a non-congenital life-shortening condition.

The work on life-shortening congenital conditions may spur calls for the scope of the proposed withdrawal category to be considered again. This is a risk because of the complicated nature of medically-related reasons for withdrawal. In order to create any additional withdrawal categories, a line would need to be drawn to establish what conditions are likely to qualify for withdrawal. Due to the complexity associated with medical conditions it is likely that no matter where you 'draw the line' it would introduce some form of inconsistency or inequity relative to other conditions that might have been included.

The alternative would be to have a reasonably broad withdrawal category allowing for early withdrawal for non-congenital conditions. This is also a risk because the current design of the KiwiSaver Act restricts early withdrawal to a limited number of circumstances in order to ensure that, for most New Zealanders, their savings will be available for them in retirement. Introducing a withdrawal category with a broad scope increases the number of people that could potentially withdraw their money before the age of 65 and risks undermining KiwiSaver as a retirement savings vehicle.

The risk of undermining KiwiSaver as a retirement savings vehicle for the majority of New Zealanders has been managed through the current policy process by tightly defining the scope of the proposed withdrawal category. We are seeking to address a particular issue in relation to people that are born with a condition that means they have a shortened life expectancy. In regards to further calls for change to the early withdrawal categories, MBIE will monitor the feedback received as part of its regulatory stewardship obligations. Further detail on this is provided below.

#### **Identify any significant incompatibility with the government's 'Expectations for the design of regulatory systems'.**

Allowing withdrawal of KiwiSaver for people with life-shortening congenital conditions raises questions about the treatment of non-congenital life-shortening conditions. MBIE will monitor the feedback on this point from the industry and from the public as part of its ongoing regulatory stewardship activities. Any work would need to be undertaken with the broader purpose of KiwiSaver as a retirement savings vehicle in mind. As noted above, the current design of the KiwiSaver Act restricts early withdrawal to a limited number of circumstances in order to ensure that, for most New Zealanders, their savings will be available to them for use in retirement.

## Section C: Evidence certainty and quality assurance

### Agency rating of evidence certainty?

There are some gaps in the evidence base.

To inform the scoping of the problem and to provide advice on possible solutions, MBIE commissioned a report on the issue of withdrawal from KiwiSaver for people with life-shortening conditions from two independent advisers. In the generation of that advice the authors created a list of congenital conditions that are recognised as being associated with a shortened life expectancy.

To compile that list the authors drew on a wide literature search and the institutional knowledge of IHC Advocacy, IDEA Services and the associated library teams.

However, whilst the search was extensive, the authors acknowledged that there may be other congenital conditions that are less common or unknown that could also have an impact on a person's life expectancy. Furthermore the authors noted that the data available about incidence rates of certain conditions is scarce, and in a number of cases they relied upon overseas evidence to infer incidence rates for New Zealand.

To be completed by quality assurers:

### Quality Assurance Reviewing Agency:

Ministry of Business, Innovation and Employment

### Quality Assurance Assessment:

MBIE's Regulatory Impact Analysis Review Panel has reviewed the attached Regulatory Impact Statement prepared by MBIE. The Panel considers that the information and analysis summarised in the Regulatory Impact Statement partially meets the criteria necessary for Ministers to make informed decisions on proposals in this paper. This is because there has been limited consultation on the proposal which may mean that the potential consequences identified in the Regulatory Impact Statement are not fully understood.

### Reviewer Comments and Recommendations:

RIARP confirms that its feedback is reflected in the Regulatory Impact Statement. The Regulatory Impact Statement has undergone moderate changes as a result of the RIARP process.

# Full Impact Summary: Withdrawal of KiwiSaver due to life-shortening congenital conditions

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## Section 1: General information

Purpose
The Ministry of Business, Innovation and Employment ( <b>MBIE</b> ) is solely responsible for the analysis and advice set out in this Regulatory Impact Summary, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions to proceed with a policy change to be taken by Cabinet.
Key Limitations or Constraints on Analysis
<p>This RIS addresses the problem of early withdrawal for people with life-shortening congenital conditions. We have been directed by Ministers to address this specific problem and we have not considered changing the early withdrawal categories in the KiwiSaver Act for any other reason, including for life-shortening conditions that are not congenital. The existing serious illness withdrawal category aims to provide a mechanism for non-congenital life-shortening conditions and it is beyond the scope of this project to consider how this withdrawal category is functioning.</p> <p>The analysis in this RIS relies upon the work undertaken by two independent advisers commissioned by MBIE in order to scope the scale of the problem in relation to KiwiSaver and life-shortening conditions and to seek advice on possible solutions. The Report, 'Possible Changes to the KiwiSaver Act 2006 in relation to members with life-shortening congenital conditions' authored by Dr Claire Matthews and Ms Donna Mitchell, has heavily informed the analysis in this RIS. The approach to establishing a set list of congenital conditions in regulations, and what conditions should be included in that list, has been developed on the basis of recommendations made in that Report.</p> <p>We are also relying on the targeted consultation that was undertaken as part of the development of the Report and have not undertaken full public consultation. Limited consultation is not ideal from a policy development perspective as it means that the proposals have been developed with the specific views of key interest groups incorporated but have not been subject to full public consultation. We do not have reliable data about the number of people that are impacted by this problem. The Report noted above used the available (and sometimes incomplete) data from New Zealand sources and also drew on international evidence to determine incidence rates for particular conditions. Despite the gaps in evidence, we are assuming that the problem impacts a relatively small section of New Zealand's population.</p> <p>We are relying on the anecdotal evidence of one individual, Tim Fairhall, to determine the impact</p>

that the problem has at an individual level. We have assumed that Mr Fairhall's experience informs us of the impact the problem has on people that have already started contributing to KiwiSaver.

We do not have any anecdotal evidence about the impact the problem is having on people that have not joined KiwiSaver because they have determined it is not an appropriate retirement savings vehicle for them because of their shortened life expectancy.

#### Responsible Manager

Authorised by:

Sharon Corbett

Financial Markets Policy

Ministry of Business, Innovation and Employment

## Section 2: Problem definition and objectives

### 2.1 What is the context within which action is proposed?

#### Proposed new withdrawal category in KiwiSaver Act 2006

KiwiSaver is a voluntary, work-based retirement savings scheme. Individuals are automatically enrolled in KiwiSaver when they start a new job (when this happens, you do have an opportunity to opt out within eight weeks). Equally, individuals can choose to join KiwiSaver through a KiwiSaver provider or through their employer.

KiwiSaver is designed to help New Zealanders with their long-term saving for retirement.

Withdrawals for retirement can be made from the age of 65.

The KiwiSaver Act provides certain limited situations in which a member can withdraw KiwiSaver funds before they reach the age of 65. These include withdrawing money for your first home, moving overseas permanently, suffering significant financial hardship and serious illness.

#### Counterfactual:

If we do not make any changes to the withdrawal categories then the majority of KiwiSaver members would need to wait until the age of 65 to withdraw their money (typically taken to be the point at which they retire, although some people do choose to continue in paid employment after this age).

The situations where people could withdraw their money before the age of 65 years old would remain the same.

Some people have a life-shortening congenital condition that reduces their life-expectancy below 65 years. The current withdrawal categories are not supporting these people to access their savings for retirement.

### 2.2 What regulatory system, or systems, are already in place?

KiwiSaver is one of a number of government initiatives aimed at increasing private retirement savings

Money contributed to KiwiSaver accounts is for the purpose of private retirement savings. The purpose of the KiwiSaver Act 2006 is to:

“encourage a long-term savings habit and asset accumulation by individuals who are not in a position to enjoy standards of living in retirement similar to those in pre-retirement. The Act aims to increase individuals’ well-being and financial independence, particularly in retirement, and to provide retirement benefits.” The Act “provides for schemes (KiwiSaver schemes) to facilitate individuals’ savings, principally through the workplace.”

There are also other government measures designed to support the accumulation of individual retirement savings. The Commission for Financial Capability is funded by the Crown to undertake a number of measures aimed at improving levels of financial capability and wellbeing, and increasing the numbers of people that are financially equipped for retirement. It does this through initiatives like education programmes in schools and in the community. It also has a number of online resources that directly link to KiwiSaver, notably the KiwiSaver Fund finder that helps people select the right KiwiSaver provider and fund for their particular circumstances.

### The governance of KiwiSaver sits within the financial markets regulatory system

The Financial Markets Authority’s substantive role in relation to KiwiSaver is as the conduct regulator in financial markets. Money contributed to KiwiSaver is invested in managed funds that are invested on behalf of the individual KiwiSaver member by an investment manager. The managed investment schemes are privately run and their operation is governed by the Financial Markets Conduct Act 2013. The Financial Markets Authority also produces educational material relating to KiwiSaver that seeks to guide New Zealanders into active decisions about their KiwiSaver investments.

## 2.3 What is the policy problem or opportunity?

### People with life-shortening congenital conditions can join and save through KiwiSaver but cannot access their savings

People with life-shortening congenital conditions (a condition a person is born with) can join KiwiSaver to save for their retirement but under current settings cannot access their savings before the age of 65. Having such a condition means a person may not live until 65 years old. This means that either:

- People with life-shortening congenital conditions are not joining KiwiSaver because they are aware it is unsuitable for them as a retirement savings product
- Or, people with life-shortening congenital conditions have contributed money to KiwiSaver and cannot withdraw their money.

There are other privately run retirement savings schemes where individuals can withdraw their savings before the age of 65. However there are some benefits specific to KiwiSaver, notably the Government contribution and compulsory employer contributions, that are not available through other privately run retirement savings schemes. People with life-shortening congenital conditions are missing out on these additional benefits.

### Existing serious illness withdrawal category does not allow withdrawal in these circumstances

The existing serious illness withdrawal category is not appropriate to address this problem. This category can only be accessed on the basis that a person is totally and permanently unable to engage in work for which they are suited, or has a condition that poses a serious and imminent risk of death.

### Extent of the problem

Incidence rates would ultimately be determined by the definition of what is taken to be a life-shortening congenital condition for the purposes of withdrawal from KiwiSaver. However, even given this qualification the information we do have about certain conditions is not complete, and is often based on international evidence. Based on what we do know, we are assuming a relatively small number of people may be affected by this problem with the KiwiSaver withdrawal categories.

Whilst the incidence rates may be low, the impact at an individual level is significant. The evidence relating to the impact this problem has at an individual level is anecdotal in nature. The problem was initially scoped on the basis of a submission from Tim and Joan Fairhall to the Finance and Expenditure Select Committee on the Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Bill. Tim Fairhall has Down syndrome and an effect of this condition is that he is aging prematurely. His life expectancy is approximately 57 years of age. He has been contributing to KiwiSaver for a number of years, but under the current withdrawal settings, Mr Fairhall may not live long enough to gain access to those savings.

There are also likely people with life-shortening congenital conditions that have not joined KiwiSaver because they have established that it would not be a suitable retirement savings vehicle for them. We do not have data about the numbers of people that would fall within this category.

### 2.4 Are there any constraints on the scope for the decision making?

Ministers have committed to address the concern that KiwiSaver does not currently work for people born with life-shortening congenital conditions that have a life expectancy below the age of 65.

### 2.5 What do stakeholders think?

Targeted consultation was undertaken by Dr Matthews and Ms Mitchell during the process of generating their Report. They undertook a range of consultation with people and groups that would have an interest in the outcome of this work and those that could provide expertise in formulating the problem definition and possible solutions.

Consultation was undertaken with:

- KiwiSaver trustees (trustees and supervisors are the decision-making body for the existing serious hardship and terminal illness withdrawal category)
- KiwiSaver scheme providers (providers have an interest as there may be additional administration costs associated with any new withdrawal category)
- health and disability experts (including a legal expert who specialises in the area of health and disability)
- Tim Fairhall, and his mother, Joan Fairhall
- actuaries in relation to life expectancy

The majority of those consulted expressed general 'in principle support' for there to be a new withdrawal category created for people with life-shortening congenital conditions.



## Section 3: Options identification

### 3.1 What options have been considered?

#### Policy objectives

Overarching policy objective: Ensure that the KiwiSaver settings are designed in a way that makes KiwiSaver an appropriate retirement savings vehicle for New Zealanders.

We have identified the following objectives that are specific to the problem of access to KiwiSaver for people with life-shortening congenital conditions:

Objective one: KiwiSaver is a suitable retirement savings vehicle for people with life-shortening congenital conditions with the aim of supporting a positive retirement.

This objective specifically addresses the problem definition. We are seeking a solution that would allow people with life-shortening conditions to access their KiwiSaver in order to spend a reasonable portion of their adult life in retirement.

This objective has the highest priority in the analysis of the options because it directly addresses the problem we are intending to solve.

Objective two: KiwiSaver withdrawal settings support the primary purpose of saving for retirement.

The current withdrawal criteria are tightly defined so as to preserve the principal purpose of KiwiSaver as a retirement savings vehicle. There are a limited number of current circumstances that allow withdrawal before the age of 65.

Objective three: The costs associated with administering any new withdrawal category are reasonable.

We are seeking an option that does not result in unreasonable costs for both the individual KiwiSaver member applying for withdrawal and the KiwiSaver provider administering the application.

#### Options

Option One: Allow people with a life-shortening congenital condition (one they are born with) to withdraw their savings at a set age, specific to the type of condition the person has.

Under this option a set list of life-shortening congenital conditions would be established through regulations allowing a person to withdraw their retirement savings before the age of 65.

The list would have a review period (timeframe for this to be determined) so that the list is not limited to currently known conditions, and where medical advances mean a condition is no longer life-shortening, it can be removed.

There would also be a process whereby a person could apply to their KiwiSaver provider for withdrawal for a congenital condition that is not on the set list. The process for this would be similar

to that of the current serious illness withdrawal provisions in that the person would provide a medical certificate with supporting evidence as to why withdrawal should be granted despite the fact that the person does not have a named condition.

For each life shortening condition a specific age of withdrawal would be determined. That age would be based on the average life expectancy for those with the specific condition, allowing for an equivalent expected retirement period as a KiwiSaver member who does not have a life-shortening condition (this is taken to be 25% as a proportion of adult life from the age of 18).

This option fulfils the objectives by:

- **KiwiSaver is a suitable retirement savings vehicle for people with life-shortening congenital conditions with the aim of supporting a positive retirement.**

This option partially fulfils the objective relating to the availability of KiwiSaver as a suitable retirement savings vehicle for people with life-shortening congenital conditions. The likelihood that a person with a life-shortening congenital condition can access their savings to support a positive retirement is higher under this option compared to the status quo.

However, establishing a set retirement age for each condition based on the average life expectancy for people with that condition risks some people not gaining access to their KiwiSaver at a time that is appropriate to support a positive retirement. This is based on the fact that life expectancy and quality of life can vary greatly for people with the same condition. If a retirement withdrawal age is set for all people with the same condition then some people may not be able to withdraw their KiwiSaver despite their readiness and intention to retire. Therefore, it may not improve access to KiwiSaver for all people with a life-shortening congenital condition to support a positive retirement.

- **KiwiSaver withdrawal settings support the primary purpose of saving for retirement.**

This option would be consistent with the existing design of the withdrawal criteria in the KiwiSaver Act. Setting a prescribed list of life-shortening congenital conditions would appropriately target the withdrawal criteria to the group it is intending to serve. The process for allowing people that have a life-shortening congenital condition to apply to their KiwiSaver provider for withdrawal where their condition is not included in the set list is consistent with the application for withdrawal under the serious illness category.

Setting a date of withdrawal for each condition is also consistent with the current design of KiwiSaver. The set withdrawal age mirrors the existing provision that people can withdraw their savings at 65 years old, but adjusts for the average life expectancy of the person's congenital condition.

- **The costs associated with administering any new withdrawal category are reasonable.**

This option partially fulfils the objective of reasonable costs. The costs associated with this option for the individual are likely to be similar to that of the serious illness withdrawal category. It is proposed that in order to apply for withdrawal, an individual must supply medical certification confirming that they have a life-shortening congenital condition named in the set list of conditions (or through the alternative process if their condition is not included on the list).

In terms of associated costs for KiwiSaver providers, it is intended that the set list of conditions would remove the discretion in the decision-making process and therefore limit the administration time needed to process applications. There would be greater administration associated with applications that are not on the named list, but requiring medical certification and evidence should place some reasonable limits around the administration process.

## Option two:

Allow people that have a life-shortening congenital condition (one they have been born with) to access their retirement savings at a date determined by them.

This option would be the same as the option above except the end payment date would be determined by the individual member at the point at which they choose to retire.

This option recognises that the impact a particular condition has upon an individual can vary greatly depending on the severity of their condition and influencing factors such as associated medical conditions. Two people with the same condition will likely have a different quality of life and life expectancy and this recognises that two people with the same condition may have different preferred retirement dates.

This option fulfils the objectives by:

- **KiwiSaver is a suitable retirement savings vehicle for people with life-shortening congenital conditions with the aim of supporting a positive retirement.**

This option fulfils the objective relating to the availability of KiwiSaver as a suitable retirement savings vehicle for people with life-shortening congenital conditions. As people with life-shortening congenital conditions can determine a retirement date that suits their circumstances, there is a very high likelihood that they will be able to access those savings to support a positive retirement.

- **KiwiSaver withdrawal settings support the primary purpose of saving for retirement.**

This option is less consistent with the design of KiwiSaver because rather than setting a withdrawal age (mirroring the retirement age in the KiwiSaver Act) it allows individuals flexibility to set their own retirement date. This discretion would be unusual in the context of the KiwiSaver Act.

- **The costs associated with administering any new withdrawal category are reasonable.**

This option is the same as Option One in terms of associated costs.

### 3.2 What criteria, in addition to monetary costs and benefits have been used to assess the likely impacts of the options under consideration?

KiwiSaver is a suitable retirement savings vehicle for people with life-shortening congenital conditions with the aim of supporting a positive retirement.

- **Access:** KiwiSaver is open to all New Zealanders to join, however it does not allow people with life-shortening congenital conditions to **access** their savings at a point that would allow them to spend a reasonable amount of their adult life in retirement, thus supporting a positive retirement.

KiwiSaver withdrawal settings support the primary purpose of saving for retirement.

- **Targeted:** Scope of withdrawal category is sufficiently **targeted** to people with life-shortening congenital conditions and is not so wide as to potentially undermine the primary purpose of retirement savings.
- **Consistent design:** any new withdrawal category would be **consistent** with the overall purpose of

KiwiSaver and the **design** of the existing withdrawal categories.

The costs of administering any new withdrawal category would be reasonable.

- **Costs** to KiwiSaver providers are reasonable.
- **Costs** to KiwiSaver members seeking to apply for a withdrawal are reasonable.

### 3.3 What other options have been ruled out of scope, or not considered, and why?

No other options have been considered to address the problem of access to KiwiSaver for people with life-shortening congenital conditions.

## Section 4: Impact Analysis

4.1 How does each of the options compare with the counterfactual			
	No action	Option One Access determined by a set list of conditions and defined age of retirement	Option Two Access determined by a set list of conditions and self-selected age of retirement
Access (criteria with highest priority)	0	<p>+</p> <p>For some people, determining an age of access would allow them to access their savings at the point they want to retire.</p>	<p>++</p> <p>Allowing people to determine the date they want to retire - and access their KiwiSaver from that date - should allow access for all people with a congenital life-shortening condition.</p>
Targeted	0	<p>++</p> <p>Setting a list of conditions that allows access places clear boundaries about who the withdrawal category applies to.</p>	<p>++</p> <p>Setting a list of conditions that allows access places clear boundaries about who the withdrawal category applies to.</p>
Consistent design	0	<p>++</p> <p>Setting an age of withdrawal for each condition is consistent with the retirement age withdrawal of 65 years.</p> <p>The withdrawal process (medical certification) would be consistent with the existing serious illness withdrawal process.</p>	<p>+</p> <p>Allowing people to self-select the age that they choose to retire would be unusual in the context of the existing withdrawal categories.</p> <p>The withdrawal process (medical certification) would be consistent with the existing serious illness withdrawal process.</p>
Costs to KiwiSaver members	0	<p>-</p> <p>There will be some administration costs but we do not consider these to be unreasonable.</p>	<p>-</p> <p>There will be some administration costs but we do not consider these to be unreasonable.</p>
Costs to providers	0	<p>-</p> <p>There will be some administration costs but we do not consider these to be unreasonable.</p>	<p>-</p> <p>There will be some administration costs but we do not consider these to be unreasonable.</p>

### Key:

- ++ much better than doing nothing/the status quo
- + better than doing nothing/the status quo
- 0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo
- much worse than doing nothing/the status quo

## Section 5: Conclusions

### 5.1 What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

Our preferred option is option two: Allow people that have a life-shortening congenital condition (one they have been born with) to access their retirement savings at a date determined by them.

This option is preferred because it offers a much greater opportunity for people with life-shortening congenital conditions to access their KiwiSaver to support a positive retirement.

Whilst the design of the category is unusual within the design of KiwiSaver in that it gives discretion to the individual to decide on a retirement date, it is still preferable because it almost guarantees access to KiwiSaver for people with life-shortening congenital conditions. If a retirement date is set for a particular condition it does not take into account the potential for wide variation in retirement age of those with the same condition.

### 5.2 Summary table of costs and benefits of the preferred approach

Affected parties (identify)	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	Impact \$m present value, for monetised impacts; high, medium or low for non-monetised impacts	Evidence certainty (High, medium or low)
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#### Additional costs of proposed approach, compared to taking no action

KiwiSaver members with life-shortening congenital conditions	Costs associated with gaining medical certification to apply under the withdrawal category.	Actual dollar amounts are unknown, but we are assuming they will be similar to the cost of going to the doctor.	low
KiwiSaver providers	Administration costs	Actual dollar amounts are unknown, but we are assuming they will be similar to the administration costs associated with the serious illness withdrawal category.	low
<b>Total Monetised Cost</b>		<i>Unknown, but assessment modelled on existing costs within the system.</i>	<i>Low</i>
<b>Non-monetised costs</b>		<i>Low</i>	<i>Low</i>

Expected benefits of proposed approach, compared to taking no action			
KiwiSaver members with life-shortening congenital conditions	For those in KiwiSaver the changes will ensure they can access their savings. For those yet to join, they will be able to access the scheme and the additional benefits (Government contribution and compulsory employer contributions) that KiwiSaver provides.	High	High
KiwiSaver providers	We expect that a relatively small number of current and prospective members of KiwiSaver have life-shortening congenital conditions, so any change that makes KiwiSaver accessible for people with life-shortening conditions will have a low impact on the total size and value of funds under management for a particular KiwiSaver provider	Low	Medium
<b>Total Monetised Benefit</b>		<i>Unknown</i>	<i>Unknown</i>
<b>Non-monetised benefits</b>		<i>Medium</i>	<i>Medium</i>

### 5.3 What other impacts is this approach likely to have?

The problem identified in relation to KiwiSaver and life-shortening congenital conditions raises a separate problem about whether KiwiSaver is designed in a way that best serves those with other life-shortening conditions.

Questions relating to non-congenital life-shortening conditions are outside the scope of this policy work. However the impact that the introduction of the proposed new withdrawal category has, including any calls for change in relation to non-congenital conditions will be monitored as part of MBIE's regulatory stewardship activities.

A question relating to other life-shortening conditions would require more research and evidence gathering in order to substantiate the evidence base. We do not currently have a good understanding of the people that might be impacted and the types of conditions that would need to be considered for withdrawal.

This broader question would also require consideration of how the serious illness provisions are currently operating and to what degree these are already capturing people with other life-shortening conditions in order to make a further case for change. The discretion provided to people to choose their own retirement date may also spur calls for more discretion in regards to access to KiwiSaver for other members. However, we are of the view that because NZ Superannuation is available from the age of 65 it is fair to assume that the majority of New Zealanders will retire from this date.

#### **5.4 Is the preferred option compatible with the government's 'Expectations for the design of regulatory systems'?**

We consider the option is targeted at the group it is intending to serve, whilst also providing flexibility in approach. We consider the administration costs to be reasonable.

MBIE will monitor the changes in line with its existing regulatory stewardship activities.

## **Section 6: Implementation and operation**

#### **6.1 How will the new arrangements work in practice?**

Changes will be required under the KiwiSaver Act and supporting regulations.

KiwiSaver providers will need to add to and change their current administration practices to accommodate assessment of the new withdrawal category. This will likely include things like the generation of application forms and industry wide guidance (currently issued by the industry body Workplace Savings) to ensure the application and assessment process is consistent across providers.

Sufficient time will also be needed for KiwiSaver providers to change their disclosure documentation noting the new withdrawal category.

Individuals applying for withdrawal will need to first obtain medical certification providing evidence that they have a condition that would qualify for withdrawal under the new category.

The withdrawal category would be available for both existing members of KiwiSaver that have a congenital life-shortening condition, and prospective members of KiwiSaver.

Media statements will be issued to publicise the changes. MBIE will contact interest groups directly to notify them of the changes.

#### **6.2 What are the implementation risks?**

The intention of creating a set list of conditions that would guarantee withdrawal is so that there is certainty about who the withdrawal category applies to. This is partly to reduce the potential for excess administration costs associated with assessing all applications on a case-by-case basis. However, this approach relies on capturing the majority of conditions within this set list. Because this is a complex area, there remains a degree of uncertainty in relation to the evidence base about the type and incidence of conditions that should qualify for withdrawal, for this reason the alternative process for application has been proposed where a person applies for a withdrawal for a condition that is not on the set list. If it eventuates that there are a reasonable number of applications that get assessed under the alternative process then the administration costs for KiwiSaver providers would increase.

A mitigation strategy for this is that the list of set conditions is proposed to be created in regulations so that it can be amended in cases where there are a number of applications (and approvals) for withdrawal for conditions that are not on the set list.



## Section 7: Monitoring, evaluation and review

### 7.1 How will the impact of the new arrangements be monitored?

The alternative process for assessing applications for withdrawal (in relation to conditions that are not on the set list) should provide a good evidence base regarding conditions that might also be included on the set list (so as to provide certainty for those seeking withdrawal and those administering applications for withdrawal).

We have a good working relationship with those in the KiwiSaver industry that will process these applications (supervisors of KiwiSaver schemes) and so we can seek informal feedback about how the administration of the new category is working in practice.

### 7.2 When and how will the new arrangements be reviewed?

We do not propose a set review period for the list of congenital conditions to be reviewed and will instead rely on the information provided from the KiwiSaver industry to inform us of whether the list of congenital conditions in regulations should be reviewed.