



## **DERBYSHIRE COUNTY COUNCIL**

### **APPOINTMENTS & CONDITIONS OF SERVICE COMMITTEE**

**3 NOVEMBER 2021**

#### **Report of the Director of Organisation Development & Policy**

#### **Salary Sacrifice Shared Cost Additional Voluntary Contribution (AVC) Scheme Employer non-mandatory discretion in the Local Government Pension Scheme (LGPS) Regulations**

#### **Employer Discretion**

Discretion in relation to post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members).

**Regulation 17(1) - Decide whether, how much, and in what circumstances to contribute to a shared cost Additional Voluntary Contribution (AVC).**

#### **1. Purpose**

1.1 For the Appointments & Conditions of Service Committee to note the update to the Council's Local Government Pension Scheme (LGPS) non-mandatory discretions policies to include a shared cost AVC scheme.

#### **2. Information and Analysis**

2.1 Derbyshire County Council, as the scheme employer must, under LGPS regulations, formulate, publish and keep under review a statement of policy on all mandatory discretions. There are a number of other discretions, which the Council may exercise under the LGPS Regulations 2013, where a written policy is not required; however, it is appropriate that these are included to ensure clarity on the Council's stance on these matters.

2.2 The change to the non-mandatory discretions policy will include Shared Cost AVC's as outlined in appendix 2. The salary sacrifice element is a pensionable emolument and pension contributions will be made on the basis of the notional (pre salary sacrifice) pay rather than reduced actual pay. Employees will also

receive additional benefit of reduced tax and national insurance contributions that is based on their actual pay (the reduced gross salary amount).

- 2.3 The Council's non-mandatory discretions policy statement is published on the Derbyshire County Council website. As the Council has agreed to implement a shared cost AVC scheme through a salary sacrifice arrangement, the discretions policy has been updated to include this (see Appendix 2).

### **3. Alternative Options Considered**

- 3.1 Not including a salary sacrifice SCAVC scheme as a non-mandatory discretion would impact on scheme uptake and reduce the financial benefits to employees and the Council.

### **4. Implications**

- 4.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

### **5. Consultation**

- 5.1 The trade unions have been consulted on the proposal to implement a SCAVC scheme through the Reward & Resourcing workstream and will be engaged in the implementation of the scheme to support promotion to their members.

### **6. Background Papers**

- 6.1 None

### **7. Appendices**

- 7.1 Appendix 1 – Implications.  
7.2 Appendix 2 – Non Mandatory Discretions Policy

### **8. Recommendation(s)**

- 8.1 That the Appointments & Conditions of Service Committee, in its role as the employing authority, notes the update to the Council's non-mandatory discretions policy to include a salary sacrifice shared cost AVC pension arrangement for members of the LGPS.

### **9. Reasons for Recommendation(s)**

- 9.1 Section 17.1 of the LGPS Regulations 2013 allow active members to enter into arrangements to pay additional voluntary contributions (AVCs) or to contribute to shared cost additional voluntary contribution arrangements (SCAVCs) in respect of an employment.

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## Appendix 1

### Implications

#### Financial

- 1.1 The Council has agreed to include a salary sacrifice SCAVC scheme in its employer non-mandatory discretion policy to incentivise the SCAVC scheme. There will be no additional cost to the Council's pay bill to include SCAVC in the non-mandatory discretions policy. Greater uptake of the scheme will reduce the employers national insurance contributions and apprenticeship levy.
- 1.2 Employers National Insurance contributions rate is 13.8%, with apprenticeship levy set at 0.5%. Under the incentivised SCAVC, projected number of current AVC member transferring into the new (284) SCAVC would generate approximately £161K reduced costs to the Council pay bill.

#### Legal

- 2.1 A salary sacrifice scheme involves an employee giving up part of his or her entitlement to salary, which is subject to income tax and National Insurance contributions, in exchanged for a new or non-cash benefit. The new or non-cash benefit benefits from a full or partial exemption from tax and/or National Insurance contributions.

As this a non-mandatory discretion it does not require a contract variation.

#### Human Resources

- 3.1 The introduction of a SCAVC scheme will be an additional employee benefit further enhancing the total reward package to employees and

prospective employees. Inclusion of a SCAVC scheme in the non-mandatory discretions policy will enhance the attractiveness of the scheme as employees will receive the benefit of reduced tax and national insurance contribution on the sacrificed salary amount, without impacting their normal local government pensionable pay.

- 3.2 There is no requirement to have a written policy in respect of non-mandatory discretions, however, it is recommended for Scheme employers to have a written policy in order that both members and the Pension Fund administering authority can be clear on the Scheme employer's policy on these matters

### **Information Technology**

- 4.1 None

### **Equalities Impact**

- 5.1 The salary sacrifice SCAVC scheme will be open to all employees who are members of the LGPS.

## Appendix 2

### Derbyshire County Council non-mandatory LGPS employer discretions

Scheme employers may also determine other LGPS discretionary controls.

At the committee meeting on 21 January 2015, Pensions and Investment Committee approved the following non-mandatory employer discretion, applicable from 1 April 2014.

#### 1. Employee's LGPS contribution rate: Regulation 9 (1) & (3)

Where an active member changes employment or there is a material change which affects the member's pensionable pay during the course of a financial year, the scheme employer may determine that a contribution rate from a different band (as set out in Regulation 9 (2) and subsequent adjustments) should be applied.

Derbyshire County Council has decided that it will review the employee's contribution band from the date a permanent change to pay is applied and notify the employee in the revised contract that a review will be or has been undertaken.

Otherwise the band will be reviewed on 1 April each year in accordance with scheme regulations.

What to do if you are not happy with a decision about the assessment of your pension scheme contribution banding.

***If you do not believe that the assessment of your pension scheme contribution banding has been correctly determined in line with the Council's policy above, you should contact the Council in the first instance.***

***However***, if you have sought further information or clarification from the Council but you are not satisfied with a decision affecting you made in relation to the Local Government Pension Scheme, you have the right to ask for that decision to be looked at again under a formal complaint procedure.

The formal complaint procedure has two stages. Many complaints are resolved at the first stage. Any complaint you make will be considered thoroughly and fairly by an adjudicator.

You can ask someone to take your complaint forward on your behalf. This could be, for instance, a trade union official, welfare officer, your spouse, your partner, or a friend.

No charge is made at any stage for investigating a complaint. But you will have to meet the cost of your own (and/or your representative's) time, stationery and postage.

#### First stage

If you need to make a formal complaint, you should make it:

- in writing to the Assistant Director of Legal Services, County Hall, Matlock, Derbyshire, DE4 3AH, and
- normally within 6 months of the day when you were told of the decision you want to complain about.

Your complaint will be considered carefully by the adjudicator who is required to give you a decision in writing within 2 months or tell you when you can expect to receive a decision.

If the adjudicator finds in your favour, the body that made the original decision about which you made the complaint will be required to reconsider their decision.

## **Second Stage**

You can ask the pension scheme administering authority to take a fresh look at your complaint in any of the following circumstances:

- you are not satisfied with the adjudicator's first-stage decision,
- you have not received a decision or an interim letter from the adjudicator, and it is 2 months since you lodged your complaint,

This review would be undertaken by a person not involved in the first stage decision.

You will need to send your complaint in writing to the pension scheme administering authority.

- within 6 months of the date of the adjudicator's decision, or
- within 9 months from the date you submitted your complaint if the adjudicator has not given you a decision within 3 months of the date you originally submitted your complaint, or
- if the adjudicator gives you an interim decision but not a final decision, within 7 months of the date the adjudicator had promised to give you a final decision.

The administering authority will consider your complaint and give you their decision in writing.

If you are still unhappy following the administering authority's second stage decision, you can take your case to the Pensions Ombudsman provided you do so within 3 years from the date of the original decision (or lack of a decision) about which you had complained.

Including a salary sacrifice shared cost AVC scheme within the LGPS non-mandatory discretions policy was agreed by the Cabinet Member for Council Services on 8 October 2020 and formally noted by the Appointments & Conditions of Service Committee on 3 November 2021.

## **2. Salary Sacrifice Shared Cost Additional Voluntary Contribution (SSSCAVC): Regulation 17 (1)**

Discretion in relation to post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members).

### **Whether, how much and in what circumstances to contribute to a shared cost additional voluntary contribution (SCAVC).**

Active members of the Local Government Pension Scheme (LGPS) already have the option to contribute to additional voluntary contributions (AVC's) and receive tax relief on the amount they pay through the payroll.

In accordance with the LGPS rules and regulations, an employer can also contribute to the employee's AVC fund. This is called a shared cost AVC (SCAVC) scheme. Such a scheme can be provided through a salary sacrifice arrangement. Under a salary sacrifice shared cost AVC (SSSCAVC) arrangement the employer agrees to pay the employee's specified contribution amount to their AVC fund, and the employee agrees to reduce their gross salary by an amount equal to their contribution amount. In addition, the employee pays a fixed £1 per month as their individual contribution.

The Council has agreed to implement a shared cost AVC scheme through a salary sacrifice arrangement.

Salary sacrifice schemes allow you to make savings by reducing part of your gross pay (before tax) in return for a non-cash benefit. Reducing your gross salary under salary sacrifice results in a saving in individual income tax and employee and employer national insurance contributions.

Before entering into a salary sacrifice arrangement, you need to be aware of the following:

- the agreement will vary your terms and conditions of employment for the period of the arrangement by the agreed annual sacrificed salary amount
- the salary sacrifice element is a pensionable emolument and pension contributions will be made on the basis of the notional (pre salary sacrifice) pay rather than reduced actual pay
- your basic hourly rate, after salary sacrifice, must be above the National Minimum Wage. If National Minimum Wage requirements are not met, then you will not be eligible to join a scheme
- salary sacrifice can affect entitlement to earnings related benefits such as Maternity Allowance and Additional State Pension, it may also affect contribution based benefits such as Incapacity Benefit
- if there is a change in the law, the Council may need to treat salary sacrifice schemes as a taxable benefit

You should always carefully read the terms and conditions of each individual agreement before signing up and are advised to seek independent legal advice if you are unsure of any aspect of a salary sacrifice agreement. You should not enter into a finance agreement through salary sacrifice if this may cause you financial hardship.

This policy is to allow Local Government Pension Scheme members, subject to the member meeting the conditions for acceptance, to contribute to a Salary Sacrifice Shared Cost Additional Voluntary Contribution (SSSCAVC).

For the purposes of annual pay awards, redundancy pay calculations, and employee leave scheme payments and deductions, the council will recognise employee's notional pay (pre-salary sacrifice salary).

