

FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE

WEDNESDAY, 8 MARCH 2023

**Joint report of the Executive Director Place and the Executive Director
Corporate Services and Transformation**

Salary Sacrifice Electric and Hybrid Vehicle Scheme

1. Purpose

- 1.1 To seek agreement to adopt a Salary Sacrifice Electric and Hybrid Vehicle Scheme (E&HVS) and agree the rate at which work related mileage claims will be paid for those choosing to be part of the scheme.

2. Information and Analysis

- 2.1 The E&HVS is one of a number of programmes of work to enhance the Council's Employee Value Proposition (EVP) to support the Council's People ambition to be an employer of choice.
- 2.2 The Place Department has led the development of a procurement business case, having undertaken research and soft market testing of schemes available to the Council. Should the proposal be supported it is intended to use a framework for the procurement of a supplier operating the scheme as a salary sacrifice arrangement.
- 2.3 The salary sacrifice scheme will enable eligible employees to lease a brand new electric or hybrid car, at a fixed monthly price, inclusive of car insurance, road tax, MOT, maintenance, breakdown cover, replacement tyres and accident assistance. Employees will also benefit from no upfront payments.

2.4 Initial research and consideration of the scheme was to limit the scheme to pure electric vehicles only. However, benchmarking from other Councils shows that many other Councils have widened the scope to offer access to electric and hybrid vehicles due to costs and feasibility of home chargers for employees and accessibility to local recharging infrastructure.

2.5 **Benefits of the scheme for employees and the Council**

Employees who contribute to the scheme will have a 12% reduction in their national insurance contributions (NICs) on the salary sacrifice amount. The 12% reduction is the percentage of NIC deduction on employee earnings above the primary threshold (£1,048 per month) and the upper earning limit (£4,189 per month). This may act as an incentive to obtaining a lease vehicle through salary sacrifice when compared with leasing a vehicle privately.

2.6 The Council will also make savings of 14.3% on all salary sacrifice amounts (including 13.8% employer national insurance contribution and 0.5% apprenticeship levy).

2.7 Benchmarking suggests that the Council could anticipate that around 75 employees will take up the opportunity to lease an electric or hybrid vehicle in the first year. This could lead to the Council generating employers NIC savings of around £40k in the first year, see Appendix 2 for estimated take up and savings. It is not anticipated that there will be setup fees or costs to the Council in providing the scheme, other than the opportunity costs in officer time to setup, implement, promote and administer the scheme.

2.8 **Eligibility**

Employees are not eligible to enter into a salary sacrifice arrangement if doing so will cause their pay to fall below the National Living Wage (NLW).

2.9 Where an employee's earnings fall below the Lower Earnings Limit (LEL), a salary sacrifice arrangement may not provide any additional benefit and may also impact their eligibility for statutory payments such as maternity and sickness also affecting their future state pension payments. The Council will therefore not enable employees to join if doing so would make them drop below the LEL threshold.

- 2.10 The NLW is currently £9.50 per hour, however, as a form of protection against future rises in NLW being applied prior to national pay agreements, it is proposed to set the minimum eligibility for the scheme at the Foundation Living Wage, as set by the Real Living Wage Foundation, which is currently £10.90 per hour. This is in line with the approach adopted by other Councils using an electric and hybrid vehicle salary sacrifice scheme. In the event that changes to National Minimum Wage (NMW) result in an employee's salary falling below the NLW, the Council will be required to top the level of pay up to meet NLW requirements. This would be required until the lease agreement ends, the employee leaves or until such time the employees earning increase above the NLW threshold. The financial risk to the Council is considered to be low due to measures proposed. Monthly pay reports within HR Services are run to ensure NLW compliance for Council employees.
- 2.11 Through applying the Real Living Wage to eligibility requirements, with an example of a salary reduction of £315 per month, which would allow the employee to lease a small car such as a Nissan Leaf, the scheme would only be accessible to employees within grade 8 and above. The Council has undertaken an equality impact assessment see Appendix 1, section 5.1 for further details.
- 2.12 Those workers on fixed term, relief contracts and agency workers would not be eligible to take up the scheme due to the lease agreement requirements.
- 2.13 Employees who choose to participate in the Salary Sacrifice E&HVS will request a variation to their contract to reduce their salary for the equivalent amount of the vehicle being leased. Calculations for related payments such as overtime, allowances, pay awards, redundancy, and the full range of leave schemes affected by pay, are based on the employee's salary figure before the salary sacrifice reduction, known as notional pay. This is in line with other salary sacrifice schemes administered by the Council.
- 2.14 Where employees are not eligible to join the salary sacrifice scheme due to NLW and LEL restrictions the Council will consider introducing alternative options such as a vehicle loan scheme.
- 2.15 **Existing Salary Sacrifice Schemes**
The Council provide salary sacrifice schemes for Childcare Vouchers, the Cycle to Work Scheme, and Salary Sacrifice Shared Cost AVCs.

Calculations for the purposes of overtime, allowances, pay awards and redundancy are based on notional pay would be consistent across all schemes. Notional pay is the salary before a salary sacrifice has taken effect.

2.16 The E&HVS would however differ with regards to the pensionable benefit to that of other salary sacrifice schemes in that pensionable pay will be reduced. LGPS regulation 20(2)(f) excludes: any amount treated as the money value to the employee of the provision of a motor vehicle or any amount paid in lieu of such provision. Additionally, the latest LGPC HR guide states the following: HMRC approved salary sacrifice arrangements where an employee has their contractual pay reduced by an agreed amount (supported by a variation to their contract) in return for a tax assessable benefit in kind, from which income tax liability may or may not then be removed, are pensionable under LGPS (where the benefit in kind is specified in the employee's contract of employment as being a pensionable emolument). Therefore employees will be informed that this would impact their Local Government Pensionable pay by the salary sacrifice amount each month.

2.17 **Considerations from soft market testing**

2.18 **Early termination charges**

Based on information sought from soft market testing, early termination charges apply if the employee wishes to end the agreement before the end of the agreed term. It will be the Council's responsibility in the first instance to pay this fee and recover from the employee's net pay.

2.19 Should early termination charges apply the Council will be invoiced for the charge in the first instance and will then claim the charge back from the employee. All recharged deductions will be administered by HR Services through the monthly payroll process. Based on benchmarking, the anticipated number of affected employees will be low, around 10% of all employees leaving the scheme will have some form of repayment recovery.

2.20 **Sick Leave, Maternity, Paternity, Shared Parental, and Adoption Leave**

Based on information sought from soft market testing, employees could be entitled to remain in the scheme during maternity, paternity, shared parental and adoption leave. When the Council is unable to reduce the

employee's salary due to the employee being in receipt of statutory payments or where the period of half pay does not cover the lease fee, the Council may need to continue to pay the invoices over to the supplier depending on the supplier appointed.

2.21 Pension Contributions

Under the terms of a salary sacrifice EV&HV scheme the employees gross salary reduction for the vehicle is taken before any other deductions, it means the employee will pay less pension contributions, and participation in a EV&HV scheme may have a negative impact on scheme members' pension benefits at retirement. An example of this impact is detailed in Appendix 3.

2.22 Pension implications for employees leasing vehicles who retire shortly after a period of leasing may be impacted more significantly particularly if they had service prior to 1 April 2014. The below example reflects the potential impact on their final pension for based on this scenario.

2.23 The calculation for somebody who has been leasing a Nissan Leaf for the persons final year of employment (Excluding the CARE part) would be as follows:

Total Annual Pension: £5,908.05
One off Lump Sum: £9846.75

The same calculation for somebody that was **not** leasing a lease car would be as below:

Total Annual Pension: £6,758.55 (Difference of £850.50)
One off Lump Sum: £11,264.25 (Difference of £1,417.50)

2.24 The Council will therefore recommend that all employees who may be considering retirement within the next few years after the lease ends consider the potential implications on their pensions. Further details on the calculations can be found in Appendix 3.

2.25 All employee communications to promote the scheme will be clear in highlighting the impact on pensionable pay, and will ensure that there are no contradicting communications issued regarding saving for retirement associated with other salary sacrifice schemes such as Salary Sacrifice Shared Cost AVCs where there are not the same pensionable pay implications. The Council will recommend that

employees obtain independent financial advice before participating in the scheme.

2.26 Mileage Rates

The Council currently pay 45p per mile for the first 10,000 business miles and 25p per mile thereafter, in line with HMRC rates. This covers the cost of fuel and maintenance of the vehicle. Through salary sacrifice, the vehicle is leased from a third party by the employer and all servicing costs are covered through the gross salary reduction made by the employee. The lease vehicle is therefore classed as a company vehicle. HMRC fuel advisory rates for company vehicles vary depending on the fuel type and engine size of the vehicle. For hybrid cars they are treated as either petrol or diesel cars, see Appendix 4 for more details. The electric vehicle rate has increased from 5p per mile to 8p per mile as of December 2022.

2.27 Council SAP systems will require development to enable employees to claim mileage using a salary sacrifice lease vehicle and to claim mileage at a rate that is appropriate to the vehicle engine size and fuel type. If the council agreed to pay at a rate above the HMRC advisory rates, the additional payment will be subject to tax and will be reportable on a P11D each year which would have additional administration implications for HR Services.

2.28 If the Council agreed to pay mileage at a higher rate this would encourage employees to switch to electric acknowledging the significant higher cost of an electric vehicle lease compared to a petrol or diesel. For example, the starting price of a Vauxhall Corsa Electric compared to an equivalent diesel model is approximately 40% higher.

2.29 Employees may be deterred from switching to a E&HVS if undertaking work related mileage is only paid at the HMRC fuel advisory rate, which due to increased cost of electricity and fluctuating fuel rates does not currently cover the costs incurred by the employee.

2.30 Research by Eon (2022) and EDF Energy (2022) suggest that actual price per mile ranges from 4.91p per mile to 12p per mile for fully electric vehicles.

- 2.31 There are additional costs to the employee which are not covered by the HMRC advisory fuel rate but are essentially being paid for by the employee through the lease agreement. Research by The Car Expert (2022) has shown that costs associated with maintenance and servicing, repairs, and road tax amount to approximately £580 per year. For a vehicle averaging 10k miles per year, this adds an additional 5.8p per mile onto the actual running costs. Considering electricity costs of 12p per mile, this would mean employees may potentially be out of pocket if the Council were to reimburse them at a rate of less than 18p per mile.
- 2.32 The RAC (November 2022) has reported the average price of petrol sold by the four big supermarkets rose to 165.36 pence per litre, with diesel reaching 187.54 pence per litre. While the HMRC fuel advisory rates appear to be reflective of what is being paid at the pump, in line with suggestions made for fully electric vehicles the HMRC rates do not consider additional costs including maintenance service charges incurred by the employee as part of their gross salary reduction, amounting to approximately 6 pence per mile.
- 2.33 Whilst not all employees using the electric or hybrid vehicle will undertake work related mileage as part of their role, not applying a mileage rate that covers the actual cost may impact employee relations and take-up of the scheme for those that do.
- 2.34 The Council therefore proposes to reimburse work related mileage undertaken in a salary sacrifice lease vehicle at 18p per mile for electric vehicles (12p per mile to cover the minimum cost to charge a vehicle and an additional 6p to cover a proportion of maintenance costs covered within the lease agreement). For hybrid vehicles these would be reimbursed at 6p per mile above the top of the HMRC advisory rate for petrol or diesel cars (see Appendix 4). This is more generous than the other 3 Councils who have responded to the Councils benchmarking request who apply the HMRC fuel advisory rates or less.
- 2.35 Fuel advisory rates are subject to the fuel type and engine size of the vehicle and can vary from 10p per mile for 1400cc LPG to 27p per mile for 2000cc petrol cars. This proposal would reimburse work related mileage at between 16p per mile to 33p per mile, depending on the type of lease vehicle used.

2.36 The Council proposed approach would adequately cover the essential running cost of charging the vehicle according to the research undertaken as cited by Eon and EDF energy either at home or at publicly available facilities, including those general maintenance costs paid for by the employee within the lease agreement. This would encourage more employees to join the scheme generating higher level of savings through reduced NI'able and pensionable pay without discouraging participation in the scheme.

2.37 Employees mileage payment would consist of a non taxable element along with a taxable element (the additional 6p per mile) reportable on the annual P11D.

2.38 The Council will be required to review HMRC fuel advisory rates quarterly and adjust salary sacrifice vehicle mileage rates in line with the HMRC rates accordingly.

2.39 **Employer considerations and liabilities**

2.40 Information from soft market testing identifies that it is the Council who is leasing the vehicle and providing the benefit to the employee through a gross salary reduction, it is the Council that is ultimately responsible for the vehicle including;

- Fines and fees including parking fines
- Excess mileage fees
- Charges where condition of the vehicle is not deemed to be 'fair wear and tear'
- Non-return of the vehicle at the end of the term of the agreement

2.41 Through effective employee communications, risks and issues associated with the above can be mitigated. Benchmarking undertaken found that 99% of these fines are satisfactorily resolved, with limited intervention from the Council.

2.42 In order to mitigate any financial risk from introducing the scheme, the Council will create a contingency fund from employers NIC savings to fund any changes pending recovery from the employee. Departmental budgets will not be adversely affected by journal transfer to recharge the NIC savings as is the process for the Shared Cost AVC scheme. Any underspend from the assigned budget can then be transferred to Council reserves at the end of the financial year

3. Consultation

3.1 The Council has engaged with the Joint Trade Unions to outline the proposed scheme through the Reward and Resourcing Workstream. The Council has shared information relating to the eligibility criteria, employee benefits, employee implications through the agreement to vary the contract of employment including the implications on employees pensionable pay. The Council has also confirmed what the benefit and risks are to the council and how the scheme will be administered.

3.2 The Council has also consulted Joint Trade Unions on the proposals to pay mileage at 6 pence per mile above the HMRC fuel advisory rate which would be a taxable benefit reportable on the P11D.

4. Alternative Options Considered

4.1 The Council could opt to not provide a salary sacrifice vehicle lease scheme. However, this employee benefit would further enhance the Council's EVP while also supporting the Council's Low Emission Vehicle Infrastructure (LEVI) strategy. The Council would miss out on the potential to make employers national insurance savings generated through employee engagement in the scheme.

4.2 The Council could provide a vehicle lease scheme that would provide employees access to normal petrol and diesel vehicles through a similar lease scheme. This would not be supportive of the Council's LEVI strategy and the Council's ambition to be net carbon zero by 2050.

4.3 The Council could agree to pay work related mileage undertaken in a salary sacrifice electric or hybrid vehicle at the HMRC fuel advisor rates, however this does not seem a fair level of re-imbusement to recompense employees for the true cost of them paying for fuel/electricity along with the proportionate maintenance cost covered in the lease agreement funded by the employee. This could deter

employees from switching to a low emission vehicle and joining the scheme.

- 4.4 The Council could agree to pay work related mileage undertaken in a salary sacrifice vehicle at the normal 45p per mile rate. However this would be far in excess of the HMRC fuel advisory rate increasing the taxable level of benefit in kind given to employees. If government targets are achieved and all employees eventually use electric vehicles, it would be very difficult to revert to a lower mileage rate without causing some employee relations issues.

5. Implications

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

6. Background Papers

- 6.1 none

7. Appendices

- 7.1 Appendix 1 - Implications.
Appendix 2 - Estimated NIC savings to the Council based on eligible employees
Appendix 3 - Impact of Gross Salary Reduction on Pensionable Pay
Appendix 4 - HMRC Advisory Fuel Rates for Company Cars from 1 September 2022
Appendix 5 – Equality Impact Assessment

8. Recommendation(s)

That the Committee:

- a) Agree to the Council introducing a salary sacrifice vehicle lease scheme for electric and hybrid vehicles
- b) Agree to reimburse work related mileage at 18p per mile for electric vehicles and for hybrid vehicles an additional 6p per mile above HMRC fuel advisory rates that will be reviewed and amended quarterly in line with the HMRC fuel advisory rates.

9. Reasons for Recommendation(s)

- 9.1 By introducing the scheme it will enhance the Council's employee value proposition, supporting the Council's people strategy and aim to become an employer of choice.
- 9.2 Introducing the scheme will generate employers national insurance contribution savings reducing pay bill costs.
- 9.3 The introduction of a vehicle lease scheme limited to electric and hybrid vehicles is supportive of the Councils LEVI strategy.
- 9.4 Enhancing the HMRC fuel advisory rates to cover a proportion of the maintenance and running cost covered within the lease agreement will provide a fair level of payment for undertaking work related mileage.

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Appendix 1

Implications

Financial

- 1.1 The Council's employers NIC savings would be estimated at around £40k per year by the end of year 1 and this would likely rise with promotion of the scheme. It is anticipated that as electric vehicles become more affordable and the recharging infrastructure improves regionally and nationally, take-up of the scheme will continue to grow.
- 1.2 Based on soft market testing a financial penalty applies if an employee exits the contract. In such circumstances the Council may be charged for this fee which will need to be recovered directly from the employee. There is a risk that the Council will be unable to recover this fee, however, some suppliers provide an insurance policy that will ensure the council is recompensated for any loss. This would need to be considered once the supplier is identified.
- 1.3 There are a number of financial risks that the Council could be responsible for which may include parking fines, excess mileage & excess wear & tear. It is anticipated that most fines will be processed and administered through the selected supplier and, it would only be those that are not resolved directly with the supplier and the employee that would require HR Services to intervene and make a deduction through the employees pay. However, there does remain a risk that some of these charges may be unrecovered. This will be considered upon the appointment of the supplier and consideration given to setting up a contingency fund by utilising the employer National Insurance savings (that are generated as a result of this scheme) to cover any charges until recovery, or in the result of non recovery.

Legal

- 2.1 Once implemented employees who join the scheme must agree to vary their contract for the duration of the scheme. This will be undertaken via a voluntary variation process. The variation to contract will include all associated terms and conditions that will enable the Council to recover fines and any early repayment charges when handing back the vehicle.
- 2.2 Should ACOS approve the adoption of a Salary Sacrifice Electric and Hybrid Vehicle Scheme within the Council, the contract will be procured in accordance with the Councils Financial Regulations and the Public Contracts Regulations 2015.

- 2.3 Legal Services will advise on the contractual terms for the Salary Sacrifice Electric and Hybrid Vehicle Scheme in addition to advising on matters relating to Employment Law, Data Protection and associated legal matters relating to compliance.
- 2.4 An Equality Impact Assessment (Appendix 5) has been undertaken and identified that employees on grades 1 to 7 will not be eligible for the scheme. The majority of roles at grades 1 to 7 are female dominated. However, the eligibility criteria are in place to ensure that employees maintain the National Minimum Wage after deductions. The Equality Impact Assessment also identifies those employees nearing retirement may be impacted more significantly. The scheme is voluntary, and employees will be advised of the potential implications prior to applying for a vehicle.

Human Resources

- 3.1 HR policy documents will be reviewed and updated to outline the terms and conditions of entering into a salary sacrifice arrangement for all schemes adopted by the Council. This will ensure that application of Council schemes is clear, limiting the risk of claims against the Council. This will include calculations for related payments such as overtime, allowances, pay awards, redundancy, and the full range of leave schemes.
- 3.2 To set up an individual's salary sacrifice arrangement for an electric or hybrid vehicle, the employee will request a variation to their employment contract, known as the Salary Sacrifice Agreement, issued by benefit provider. This will outline the reduction in salary in return for the use of an lease vehicle, reflecting similar processes of the existing Shared Cost AVC scheme.
- 3.3 Finance and Audit resources will be required to provide support on matters relating to financial compliance, invoicing and payments. Legal services will be required to provide input on matters relating to employment law, GDPR, legal contracting between the Council and the appointed service provider and associated legal matters relating to compliance. Additional officer time will be required from HR Pay Projects Team to support the implementation estimated to be up to 20 days work for 1 post during the implementation period. There will also be ongoing HR Service resources to process and administer the variations to employee records, undertake employment and NMW checks, process P11 D's and processing invoices and recovery of fees. This is anticipated to be an additional 45 hours work per year based on

75 cases per year rising to 74 hours work after 3 years assuming take-up rises to 256 lease agreements per year.

Information Technology

4.1 None

Equalities Impact

- 5.1 The provision of an additional salary sacrifice scheme for electric and hybrid vehicles does not prevent anyone covered by any of the protected characteristics in being able to enter the scheme. The Equality Impact Assessment has highlighted that, 85% of employees at grades 1-8 who are likely not to be eligible are female and are typically part time workers.
- 5.2 Employees who are unable to drive for any reason, including those with a disability will be able to nominate a driver for the insurance policy and will still be able to access the scheme subject to meeting NLW and affordability requirements of the scheme.

Corporate objectives and priorities for change

- 6.1 This proposal aligns with the people priorities outlined within the Councils People Strategy and in particular to 'Promote diversity and inclusion, enable responsive workforce plans and develop credible reward strategies' by applying pay agreement in a fair and consistent manner.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

- 7.1 To implement a salary sacrifice electric vehicle lease scheme for employees supports the Council to achieve its objectives as outlined within the Council's Strategy and action plan. By helping to support the Councils ambition to be net carbon zero by 2032 or sooner.

Appendix 2

Estimated NIC savings to the Council based on eligible employees

Table 1 shows the expected annual NIC savings to the Council based on full time employees at grade 8 and above with a permanent contract, leasing a Nissan Leaf with a gross salary reduction of £315 per month.

Year	Eligible (Grade 8 and above) Employees (Schools and Non Schools)	Percentage Take Up	Number of lease vehicles	Example Annual Gross Salary Reduction	Annual NIC and Levy savings at 14.3%
2023/24	3209	2.3%	75	3780	£40,540
2024/25	3209	3.7%	118	3780	£63,783
2025/26	3209	5.1%	163	3780	£88,108
2026/27	3209	6.5%	208	3780	£112,432
2027/28	3209	8%	256	3780	£138,378

Appendix 3 Impact of Gross Salary Reduction on Pensionable Pay

An employee on the top spine point of grade 9 (£30,038) is leasing a Nissan Leaf for a gross salary reduction of £315 per month.

Impact on Monthly Pension Contributions

	Pre Salary Sacrifice	Post Salary Sacrifice
Monthly Gross Salary	£2,503.16	£2,503.16
Gross Salary Reduction	N/A	£315
Revised Salary	N/A	£2,188.16
Pension Contribution Rate	6.5%	6.5%
Monthly Pension Contribution	£162.71	£142.23

By leasing a vehicle with a gross salary reduction of £315, with a monthly gross salary of £2,503.16 the employee will be reducing their pension contributions by £20.48 per month

Impact on Pensionable Pay

The calculation for an employee who has been leasing a Nissan Leaf for the final year of employment (excluding the CARE part) would be as follows:

$$£30,038 - 3780 = £26258$$

$$80ths\ pension: 10 * £26258 * 1/80 = £3282.25$$

$$80ths\ lump\ Sum: 10 * £26258 * 3/80 = £9846.75$$

$$6 * 26258 * 1/60 = £2625.80$$

$$Total\ Annual\ Pension: £5,908.05$$

$$One\ off\ Lump\ Sum: £9846.75$$

The same calculation for somebody that was **not** leasing an electric car would be as below:

$$80ths\ pension: 10 * £30038 * 1/80 = £3754.75$$

$$80ths\ lump\ Sum: 10 * £30038 * 3/80 = £11264.25$$

$$6 * 30038 * 1/60 = £3003.80$$

$$Total\ Annual\ Pension: £6,758.55\ (Difference\ of\ £850.50)$$

$$One\ off\ Lump\ Sum: £11,264.25\ (Difference\ of\ £1,417.50)$$

Appendix 4

HMRC Advisory Fuel Rates for Company Cars from 1 September 2022

DCC proposed mileage rates would be 6p per mile above the below rates based on fuel types and engine size.

	Engine Size	Advisory fuel rate
Petrol	Up to 1400	15p
	1401 to 2000	18p
	Over 2000	27p
Diesel	Up to 1600	14p
	1601 to 2000	17p
	Over 2000	22p
LPG	Up to 1400	9p
	1401 to 2000	11p
	Over 2000	17p