Agenda item No.3

DERBYSHIRE COUNTY COUNCIL

CABINET MEMBER FOR CORPORATE SERVICES

8 October 2020

Report of the Executive Director for Commissioning Communities and Policy

SHARED COST ADDITIONAL VOLUNTARY CONTRIBUTIONS SCHEME

COMMISIONING COMMUNITIES & POLICY

1. Purpose of the report

To seek approval to adopt a Shared Cost Additional Voluntary Contributions (SCAVC) scheme and to procure a tax advice and implementation partner.

2. Information and analysis

2.1 Background

Members of the Local Government Pension Scheme (LGPS) already have the option to contribute to additional voluntary contributions (AVCs) which are deducted through their salary and receive tax relief on the amount they pay. AVCs are effectively a long term savings plan that runs alongside the mainstream LGPS to supplement their income at retirement and allow a member to build up a capital sum with flexible drawdown options at retirement.

Scope exists to implement a shared cost AVC scheme (SCAVC) through the Council's chosen pension provider (currently the Prudential) for members of the LGPS. The LGPS has a provision within its regulations to allow employees to enter into an agreement in which the employer can also contribute to their employee's AVC arrangement. This is known as a SCAVC and could be done under a salary sacrifice arrangement. HMRC rules allow employers to implement salary sacrifice arrangements for AVC's. The advantages of implementing this new arrangement over the current scheme is that in addition to the tax relief that is currently received, the employee will pay lower national insurance contributions. In addition, the Council will benefit from a reduction in the employer national insurance contributions. The Council already provides employee benefits through salary sacrifice arrangements for Childcare Vouchers and Cycle to Work scheme.

An example of the savings an individual employee and the Council could make from a SCAVC scheme is set out at Appendix 1

2.2 Tax advice

Prudential are the Derbyshire Pension funds current nominated AVC provider, they recommended that the Council seek specialist tax advice for support during the implementation. If approved, the Council will seek to procure an implementation partner who will provide the necessary support with HMRC application on behalf of the Council.

Initial market research into services that are available has been carried out and the Council will seek to procure an implementation partner who can provide a fully managed solution that provides specialist technical advice with HMRC applications, along with employee support systems, promotion and communication of the scheme and services to manage the scheme and employee applications.

2.3 Benefits to the employee and the Council

Most employees who contribute to a SCAVC scheme will have a 12% reduction in their national insurance contributions (NICs) on the SSAVC amount. The 12% reduction is the percentage of NIC deduction on employee earnings above the primary threshold (£719 per month) and the upper earnings limit (£4,167 per month). This will act as an important incentive to help save towards pension provision for both existing and new SCAVC contributors. The NIC savings are in addition to the tax savings afforded in the existing AVC scheme.

The Council will make savings of 14.3% on all SCAVC contributions (including 13.8% employer national insurance and 0.5% apprenticeship levy). The Council currently has 342 employees in the Local Government Pension Scheme who make monthly AVC payments this is approximately 3.6% of the workforce.

The Council has undertaken benchmarking with other Local Authorities through Korn Ferry User Group, Dorset and Hertfordshire County Council who provide SCAVC schemes. The Council can expect to realise an 80% take-up within existing AVC membership, the total employers NIC savings will be £161K, resulting in a net saving of £127K per annum, allowing for 3% commission charge by an implementation partner. If the implementation partner were to require a minimum charge plus commission there is a small risk that the NIC savings would not cover the cost of the scheme. Given the numbers of employees who contribute to existing AVC schemes, and estimated figures of scheme members transferring the risk is considered to be low.

2.4 Eligibility

Employees are not eligible make a salary sacrifice if their pay falls below the National Living Wage (NLW) should they wish to make an SCAVC payment. A full year commitment is required to join the SCAVC scheme, therefore, temporary employees with a contract of less than 12 months would not be eligible. Employees on maternity leave will be able to remain in the scheme or reduce the value of the salary sacrifice amount until occupational maternity pay, ceases or earnings fall below NLW rate of pay after the salary sacrifice deduction. Employees on long term sickness will also cease to be eligible to make a salary sacrifice if their pay falls below NMW after the salary sacrifice deduction or into zero pay as the Council is not permitted to make deductions from statutory pay.

Where an employee’s earnings are below the lower earnings national insurance limit (currently £520 per month), employees will be advised that the salary sacrifice scheme does not provide additional benefits to them. Where earnings drop below the lower earnings limit as a consequence of the salary sacrifice arrangement, employees will be advised to review the salary sacrifice amount as statutory payments and entitlement may be affected.

Employees who choose to join the SCAVC scheme will request a variation to their contract to reduce salary for the equivalent amount they wish the Council to pay into their AVC scheme. In order to incentivise the SCAVC scheme, it is recommended that 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.

The Council could consider reflecting actual pay as a basis for calculation for overtime, allowances, pay awards, redundancy and the full range of leave schemes, however this would discourage participation in the scheme and is likely to reduce the level of employers NI savings achievable. There is no additional cost to the Council by recognising notional pay for earnings related payments and therefore this is the recommended approach.

Recognising notional pay in this way following the application of a salary sacrifice scheme will require the Council to publish their pension discretion in the Pension Non-Mandatory Discretion Policy (see appendix 3). This will ensure an employee’s pensionable pay is based on their notional pay so that their pensionable pay is not adversely affected by engagement in a salary sacrifice scheme. In practice this is already been applied for Cycle to Work Scheme members so would ensure there is consistency in the administration of the schemes.

2.5 Existing Salary Sacrifice Schemes

The Council provide salary sacrifice schemes for Childcare Vouchers and the Cycle to Work Scheme. Calculations for the purposes of overtime, allowances, pay awards and redundancy are based on notional pay and would be consistent across all schemes.

Counsel's advice was sought regarding the implications of adopting a salary sacrifice scheme for AVC's in addition to the existing schemes for Childcare Vouchers and Cycle schemes. Counsel recommended applying a consistent method of calculation for occupational maternity pay based on notional pay for all new salary sacrifice scheme members.

The Council has adopted an alternative method for calculating occupational maternity pay for existing employees in the Childcare Vouchers scheme. Their occupational maternity pay is based upon actual pay (gross pay less the value of the childcare voucher). This is because the employee may still require their childcare vouchers during maternity leave yet the Council is unable to make deductions for the cost of the vouchers from statutory maternity pay. So not to disadvantage these employees, the Council provides an alternative benefit by maintaining childcare vouchers when occupational maternity pay ceases during their maternity leave. The decision to continue to pay childcare vouchers had previously been reviewed, and the Council decided to continue to provide the benefit. The basis in which maternity pay is calculated would result in an inconsistent approach between employees in receipt of Childcare Vouchers and those in the Cycle to work and SCAVC schemes. However as this is a diminishing group of employees, who would receive an alternative benefit in payment of childcare vouchers during maternity leave, the level risk of a claim against the Council is considered low.

The Government closed Childcare Voucher schemes to new entrants on 4th October 2018, therefore this affects a diminishing group of employees that is expected to phase out during the next two to three years. Between October 2018 and 31 May 2020 the total number of employees within the Childcare Voucher Scheme had reduced from 574 to 279 which represent a 48% reduction in 20 months. There are only 215 female employees remaining within the scheme who could potentially benefit from the existing maternity leave provision with average voucher payments of £119 per month. During the last financial year there have only been 12 employees who have benefitted through council funding of childcare vouchers at a cost of £9,843 (less reduced occupational maternity pay).

3. Financial Considerations

In order to satisfy HMRC requirements and to complete the necessary application process and tax advice an implementation partner would be required. Financial considerations contained in the body of the Report and Appendices 1 & 2.

The Councils' employers NIC savings would be estimated at around £161k and would likely rise with promotion of the scheme supported through an implementation partner.

Estimated breakdown of projected costs and savings are set out at Appendix 2 based on research undertaken.

4. Legal and Human Rights Considerations

Advice was sought from Counsel, who advised that introducing the SCAVC Scheme to operate alongside the existing Childcare Voucher and Cycle to Work Schemes is reasonable from an employment law perspective and will not, in Counsel's opinion, give rise to any discrimination under the Equality Act 2010 (whether by reason of age, gender, maternity etc). Counsel also advised that it would be prudent to ensure that each of the Schemes operate consistently, for example, so that the consequential effects of participating in a Scheme on other benefits – such as pension, overtime pay, maternity pay, redundancy pay etc – are consistent across the schemes.

5. Human Resources Considerations

In order to set up an individual's SCAVC, the employee will request a variation to their employment contract. The contract will outline to the employee the reduction in salary in return for non-cash benefit. Contracts should clearly state the cash and noncash entitlements given and the requirements to remain within the scheme.

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 are 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.

Finance and Audit resources will be required to provide support on matters relating to financial compliance, procurement, invoicing and payments. Legal Services will be required to provide input and support on matters relating to GDPR, privacy impact assessment, legal contracting between the Council and the appointed service provider, along with other legal related matters compliance. Additional officer time will be required to support the implementation and act as the liaison between the Council and the appointed tax advice partner. Benchmarking through Hertfordshire CC and Dorset Council has indicated that implementation will require up to 8 officer hours per week over a 3 month implementation period, this will be met from existing resources within HR Services and Reward and Resourcing teams.

The trade unions will be engaged on the proposals.

6. Other Considerations

In preparing this report the relevance of the following factors have been considered: Health, Environmental, Transport, Property, Prevention of Crime and Disorder and Social Value Considerations.

7. Background Papers

None

8. Key Decision

No

9. Is it necessary to waive the call-in period?

No

10. Recommendation

That Cabinet member approves the Councils intention to;

1. Adopt a Shared Cost Additional Voluntary Contributions (SCAVC) scheme
2. Procure a tax advice and implementation partner
3. Include salary sacrifice schemes within the LGPS non-mandatory discretions policy.

Emma Alexander
Executive Director Commissioning, Communities and Policy

SCAVC Employee and Employer Potential Saving Example

Employee A’s gross salary is £30,000 per year and currently pays £3,600 in AVCs each year. As a basic rate taxpayer they obtain tax relief of £720 (at 20%) on their AVCs annually. On that basis, their annual net AVC cost, after tax relief, is £2,880.

If their employer was to instead provide an SCAVC via salary sacrifice, where they agree to sacrifice salary of £3,588 annually in exchange for an annual employer AVC contribution for the same amount, and pays AVCs personally each year of £12 (making a total shared contribution of £3,600), they will continue to enjoy tax savings of £720 annually.

They will, however, also benefit from an employee’s NIC savings of approximately £430 annually (i.e. £3,588 × 12% using current rates). This means that their annual net AVC cost, after tax and NIC relief, is reduced to £2,450 (i.e. £3,600 - £720 - £430). There is, therefore, an annual saving to Employee A of £430 per year.

There is also an employer’s NIC saving for the employer in respect of the salary sacrificed which is no longer liable to employer’s NIC. In this example, the annual employer’s NIC & apprenticeship levy saving relating solely to Employee A is approximately £495 (i.e. £3,588 x 14.3% using current rates).

Appendix 2

Estimates of employee take up and potential NIC savings

SCAVC Data	Current
Number of LGPS members 9700	9,700
Number of active AVC members (transferred members)	284
Average monthly total SCAVC amount	£94,288
Average monthly amount per employee	£332
Total workforce percentage that transfer from the existing AVC scheme as a percentage based on benchmarking estimates	2.9%
Annual SCAVC amount	£1,131,456

Estimated annual employer NICS savings	Current
Based on 14.3 % of salary sacrificed (inc 0.5% Apprenticeship levy)	£161,798
Example of commission based annual costs	
3% of salary sacrifice amount	£33,944
NET DCC Annual Savings	£127,855

14.3% NICs & App levy savings and assumes 80% of current members transfer to SCAVCs following benchmarking undertaken.

Appendix 3

Derbyshire County Council non-mandatory LGPS employer discretions

Shared Cost Salary Sacrifice Additional Voluntary Contribution (SCAVC): 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 Salary Sacrifice Additional Voluntary Contribution (SCAVC)

Members of the 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. AVC's are effectively a long term savings plan that runs alongside the LGPS that allows a member to build up a capital sum with flexible drawdown options at retirement.

The Council (through Derbyshire Pension Fund) administers an AVC scheme. The AVC provider is Prudential and this arrangement would not change with the introduction of a shared cost SCAVC scheme.

To ensure that the arrangement is compliant with the LGPS regulations, the SCAVC will be set up as a shared cost scheme which means that both the employee and employer will contribute. The employee would be required to agree to take a contractual reduction in salary, equivalent to the amount of SSAVC's they would like to contribute and the Council would pay this amount into the shared cost SSAVC plan on their behalf. To ensure compliance with the LGPS Regulations, the employee would also be required to pay a nominal £1 a month into the AVC fund via a payroll deduction.

The advantages of contributing into this new arrangement is that in addition to the tax relief that is currently received, the employee will pay lower national insurance contributions.

Policy is to support each application wishing to contribute to a Shared Cost Salary Sacrifice Additional Voluntary Contribution (SCAVC).