

Report

Cabinet Member for Organisational Transformation

Part 1

Date: 23 September 2022

Subject **Amendment To Pension Discretions Policy To Allow Shared Cost Additional Voluntary Contributions**

Purpose For Cabinet Member to consider and agree the changes to the pension discretion policy

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Ward All

Summary The Council offers a number of employee benefits to staff such as car purchase schemes, cycle to work schemes, technology schemes and additional annual leave. This report proposes to amend our pension discretions policy to adopt a Shared Cost Additional Voluntary Contributions (SCAVC) Scheme.

Implementing a Shared Cost AVC scheme will provide a new financial well-being benefit for staff.

Proposal For the Cabinet Member to agree the pension discretions changes

Action by Head of People, Policy and Transformation

Timetable Immediate

This report was prepared after consultation with:

- Head of People, Policy & Transformation
- Head of Law and Standards
- Head of Finance
- Trade Unions
- Pension Manager (Torfaen)

Background

The Council currently provides a number of employee benefits to staff such as car purchase schemes, cycle to work schemes, technology schemes and additional annual leave. Some of these schemes allow our staff to receive Income Tax and National Insurance relief through their pay whilst also providing the Council with National Insurance relief. The staff member and Council essentially both benefit from the scheme applied for, realising savings through salary deductions.

Local Government Pension Scheme (LGPS) members are eligible to top up their pension by making additional voluntary contributions to an approved provider of the service. AVCs are a long-term pension savings plan that runs alongside the main LGPS scheme that allows a member to build up a capital sum. On retirement, they can access the benefits through a range of options.

The Council already operates AVC's should staff wish to contribute. Normal AVC's only attract a relief on income tax. This proposal is to implement a Shared Cost Additional Voluntary Contribution Scheme (SCAVC). The advantages of implementing this new SCAVC arrangement over the current standard AVC scheme is that in addition to the Income Tax relief that staff currently receive, they will in addition receive National Insurance contribution relief too if they join.

The advantages of implementing a Shared Cost AVC scheme are outlined in the report, importantly, staff will have access to a new financial well-being benefit that provides improved retirement benefit outcomes and NCC will make savings through a reduction in employer contributions.

Proposal

The report proposes to amend the Pension Discretions policy to allow our eligible LGPS staff members to join a SCAVC through a provider called AVC Wise. AVC Wise provide this service to a number of Local Authorities and are the only company providing the Shared Contribution provision. SCAVC contributions would be paid across to AVC Wise who are a responsible financial organisation who manage the plan and investments.

The LGPS and HMRC regulations provide the necessary authority for employers to introduce a SCAVC scheme. To ensure that the SCAVC arrangement is compliant with the LGPS/HMRC regulations, the scheme must be set up as a 'shared cost' scheme which requires both the employee and employer to contribute to the Shared Cost AVC. Although this suggests that the Council will pay a financial contribution towards the Shared Cost AVC plan, this is not the case. How it works in practice is that the employee accepts a contractual reduction in remuneration (a salary sacrifice), equivalent to the amount they would like to pay into the scheme, and the employer pays this amount into the Shared Cost AVC plan on their behalf. To meet the 'shared cost' arrangement the employee is then required to pay a nominal £1 each month into the Shared Cost AVC through a payslip deduction.

In order to adopt the scheme an amendment has been made to our current Pension Discretions Policy as below:

Discretions to make Shared Cost Additional Voluntary Contributions (SCAVC's) Regulation R17 (1) and R15 (1) (d). Whether, how much and what circumstances to contribute to a Shared Cost AVC scheme.

The Council will pay SCAVC contributions where an employee has elected to pay AVCs by salary sacrifice. The amount of these employer SCAVC contributions will not exceed the amount of salary sacrificed by the employee. This is a Council discretion which is subject to the employee meeting the Councils conditions for acceptance into the salary sacrifice shared cost AVC scheme and may be withdrawn or changed at any time.

This additional discretion wording has been agreed with the Torfaen Pension Manager as the Council LGPS administering body.

It is important to note that Shared Cost AVCs will not affect the main LGPS scheme benefits provided that the employer specifies in the supporting documentation that the Shared Cost AVC contribution the employer makes to the Shared Cost AVC will be a pensionable emolument (in accordance with the LGPS regulations (Regulation 20(1)(b) of the 2013 Regulations). This will be included in the Shared Cost AVC scheme documentation.

The main advantages of implementing a Shared Cost AVC scheme are:

- Staff will have access to a new financial well-being benefit that provides significantly improved retirement benefit outcomes
- Staff who contribute to a Shared Cost AVC scheme will pay lower National Insurance contributions (NICs) and this saving will automatically be passed into the AVC. For most staff this will result in a saving of 13.25%
- The council will make savings in employer NICs and Apprenticeship Levy, which will contribute to the salary sacrifice budget target. At the moment this budget is not meeting its original expected savings because some of the sacrifice schemes within are no longer in operation (child care) and some being impacted by COVID (leave purchase).
- Staff will continue to receive income tax relief on their Shared Cost AVC contributions
- The combined tax and NIC saving equates to a growth/yield rate of over 49% for basic rate taxpayers and over 76% for higher rate taxpayers through the payslip
- The introduction of a Shared Cost AVC will have no effect on the main LGPS benefits
- Staff will have access to a wide range of pension webinars and the option of individual pension meetings to develop understanding of the opportunity.

AVC Wise delivers a comprehensive inclusive service that requires minimal support from the Council. AVC Wise deliver through an online platform to process AVCs for new and existing AVC payers, with a range of calculators to help staff understand the financial cost of AVCs, full communication to support the roll out and ongoing scheme publicity, employee helplines, the option for staff to book individual meetings and a comprehensive range of staff webinars covering a range of LGPS topics.

To safeguard any future compliance issues, the Shared Cost AVC scheme will require HMRC approval prior to launch. Other councils have achieved this requirement and this work is included in the specification to be delivered by the successful external provider. In addition, the council will be required to carry out some routine checks to ensure that any applications comply with the National Living Wage/National Minimum Wage rules and again this has been included in the requirements to ensure that the checks can be made within the external provider platform. These are not anticipated to cause any concerns.

Legal implications

There are a number of legal issues that require action prior to the implementation of a Shared Cost AVC scheme which will be actioned.

- The Shared Cost AVC scheme information pack and frequently asked questions must explain the scheme in sufficient depth to enable staff to understand the implications of becoming a Shared Cost AVC member.
- The employee who wishes to join will be required to sign a salary sacrifice agreement to vary the contract of employment to accept the contractual reduction in remuneration.
- The Shared Cost AVC scheme will need to be approved by HMRC.
- The council's discretionary pensions policy will need to be amended and published to provide the authority to enable staff to pay into Shared Cost AVCs as one of our discretions.
- The scheme documentation will need to state that the Shared Cost AVCs are to be treated as a pensionable emolument in accordance with the LGPS regulations (Regulation 20(1)(b) of the 2013 Regulations), to ensure that a member's main scheme benefits are not reduced.

Financial implications

The estimated employer NIC savings based on the estimated take up of staff that transfer from the existing AVC arrangement to a Shared Cost AVC is expected to be £16,391 in year 1, this will be pro rata for 2022/2023. This saving, based on predictions by AVC Wise could grow to £89,338 by year 3 because of widespread communication of this new staff pension benefit facilitated by the external provider. Although none of these are guaranteed. The procurement of an external provider, who has a track record of delivering Shared Cost AVC services to councils will provide the necessary safeguards that the scheme is compliant with employment and tax law. It also removes the risk of the council having to fund back-office resource to deliver a skilled complex service.

The external providers who deliver this type of service normally charge fees based on the member take up of AVCs. This is commonly around 4-5% of the employer NIC savings. There are no set up fees and post 'go live' we will achieve employer savings of around 11% on the total member AVC contributions. There is no minimum fee to pay if members do not join. The procurement team have confirmed that this is a 2.2.2 excepted contract as AVC wise are the only third party provider of this service. As with the Councils other salary sacrifice schemes the NI savings will be captured in the salary sacrifice budget and contribute to the target for this budget.

Agreement

Although implementation of this scheme is not directly a Trade Union matter for consultation, as there is an amendment to an internal policy (Pension Discretions) consultation has taken place with Unison, GMB and Unite with no adverse comments received. The next step following Cabinet Member approval to adopt the amendment to the Discretions policy will be for the Council to agree a legal contract with AVC Wise and agree contract commencement date.

Risks

Risk Title / Description	Risk Impact score of Risk if it occurs* (H/M/L)	Risk Probability of risk occurring (H/M/L)	Risk Mitigation Action(s) What is the Council doing or what has it done to avoid the risk or reduce its effect?	Risk Owner Officer(s) responsible for dealing with the risk?
Staff over committing to salary sacrifice	M	L	Comprehensive pension advice and support is available from AVC Wise and suitability will be considered.	Head of People, Policy and Transformation

Links to Council Policies and Priorities

Pension Discretions Policy

Options Available

The options available are as follows:

1. For the Cabinet Member to approve the proposed amendments.
2. For the Cabinet Member to not approve the proposed amendments.

Preferred Option and Why

For the Cabinet Member to approve the amendments so that staff can take advantage of the scheme for their retirement and contribution savings. For the Council to take advantage of the employer savings on National Insurance.

Comments of Chief Financial Officer

There are no direct costs in introducing this additional benefit as the Council will be making an employer NI cost saving even after paying the agreed administrative cost noted. The 'net saving' will be used to meet an existing budget but utilised for an existing budget saving on similar schemes.

In addition to ensuring compliance with HMRC requirements to secure the benefits, it is important that the Council satisfies itself that individuals have appropriate advice on the scheme to make informed decisions and in particular on potential personal taxation issues linked to pension benefits which are complicated. As a minimum; it should advise that anyone considering these are advised to take appropriate personal financial advice in the first place.

Comments of Monitoring Officer

The proposed action is in accordance with the Council's discretionary pension policy under the Local Government Pension Scheme Regulations 2013. In accordance with Regulation 17, eligible employees who participate in the LGPS are entitled to make Additional Voluntary Contributions (AVC's) to supplement their standard pension benefits and the Council is able to enter into a Shared Cost AVC, through a salary sacrifice scheme. Subject to the Shared Cost AVC meeting HMRC requirements, then there are savings for both the employees and the Council in terms of NI contributions. The operation of a Shared Cost AVC is an operational matter for the Council and, as it is entirely voluntary as with other salary sacrifice and employee benefit schemes, then there is no requirement to change terms and conditions of employment. However, in order to adopt and implement a Shared Cost AVC, it will be necessary for the Council, as a scheme employer, to amend its discretionary LGPS policy to include this provision. Therefore, the Cabinet Member is required to take an executive policy decision to amend the Council's LGPS Pensions Discretions Policy in accordance with regulation 17, to include the provision set out in this report and agreed with Torfaen Pension Fund, which will enable the Council to make employer SCAVC's equivalent to the salary sacrificed by the employee. The Cabinet Member will also need to agree that the employer's SCAVC's will be treated as a pensionable emolument under Regulation 20, to ensure that an employee's main LGPS pension benefits are unaffected. Any employee who wishes to participate in the SCAVC will need to sign a salary sacrifice agreement to reduce their contractual remuneration by a sum equivalent to the employer's SCAVC's. Implementation of the SCAVC scheme will also be dependent on HMRC clearance and/or underwritten professional tax advice regarding compliance.

With regard to the proposed SCAVC management agreement with AVC Wise, this would usually have to be subject to procurement and competitive tendering in accordance with Contract Standing Orders. However, because of the specialist nature of the services and the need for a completely managed and compliant service, then there are no other providers who can provide the specified services. Therefore, a direct contract award can be made to AVC Wise in accordance with the excepted contracts under CSO 2.2.2. There is no minimum guaranteed fee required and they will charge a set commission based on the numbers of participating employees and the savings in NI contributions, over a minimum contract period of 36 months.

Comments of Head of People, Policy and Transformation

The comments of the Head of People, Policy and Transformation are contained within the main body of the report by the HR & OD Manager.

Fairness and Equality Impact Assessment:

- **Wellbeing of Future Generation (Wales) Act**
- **Equality Act 2010**
- **Socio-economic Duty**
- **Welsh Language (Wales) Measure 2011**

There is no requirement for a Fairness & Equality Impact Assessment as a result of these changes as there is no adverse impact.

From a Wellbeing of Future Generations Act perspective:

Staff will have access to a new financial well-being benefit that provides significantly improved **long-term** benefit outcomes for their retirement and helping to **prevent** financial poverty and poor well-being in later life. The proposal takes an **integrated** approach and will support the council's well-being objectives and also support one of the seven wellbeing goals "A prosperous Wales" and does not adversely affect the other six. The council have **collaborated** with AVC Wise to bring this benefit to staff and have consulted and **involved** Unison, GMB and Unite with no adverse comments received.

Consultation

As outlined within the report.

Background Papers

[Salary sacrifice AVCs and the LGPS \(E&W\) \(lgpslibrary.org\)](#)

[AVC Wise | Employee Info](#)

Dated: 23 September 2022