

LGPS (Scotland) Salary Sacrifice Shared Cost AVCs

We understand the popularity of salary sacrifice Shared Cost AVCs (SCAVCs) is increasing and that many administering authorities have been approached by employers considering it as an option. We thought this would be a good time to clarify how salary sacrifice SCAVCs work and remind you of what you need to be aware of.

The LGPS regulations

If an LGPS member elects to pay AVCs under regulation 17 of the LGPS (Scotland) Regulations 2018, an employer can also contribute to the AVC plan. This is known as an SCAVC.

In our view, a member can elect to pay both AVCs and SCAVCs at the same time, they are not restricted to paying one or the other. This also applies to members who are paying AVCs for life assurance.

This is different to the view we gave previously. In bulletin 147 we said that if a member already has an AVC and they take out an SCAVC with their employer, they must stop paying into their existing AVC plan (see paragraph 12 of the [AVC note](#) attached as an appendix to Bulletin 147).

We believe the previous view was taken because of the wording in regulation 17(1) of the LGPS (Scotland) Regulations 2018, in particular the word 'or':

17. (1) An active member may 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.

However, we now take the view that the word 'or' does not prevent the member from paying both AVCs and SCAVCs; it is used to make the sentence make sense. It would not make sense to replace 'or' with 'and', as this could be interpreted as requiring the member to pay both AVCs and SCAVCs, which would be perverse.

Salary sacrifice

An LGPS employer can choose to offer SCAVCs under a salary sacrifice arrangement. Employers are choosing to do this because of the cost savings for the member and the employer. Both the employer and member save on National Insurance contributions (NICs), in addition to the tax savings already available to the member. This is particularly attractive in the current financial climate.

It is an employer decision whether to offer salary sacrifice SCAVCs. The LGPS administering authority has no say in the decision.

Provided the employer specifies in the employee's contract of employment that the employer contribution to the SCAVC is a pensionable emolument, pensionable pay is calculated using the pre salary sacrifice level of pay. This means member contributions, employer contributions and CARE pension build-up continue to be based on the pre salary sacrifice level of pay. This is provided for by regulation 20(1)(b) of the LGPS (Scotland) Regulations 2018.

If a member has final salary membership, the final pay calculation is based on the pre salary sacrifice level of pensionable pay.

The employer contribution to an SCAVC is assessed for tax liability but is then exempted from tax by section 307 and 308 of the Income Tax (Earnings and Pensions) Act 2003.

For those employers in the LGPS who trade and have taxable profits, a salary sacrifice SCAVC contribution will be allowable as a deduction in arriving at the employer's taxable profits – see the [HMRC Business Income Manual](#) for more information.

The employer will need to amend its discretions policy and ensure that it meets [HMRC requirements for running a salary sacrifice scheme](#). Any salary sacrifice scheme must be properly implemented and employers should seek professional advice. We are aware that some LGPS employers work in partnership with a third party such as AVC Wise Ltd to assist with the introduction, communication and on-going management of this salary sacrifice arrangement. We are not aware of any other providers in the market at the present time.

Example

A member elects to pay AVCs. The employer offers a salary sacrifice AVC scheme which the member agrees to. The member earns £2,000 a month, is a basic rate taxpayer and wants £400 a month to be paid into an SCAVC:

- employer pays £399 into SCAVC and a reduced salary of £1,601 to the member
- member pays £1 into SCAVC
- employer and member pay NICs based on £1,601
- employer and member pay LGPS contributions based on £2,000
- employer saves employers NICs of 13.8% and apprenticeship levy of 0.5% (if applicable)
- the member saves 12% NICs in addition to the 20% tax relief they would have received if they paid into a standard AVC.

The net cost to the member is £272.12 ($£399 \times 12\%$ NICs saving plus $£400 \times 20\%$ tax saving), a total saving to the member of £127.88 per month. The net cost to a member paying a standard AVC would be £320. The member saves an extra £47.88 per month through a salary sacrifice SCAVC compared with a standard AVC. This equates to £574.56 per year.

The employer saves £55.06 on employer NICs at 13.8%, and will save more if they pay the apprenticeship levy. We have assumed that the member in the example is over 21 and is not an apprentice.

Considerations for the administering authority

It is important that an employer informs the administering authority if it is contributing towards an SCAVC. The employer should also confirm whether the employer contribution is being paid under a salary sacrifice arrangement.

If a member with a salary sacrifice SCAVC leaves with a refund entitlement, the member is entitled to a refund of the member and employer SCAVC contributions. This is provided for by regulation 18(1)(c) of the LGPS (Scotland) Regulations 2018.

If a member already has an AVC plan, the SCAVC plan is a new plan. If they stop paying into the existing plan, they can aggregate it with the new SCAVC plan.

If the member started paying into the AVC before 1 April 2015, they will need to be made aware that AVC plan will no longer have an NRA under the 2009 Scheme if they aggregate it with the new plan. If they started paying into the AVC before 30 June 2005, they will lose the option to use their AVC to buy extra membership in the LGPS if they aggregate it with the new plan.

AVC providers

We understand that the AVC providers listed below offer salary sacrifice AVC facilities. Readers may be interested to know that Legal and General is a new AVC provider in the LGPS market.

- Prudential
- Standard Life
- Legal and General
- Scottish Widows.

Disclaimer

The LGPC Secretariat has prepared this document based on our understanding of the information currently available, including the relevant Statutory Instruments governing the Local Government Pension Scheme, associated overriding legislation and relevant draft legislation. It represents the views of the Secretariat and should not be treated as a complete and authoritative statement of the law. Readers may wish, or may need, to take their own legal advice on the interpretation of any particular piece of legislation. The Local Government Association will not assume responsibility for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information in this document.