DRN-4662233

The complaint

Mr E has complained that Progeny Wealth Limited ('Progeny') misled him about the transfer of two of his occupational defined benefit ('DB') pensions.

Mr E has stated that from the inception of his relationship with Progeny the transfer of these two DB pensions had been discussed and agreed as his future plan, to ensure he could retire early and repay his mortgage.

When the time came for Mr E to receive advice on the actual transfer, Progeny advised the DB schemes should not be transferred. Whilst Mr E retained the right to seek advice elsewhere, the transfer values offered by the DB schemes had fallen considerably in the interim period, with Mr E stating these losses are around £280,000.

What happened

I would like to start by noting that not all points of contact between the parties from 2017 onwards have been included in the below summary. However, I would like to reassure all parties that all evidence has been fully considered and assessed when making this decision.

In September 2017, Mr E emailed Progeny with his suggestions on how his pensions could be utilised in future to allow early retirement. This involved leaving work at age 51 and re-mortgaging to release capital from the family home. This capital could then fund expenditure (and the mortgage payments) until age 55. At age 55 Mr E could then officially retire.

Progeny responded in October 2017. Cash flow models had been done and the scenario proposed by Mr E was confirmed as possible. Progeny did however raise concerns as to how the mortgage would eventually be repaid. Using pensions was noted as an option however the amount needed to repay the debt meant there was a possibility of a 40% tax rate being incurred by Mr E.

Further discussions between Mr E and Progeny were held in October 2017 where different cash flow models were completed. These included the transfer of the DB schemes into a personal pension, the withdrawal of an additional £30,000 a year in income to repay the mortgage, and the possibility of downsizing the family home.

Progeny provided Mr E with financial advice in August 2018. This related to the consolidation of some of Mr E's defined contribution ('DC') schemes into an Old Mutual (now Quilter) pension. No advice was provided on the DB schemes at this time with the suitability report only noting that:

> *"You have 3 defined benefit pension schemes, of which you plan to retain one to provide you with a guaranteed, index-linked income. However, you will require an income to be drawn from your personal pensions to meet the remainder of your income requirement."*

In October 2020 Progeny issued a summary of their most recent meeting with Mr E. Within this it was confirmed the existing Old Mutual pension and underlying investments should be retained. Regarding Mr E's DB schemes, the summary stated:

> *"You will draw £3,125 per month from savings until you can access your pensions at age 55. You have three Defined Benefit schemes that will need to be looked at then to consider whether you draw a scheme pension or take a CETV [transfer value]."*

In November 2020 Mr E emailed Progeny with updated transfer values for his three DB schemes, these had all increased from two years prior with Mr E stating he wanted to discuss these values further. Mr E's desire to transfer the DB pensions was based in part on the desire to secure the transfer value as a death benefit should he pass away and to be able to utilise 25% of the transfer values (as tax-free cash) to repay the outstanding mortgage.

Meeting notes from 19 November 2020 state:

> *"They now draw £3,125 pm from savings until he can access his pensions at age 55. He has 3 DB schemes that will need to be looked at then to consider whether he draws a scheme pension or takes a CETV [transfer value]."*

Progeny provided a summary of those discussions and updated cash flow models on 1 December 2020. As part of this the letter issued confirmed that the cash flow models were based on a set of assumptions, one of which was that the transfer values of the DB schemes would rise by 5% per year until Mr E reached age 60.

A review meeting was carried out on 26 October 2021. Regarding the DB schemes the meeting notes state:

> *"They are now drawing £3,500 pm from savings until he can access his pensions at age 55. He has 3 DB schemes that will need to be looked at when he's closer to NRD to consider whether he draws a scheme pension or takes a CETV [transfer value]."*

In November 2021 Mr E received an updated transfer value from one of his DB schemes.

This had fallen by around 5% (£25,000). Upon receipt Mr E emailed Progeny asking for a call to discuss further. The email noted that:

> *"As you may recall from our discussions and correspondence last year I was very keen to transfer the [DB scheme] pensions into Old Mutual/Quilter at that time although you were very much against this. I recall you had referred this to your internal expert who was very clear and had advised that the transfer values would increase each year as we moved closer towards the normal retirement date as early transfer penalties would fall away and I would be losing money if we transferred it beforehand."*

Progeny responded on 1 December 2021 with part of their response saying:

> *"It's never a guarantee that the value will increase because assumptions can change and we can only go by the figures available at the time."*

Progeny agreed to look into things further and get back to Mr E with more information.

In March 2022 when Mr E chased Progeny for an update.

Further emails were exchanged and in April 2022 Progeny provided an advice report covering Mr E's remaining DC scheme (held with Standard Life). At this time, it was also suggested that further meetings be held to discuss the DB schemes.

There was a further meeting between Mr E and Progeny on 5 May 2022. The notes from this meeting confirm that the main area of discussion was the possible transfer of Mr E's DB schemes with follow up actions being the provision of Progeny's abridged DB advice report for all three of Mr E's DB pensions.

The meeting notes state:

> *"[Mr E] has 3 defined benefit pension schemes which we previously reviewed in 2019. Our advice at that point was to retain the schemes as he was too far away from NRD, and so there would have been early exit penalties. The schemes also have excellent revaluation rates so it is likely that the CETVs would rise as he gets closer to NRD. He asks the schemes for updated CETVs every year so that he can keep track of this, and when comparing the larger pension scheme's CETV from 2020 and the one he got in 2021, he was very upset to see that it was 5% lower. This greatly concerned [Mr E] and he therefore wanted to review the pension schemes again to determine if the transfer values should be taken now."*

And

> *"I explained that the DB committee has looked at his case that we are happy to take him through the abridged advice process. I also confirmed that the outcome of this report will either be retain or unclear, and if unclear, we can proceed to full advice."*

Following this meeting further charts and projections were supplied to Mr E. Four were produced, two where the DB schemes were retained and two where they were transferred. In response to this Mr E stated that the projections retaining the DB schemes did not allow him to repay his mortgage in the way desired and as such further work was requested on the two other options based on transferring the DB schemes.

Subsequently, on 6 June 2022 Progeny issued their advice report to Mr E. This recommended the DB schemes were retained.

This advice was based on the fact that the DB schemes all had normal retirement dates between ages 60 and 65 and as Mr E already had around £400,000 in DC schemes, these could be used to support expenditure until each scheme reached its normal retirement date removing the immediate need to transfer. Additionally, whilst Mr E wanted to secure the transfer values and use the available tax-free cash to repay his mortgage, Progeny stated that they were concerned using full tax-free cash to repay debt would not leave sufficient funds to provide ongoing income in retirement. Mr E's cautious attitude to risk and low capacity for loss were also noted as reasons not to transfer.

In November 2022 Mr E received further updated transfer values for his DB schemes. In total the DB scheme transfer values had fallen by around 38% (£323,000).

Mr E noted that if his *"wishes and instructions"* had been followed in October 2020 higher transfer values could have been secured. Progeny were asked to provide an update on when they thought the transfer values may recover with Mr E noting that he recalled Progeny stating that one of the DB schemes alone was expected to have a transfer value of around £700,000 if left until Mr E reached age 60.

Unhappy that the DB pensions now had significantly lower transfer values Mr E raised a complaint with Progeny in February 2023.

Progeny issued their response on 13 April 2023.

This did not uphold the complaint. Progeny stated that they did not believe they had misled Mr E regarding the transfer of his DB schemes and that they remained of the opinion that the advice to retain the DB schemes was appropriate.

Disagreeing with the complaint response Mr E referred his complaint to this service.

Our investigator looked into things but did not uphold the complaint.

The investigator concluded that the advice to retain the DB schemes in 2022 was suitable.

Whilst advice given to retain the pensions in 2020 had been informal advice over the phone (rather than in a written report as in 2022) the investigator also saw no reason to question the suitability of this advice either. Whilst Mr E stated Progeny should have acted as per his *"wishes and instructions"* in 2020, the investigator said Progeny themselves were obliged to provide advice and not simply enact whatever transactions were requested of them by Mr E.

Overall, whilst the investigator believed some of the communications between Progeny and Mr E could have been clearer, and that some of the explanations of how DB pension transfer values were calculated could have been better, it was concluded Progeny had not acted unreasonably.

Mr E did not agree and stating that Progeny had been aware of, and endorsed, his plan to transfer his DB pensions since 2017 and that as a result of Progeny's actions he has been left with an increased mortgage with no means of repaying this, with DB pensions whose transfer values are significantly lower than they were in 2020.

Mr E stated that either the 2022 advice to retain the pensions was incorrect, or he had been misled by Progeny in 2020 when he was told to leave the DB pensions in situ given their transfer values would only ever increase.

Our investigator was not minded to change their opinion, stating that they considered the advice of 2020 and 2022 to retain the DB schemes suitable and noted that whilst the transfer values had dropped, no actual loss had occurred as the DB scheme benefits had been retained.

As no agreement could be reached the case was passed to me for a decision.

I initially issued a provisional decision which stated:

"There are two main areas that I have considered. Firstly, was the advice given to Mr E by Progeny to retain the DB schemes suitable, and, secondly, was Mr E misled by Progeny from 2017 onwards regarding the eventual transfer of the DB schemes and the transfer values which may have been available.

Dealing firstly with the advice to retain the DB pensions, in line with what our investigator has already said, I have concluded that the advice to retain the DB schemes was suitable.

The 2022 advice was fully documented in the abridged advice report. In assessing the content of the advice report I have fully considered Mr E's point that the income withdrawal figure used in the report was higher than had previously been discussed. I also note that the transfer values quoted in the report had expired at the time advice was given. However, overall, I have concluded that the advice to retain the DB schemes was not unreasonable.

As explained by our investigator the Financial Conduct Authority has strict rules and guidance which must be followed by advisers when considering the transfer of DB pension benefits, with the starting point for any advice being that any transfer is not likely to be suitable.

Whilst I appreciate that Mr E had clear reasons why he felt the transfer met his objectives, it was the adviser's job to provide suitable advice, and not simply follow Mr E's wishes.

In 2020, whilst no written report was provided, the evidence on file supports the conclusion that verbal advice was given to Mr E to retain the DB pensions. Just prior to this, Mr E had documented several reasons why he wanted to consider a transfer. These included ensuring the transfer values were available as benefits to family should he (and possibly Mrs E) pass away, and to be able to use the tax-free cash that would subsequently become available to repay his outstanding mortgage.

Whilst there is no report documenting Progeny's full reasons for not supporting the transfer at that time, again I do not consider advising against a transfer to be unreasonable. Whilst the provision of an inheritance was noted as an objective by Mr E, utilising a life insurance policy is not an unreasonable alternative which should be considered before recommending a transfer. In addition, whilst Mr E had noted a transfer would allow tax-free cash to be used to repay his mortgage, at that time the mortgage was on a fixed rate for another two years with no repayment being made until the fixed rate expired. A transfer at that time would have exposed Mr E to years of investment risk and charges that were not necessary at that time.

Overall, I would again agree with our investigator in concluding that the advice to retain the DB pensions in 2020 and 2022 was reasonable.

Having reached these conclusions, I have gone on to consider whether Mr E was misled about the transfer process, and the possible transfer values available, from the start of his relationship with Progeny in 2017.

From the start of the relationship between Mr E and Progeny in 2017 it is clear that Mr E had a plan about how he wanted to utilise his pension provision, with this including the possible transfer of (at least two) of his DB schemes.

Whilst in Progeny did provide cash flow models which indicated that Mr E's plan was "possible" that is not the same as a confirmation that the plan was suitable or would be the course of action Progeny would recommend.

Full advice was provided by Progeny in 2018 however this was only concerned Mr E's DC pension provision and did not make any recommendations regarding the DB pensions, other than to state that Mr E planned to retain one of these.

Mr E has not complained specifically about the advice given in 2018 and as such I have not considered the suitability of the Old Mutual (now Quilter) pension. However, what the documentation does show is that the suitability of this pension was assessed by Progeny on its own merits, with its suitability not being based on a future transfer in from the DB schemes.

Further advice was given in October 2020 with this covering the ongoing suitability of the Old Mutual (now Quilter) pension which had been recommended in 2018. Again, there was limited commentary on the DB schemes with the suitability letter simply confirming that the three schemes "will need to be looked at then to consider whether you draw a scheme pension or take a CETV". This commentary would indicate no decision or recommendation had been finalised regarding the DB schemes and their possible future transfer.

Further cash flow modelling was completed after this 2020 review, with these models showing transfer values increasing over time, however the covering letter documented that a 5% increase in transfer values each year was an assumption, with there being no commentary from Progeny stating that such increases were in any way guaranteed.

The same commentary stating a scheme pension was still being considered was included in the meeting notes for the October 2021 review, again suggesting that no final decision had been made on the transfer of the DB schemes.

Further discussions took place soon after in November 2021, after Mr E received a transfer value for one of the DB schemes showing a £25,000 reduction, with Progeny's response to Mr E's queries stating clearly that it was "never a guarantee" that values would always increase.

From this point it is clear that Mr E was aware that the transfer values could increase as well as decrease, with Mr E stating that "what seems clear to me is that there can be no guarantees the transfer values will increase each year" in an April 2022 email to Progeny.

Prior to advice being provided a further meeting took place between Mr E and Progeny in May 2022. The notes from this meeting confirm that the transfer of the plan had been discussed previously (in 2019) and that Mr E had been advised to retain the schemes. I have considered carefully the comments stating that Progeny had informed Mr E that the features and revaluation rates of the DB schemes meant that transfer values were "likely" to increase as Mr E moved closer to retirement.

However, stating values were "likely" to increase is materially different to a guarantee that values would only ever increase.

Additionally, the meeting notes also confirm that Mr E was made fully aware that the abridged advice report could have various outcomes, one of which could be a recommendation to retain the existing DB schemes.

Overall, the chain of events above and Mr E's commentary show that Mr E had a clear idea of how he foresaw his retirement and how he wanted to use his pension provision. However, whilst Progeny stated that Mr E's plan was possible, at no point did they state it was recommended or suitable.

I sympathise with the fact that Mr E has seen significant reductions in the transfer values of his DB pensions, this is something that has impacted most (if not all) DB scheme members looking to transfer benefits away. Transfer values had broadly increased year on year as historically low interest rates and gilt yields became normalised following the 2008 financial crisis, with this trend changing as inflation, interest rates, and gilt yields rose quickly in 2021.

I agree with the comments made by our investigator that Progeny could have given fuller explanations of how DB transfer values are calculated, and what wider economic changes could impact their value, however, do not believe the lack of such explanations makes them responsible for the falls in transfer value.

Whilst their explanations could have been better, I can see no evidence that they confirmed or guaranteed that the transfer values would only ever increase and as such I am not proposing to uphold this complaint."

In addition, I asked both parties to provide any additional evidence or commentary they wanted taken into consideration before 5 March 2024.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Whilst Progeny did not provide any additional evidence, Mr E did make further comments which I have considered here.

The commentary provided centred around what Mr E considered the pivotal conversations held with Progeny in October and November 2020.

Mr E did not believe these had been given sufficient consideration and stated that it was during these conversations he had been told that the transfer values of his DB pensions would only ever rise, with just one of these policies being worth at least £700,000 if the transfer was left until he reached age 59 / 60. Mr E also stated that whilst he had wanted to transfer in October / November 2020, he was willing to accept Progeny's advice to retain the policies based on this confirmation that the transfer values would only ever rise in value as he got closer to his normal retirement age. Mr E also noted that he referred to these discussions in subsequent emails with no correction or challenge from Progeny.

Firstly, I would note that no further commentary has been provided in relation to the advice given in which Progeny advised Mr E to retain his DB pensions and as such I have not considered this element further, and as above remain of the opinion that this advice was reasonable.

Moving on to the issue of Mr E's October and November 2020 discussions with Progeny, I do believe these have been fully considered above but have included additional detail in respect of Mr E's further commentary.

As part of the investigation and provisional decision already issued all documentation in relation to the October and November 2020 meetings between Mr E and Progeny was requested. This included meeting notes, any emails exchanged between Mr E and Progeny, and internal emails between Mr E's adviser and the Progeny pension transfer expert.

Unfortunately, the conversations held were not recorded and I was not present at these meetings. As such the documentary evidence, especially the contemporaneous documentation completed at that time, is key in trying to establish what (or what was most likely to have) happened at that time.

Within this documentation, there is no mention of the £700,000 figure referred to by Mr E, nor any discussion around transfer values only ever increasing. I see no reason to doubt that a figure of £700,000 was discussed, with this figure being included by Mr E in subsequent emails with Progeny, however there is no evidence to suggest that Progeny stated that this figure was guaranteed.

Additionally, the October and November 2020 meeting notes suggest that no final decision had been made on whether the DB schemes were to be transferred at all, with both sets of meeting notes confirming that the schemes would be looked at later to decide whether Mr E would take a scheme pension or transfer.

Additional documentation covering interactions between Progeny and Mr E before and after the October and November 2020 meetings was assessed to try and provide additional context.

The 2018 advice documentation provided little commentary on the DB schemes, noting only that Mr E planned to retain one of these, with the meeting notes covering the October 2021 review again stating that no decision had been made regarding potential transfers, with Mr E looking into a scheme pension or a transfer at a later date.

I appreciate Mr E's point that Progeny only specifically referred to a fall in transfer values after they had already fallen in November 2021, however, do not believe the lack of such commentary before this date is sufficient to hold Progeny accountable for the reductions in transfer values.

Whilst Mr E has stated he referred to ever increasing transfer values in emails to Progeny without challenge, I would note Progeny's 1 December 2021 email is clear that transfer values are never guaranteed.

I have sympathy for Mr E's situation and the fact that the transfer values for his DB pensions have fallen. However, having looked at the chain of events above (including the October and November 2020 meetings) I do not believe there is sufficient evidence to state that Progeny guaranteed that the transfer values would only ever rise in value, nor that their transfer would be automatically recommended.

As such, I remain of the opinion that the outcome communicated in my provisional decision is fair and reasonable and am therefore not making any changes to it.

My final decision

In line with the commentary above I am not upholding this complaint and require no further action from Progeny Wealth Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 10 May 2024.

John Rogowski
Ombudsman