

The complaint

Mr S is unhappy with the service he received from his Financial Advisors. Progeny Wealth Ltd after they became responsible for the management of his pension portfolio.

What happened

Mr S had been a client of a firm of financial advisors (who I'll call "JMG" here) for about 25 years, where he'd been advised by a particular advisor for most of that time. In 2022, JMG was taken over by Progeny in 2022. Mr S's Advisor moved across to Progeny. He continued to act as Mr S' Advisor initially (a new advisor was subsequently appointed). Mr S signed a new client agreement with Progeny on 10 January 2022.

Shortly after this, Mr S became unhappy with the service that Progeny was providing him. Whilst at JMG, Mr S received half-yearly reviews, which is what he believed he was told would be provided after moving to Progeny. However, their client agreement only provided for meeting "*at least annually*".

Following his initial review meeting in August 2022, Mr S became frustrated that Progeny were unable to provide him with access to yearly review documentation in a format that he was able to access, despite repeated requests for this to be provided, and promised that it would be. Similar issues occurred after the review meeting in August 2023.

Frustrated with the lack of progress, and what he felt was continued poor service, Mr S complained to Progeny. He asked for most of the fees he'd paid to them to be refunded.

Progeny responded, partially upholding Mr S' complaint. They accepted a lack of internal communication, partly attributable to the change in advisor, contributed to him not receiving the documentation that he had repeatedly asked for. They offered to pay him compensation of £200 for the distress their actions had caused him. But they said they'd provided Mr S with the annual reviews his new client agreement required them to provide, and so refused to refund any of the fees he'd paid.

Unhappy with this, Mr S brought his complaint to our service. One of our Investigators agreed that Progeny hadn't treated Mr S fairly. Our Investigator acknowledged that, notwithstanding the long-standing relationship that existed between Mr S and the advisor, he was unlikely to have agreed to move his account to Progeny unless the service he received was broadly similar to what he'd been used to receiving in the previous 25 years. But there was no evidence that this same level of service *had* been guaranteed by the advisor, or more precisely what specific elements of his former service levels had been promised.

That said, he felt Progeny had failed to provide Mr S with reports and information relating to the August 2022 and 2023 annual reviews it had committed to provide. So, by way of compensation, our Investigator said Progeny should repay Mr S three months-worth of fees. But he felt Progeny had provided a significant part of what they'd been contractually obliged to provide, which is why he wouldn't be asking them to refund a larger proportion of the fees, as Mr S had requested. Finally, he agreed that Progeny's offer of £200 compensation for distress and inconvenience (D&I) was fair in the circumstances here.

Progeny agreed with this recommendation, but Mr S did not. He felt three months-worth of fee refund didn't fully reflect the extent of the poor service he'd received. Whilst he'd received two annual visits to his home as part of the review process, he'd never received any written communications in the form he'd requested to confirm the outcome of those discussions. He disagreed that he'd received a "significant part" of what he'd paid for.

However, our Investigator didn't change his mind, and as no agreement could be reached, Mr S asked that his complaint be considered afresh by an Ombudsman, and it was passed to me for that purpose.

Having considered the evidence available, I reached a different conclusion, and accordingly issued a Provisional Decision (PD) setting out my proposed new redress.

In my PD, I began by explaining we're an informal dispute resolution service, set up as a free alternative to the courts, and in deciding this complaint I'd be focussing on what I considered to be the heart of the matter, rather than commenting on every issue in turn. I explained this wasn't intended as a discourtesy to either party, rather it reflected the informal nature of our service, its remit and my role in it. My PD said as follows:

My Provisional Decision

Progeny agree that their communications with Mr S were poor. I also agree. But the question for me here, essentially, is to decide whether the service they provided to Mr S was also unacceptable, to the extent that I feel they should reimburse a proportion of the fees that they charged. To answer this, I need to begin by looking at what happened when Progeny took over the business of JMG, and more particularly what Mr S was told.

Mr S's expectation he'd receive the same service from Progeny as he had from JMG

I don't doubt Mr S's recollection when he told our Investigator that his conversations with his original advisor led him to believe that there'd be no change in the service he'd receive from the advisor/Progeny. However, echoing what our Investigator said, there is no evidence to show, or even suggest, this is what had been agreed. I say that having looked at the various emails exchanged between Mr S and the advisor, none of which contain any comment from the advisor suggesting reviews were to happen every six months, or more regular updates provided. That being the case, I can't fairly conclude that Mr S was likely promised his service provision from Progeny would remain as it had been with JMG.

Which brings me on to the question of what service Progeny were contractually obliged to provide to Mr S. To answer this, I need to begin by looking at the terms of the client agreement that Mr S signed with Progeny, on 10 January 2022, which include as follows:

"Where we agree to provide you with a service that includes an ongoing review of the suitability of the investments we have recommended, we will carry out this review at least annually"

"We will issue you with a report setting out the results of our assessment and, if relevant, any updated recommendations"

Further, section 6 of the agreement sets out the services Mr S would be entitled to receive, together with the fee he'd be charged. The services included reassessment of Mr S' personal circumstances and needs, review of existing pensions (and their performance) to ensure they remained suitable, phone and email access to Mr S' advisor and support team and dealing with product administration enquiries. Fees would be charged at 0.5% pa on the value of Mr S's investments (at just over £1.1m at that time).

I think it's important to highlight that Mr S signed and dated this agreement. As such, I'm satisfied that he was most likely aware of the terms of the agreement, and what precisely Progeny has contractually required to provide. And this was reviews that were at least annually. So whilst this doesn't dictate that reviews can only be annual, it means there is no obligation on Progeny to provide reviews more regularly than that. As such, I'm satisfied that Progeny were only required to provide a review (with all that usually entails) once a year.

Did Progeny provide the services it was required to under the client agreement

Having decided that Progeny only needed to provide annual reviews, I now need to consider whether Progeny did provide the services it was contractually obliged to in the period before Mr S disengaged them as his advisors in November 2023. To do that, I think it's necessary to look at the chronology of events here, which I summarise as:

- *29 June 2022 – The advisor contacted Mr S to arrange his annual review meeting. He advised he'll be attending with another advisor who will be taking over Mr S' account.*
- *4 August 2022 – the annual review meeting.*
- *26 August 2022 – Mr S emailed the advisor chasing up written confirmation of what was discussed and agreed at the meeting. Chased by Mr S on 13 September 2022*
- *23 September 2022 – Progeny support team emailed Mr S, advising they've uploaded his annual review documentation for his review and signature. This prompted Mr S to email the advisor immediately, explaining this is not what he asked for – he wanted a copy of the review letter emailed to him.*
- *24 September 2022 – An internal Progeny Advisor email, expressing concern that it'd been two months since the meeting, and Mr S still not had sight of the report. Expressed fear that Mr S may be lost as a client.*
- *26 September 2022 – Advisor sent long email to Mr S, explaining he'd made enquiries, and that Progeny was reticent to send detailed personal reports by email because it's not deemed the most secure medium for sharing sensitive information of that sort. He also advised Mr S that he could access the report by clicking on a link in the earlier email and review the documents that way. The advisor also explained Mr S could register on Progeny's portal, providing future easy access to all future reports.*
- *This prompted a short response from Mr S, who appeared unhappy with the suggestions made by the Advisor: "It is no excuse for not delivering a letter regarding a meeting about 8 weeks ago. I think this is not going to work for me". The Advisor responded, agreeing waiting 8 weeks is too long.*
- *27 September 2022 – Progeny advised the report was emailed to Mr S (password protected). Mr S followed with an email to the Advisor saying "I have read again all the bumf sent. All I want is the 2 or 3 page letter sent by email".*
- *14 October 2022 – Advisor emailed Mr S, discussing a new meeting to enable his issues with Progeny to be addressed. He mentioned that two new experienced advisors will be assigned to manage his account (the initial replacement advisor having left Progeny).*

- 15 October 2022 – Mr S responded – he'd received many emails from Progeny, but he doesn't have the password needed. Not comfortable with Progeny but will call the Advisor once he's reviewed the information they'd sent.
 - 31 October 2022 – Progeny advised that the 2022 review and report, plus supporting documents, was sent to Mr S on this date.
 - 7 August 2023 – the next yearly review meeting with the new Advisor.
 - 9 August 2023 – Mr S emailed his new advisor, saying he felt he'd been ignored since the end of 2022 – echoing what he'd mentioned at their meeting, and requested the return of all fees paid to Progeny during this period.
 - 6 September 2023 – a series of emails, beginning when Mr S chased the Advisor for paperwork following the August 2023 meeting. This prompted a response from the Advisor to explain there has been a backlog due to the Summer Holidays, and to "expect things" in the next week or so. This was almost immediately followed by an email from Progeny to Mr S, advising his client portal user account had been created. It said a password will follow and gave instructions regarding how to log on. The Advisor then advised that Progeny would provide quarterly valuations from October 2023 onwards and re-confirmed a portal log-in link will shortly be provided.
 - Seemingly unhappy with this, Mr S responded – he was still awaiting the new Advisor's letter of proposal following the meeting, although acknowledged a 'stewardship report' was provided at the meeting, albeit this is the only paperwork provided since Progeny took over (except a large document provided to Mr S, at his initial meeting with his previous advisor in August 2022, which he "dismissed"). The new Advisor responded, saying he'll ensure the report and recommendations get to him as soon as possible.
 - 27 November 2023 – Two days after Mr S emailed to chase the reports, the Advisor called Mr S, who followed by emailing the Advisor to confirm he hadn't received any paperwork since the report the Advisor delivered to him at the August meeting. He referred to the Advisor having told him he'd "signed off" on three occasions for the documents to be sent to Mr S - so where are they.
 - 28 November 2023 – a series of emails, beginning when the Advisor responded, confirming which documents he'd approved to be sent (2023 annual report and paperwork, copy of the 2022 annual report, and the October 2023 quarterly stewardship report). He "personally ensures" the missing documents will be received by Mr S. He's unaware why they haven't reached Mr S but will find out. Mr S acknowledged this. The Advisor then emailed Mr S to say he'll hand-deliver the paperwork, only for Mr S to respond at the end of the day to say he'd decided to move to a new advisor firm.
- I'm satisfied, having considered the above, that Progeny did provide most (if not, arguably, all) of the services their client agreement required them to provide. The agreement required annual reviews to take place. It's not in dispute that review meetings did take place in August 2022 and 2023 respectively. Mr S clearly had regular access to his advisor, as evidenced by the open email and phone channels that existed. And I think Progeny provided, or at the very least made available (using their preferred method of provision of such documents) the results of the two reviews that took place. Links were sent to Mr S to allow him to access the documents on Progeny's portal. It's relevant to refer to the client terms here, which Mr S signed to say he understood and accepted, which say:*

“Our normal ways of communicating with you are by telephone, post, e-mail and in person...Our preferred method of sharing documentation is through our Client Portal, as this is the most secure way of sharing confidential information”.

In other words, Mr S would (or at least reasonably should) have been aware from the outset that Progeny’s preferred means of providing his annual review documentation was via their portal, and he signed to effectively accept that.

The evidence shows Mr S made a specific request for these documents to be provided in a more suitable medium for him. He wanted information emailed to him, which were more accessible. And he wanted hard copy documents as well. These are not, in my opinion, unreasonable requests, and I can’t see why they would or should have caused significant issue for Progeny to provide them as requested. Mr S was (is) in his mid-80’s at the time, and it’s not unreasonable to have expected Progeny to make allowances for the fact Mr S may have preferred to receive documents in a more traditional format. Both Advisors were clearly making attempts to provide the documents in the format Mr S requested, and so I’m satisfied there was, or at least appeared to be, a genuine intent on their part to try and assist Mr S in this regard – even if those attempts failed. Progeny essentially agreed to provide them in a different format. And it’s not clear from the evidence I’ve seen precisely why that presented such a problem for Progeny here.

But I must also recognise, and balance against that, it was Mr S’ choice to insist on receiving the documents in this format. Put another way, He could have availed himself of the portal access if he chose, and it’s not Progeny’s fault that he didn’t.

As I said at the beginning, Progeny have accepted their communications with Mr S were not of an acceptable standard. And they’ve accepted they should refund a portion of the fees they have charged – equivalent to 25% of the final years’ charges. However, having thought very carefully about this, I’m inclined to award a larger sum here.

Progeny did provide annual review meetings, together with reports and appropriate documentation, as contractually required, and charged fees accordingly. These were fees they were entitled to charge, and from what I can see continued to be charged until the month after Mr S notified them that he wished to dispense with their services. However, they were aware that Mr S struggled to access the information using their preferred method of communication. They (or their Advisors) rightly in my opinion, agreed to try and provide the documents in a more suitable format. As I’ve said above, I can’t see why this should have been such a problem for Progeny. But, for some reason, this did prove to be a problem, meaning Mr S was denied the opportunity to access the documents, that he’d paid for via fees charged, in a timely manner (or at all, in some cases).

So, whilst I think that Progeny did strictly comply with the terms of their client agreement with Mr S, he didn’t experience/utilise the full benefit of the service provided. He’d essentially made it clear to Progeny that their usual method for review of documentation wasn’t suitable for him. And I think the evidence suggests Progeny didn’t do enough to assist Mr S to rectify that problem.

Accordingly, and whilst recognising that Progeny does appear to have done all that it was contractually required to do, I think a fairer redress here would be for Progeny to refund 25% of the total fees it’s charged covering the whole period that it managed Mr S’ portfolio.

Finally, I need to address the D&I that Progeny’s actions have caused Mr S. Generally speaking, the amounts this Service awards for D&I are fairly modest in value. Our D&I awards are not designed to punish a business, but rather to put a monetary value on the

distress a business' actions have caused. Guidelines setting out our approach to such awards can be found on our website. So, taking account of what I've said above, and having careful regard to our guidelines on this subject, I think a D&I award of £200, as initially offered by Progeny, is appropriate here – and is the amount I'll be asking Progeny to pay.

Responses to my provisional decision.

Progeny initially responded, confirming they had nothing further to add to my PD. Mr S also responded, seeking confirmation the redress included commission/fees paid in relation to the ISAs he had with Progeny, as well as his SIPP. And he also questioned whether the redress included a refund of the fees he'd been charged after he'd disengaged Progeny's services.

With regard to the ISA fees in general, my proposed redress did include these sums. The review of these investments would have been part of the annual reviews, and subsequent reports, that formed the central elements of Mr S' complaint. My redress suggested that Progeny refunded 25% of *all* fees charged whilst it managed his portfolio (as repeated above), although I accept the final paragraph of my PD could have suggested otherwise.

However, the issue of the fees charged after Progeny had been disengaged wasn't a complaint point that Mr S had raised with Progeny as part of this complaint – it was something raised subsequently that would ordinarily have needed to be considered by Progeny as a new complaint. However, in the interests of expediency, I reached out to Progeny to seek their comments, and see whether they'd consent to me addressing this issue within my final decision (so, before they had a chance to formally investigate and respond). In particular, I asked them as follows:

- On what basis were fees levied between October and December 2023, particularly given Mr S had formally notified Progeny that he wished to disengage them in November 2023, and the terms of his engagement meant no notice was required to disengage them.

Progeny responded, confirming that the December 2023 fees should not have been levied given Mr S had disengaged them in November 2023. And in an attempt to minimise any further distress, and as a gesture of goodwill, Progeny said they'd also be willing to refund the October and November 2023 fees as well, even though those were levied before Mr S disengaged them. I think that is a fair offer in these circumstances.

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.

First and foremost, I should say that I've looked again at the evidence here, and considered what I'd said in my PD. I've not seen anything that would lead to me to change my mind on the fundamentals of my conclusion – namely that Progeny didn't treat Mr S fairly, and that he should be refunded a higher proportion of the fees he'd been charged than the amount our Investigator had concluded.

My suggested redress was based on a 25% refund of *everything* Progeny had charged, however Progeny's subsequent offer means that my redress award needs to be amended. So, for the purposes of clarity for both parties, and to reflect Progeny's updated offer, I think Progeny must now refund the following fees to Mr S:

- In relation to fees charged on Mr S' portfolio between October and December 2023 – 100% of the fees charged.

- In relation to all *other* fees charged by Progeny whilst managing Mr S's portfolio – 25% of the total fees charged.

And Progeny should also pay Mr S compensation of £200 for D&I, as originally offered by them. I don't think any increase in that sum is warranted, notwithstanding Progeny admitting they continued to charge Mr S fees after he'd disengaged their services. I think their updated offer provides suitable extra redress in that regard.

My final decision

I uphold Mr S' complaint about Progeny Wealth Ltd, and require them to refund him the fees they'd charged him whilst managing his portfolio as set out above, and pay him a further £200 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 October 2024.

Mark Evans
Ombudsman