

The complaint

Mr D complains about the advice given by Towergate Financial (East) Limited concerning transferring the benefits from his defined-benefit ('DB') occupational pension scheme to a personal pension plan ('PPP') and later to a self-invested personal pension ('SIPP'). He says the advice was unsuitable for him and believes this has caused a financial loss.

In bringing this complaint Mr D's been helped by professional representatives. But, for ease of reading, I'll refer to the representatives' comments as being Mr D's.

Provisional decision

On 16 June 2022 I issued a provisional decision. For ease I've copied the relevant extracts below. I said:

"What happened

Mr D had been a member of his previous employer's DB occupational pension scheme. He stopped working for that employer in 1993. In 2007 Mr D's former employer offered enhanced "additional payments" to scheme members if they chose to transfer out of the scheme. The employer engaged a firm of financial advisers to advise the scheme's members about the options available to them. Towergate acquired that advising firm in 2009 and as such it now has responsibility for the advice provided. For ease of reading I will refer to the advising firm as Towergate in this decision.

Mr D confirmed, in May 2007, he would like Towergate to give him independent advice about his transfer options. Towergate met with Mr D on 12 May 2007 and completed a fact-find to gather information about his circumstances. Towergate recorded that Mr D was 49 years old and planned to retire at 65. His current income met his outgoings and he had a surplus of around £160 a month. He had assets, not including his mortgaged home, of around £170,000. He had been paying into his current employers pension scheme for around nine years though the value of that pension wasn't known.

Towergate also carried out an assessment of Mr D's attitude to risk, which it deemed to be "cautious".

Towergate recorded that the Cash Equivalent Transfer Value (CETV) of Mr D's DB scheme pension was £19,877. But that his former employer was offering an additional payment incentive of £18,193, which would increase the CETV to £38,071, if he were to transfer out of the DB scheme. The additional payment could be taken as a taxable lump sum immediately.

Towergate also had access to two pension transfer value analysis reports which included cashflow models comparing how an alternative pension plan was likely to perform against the guaranteed benefits of Mr D's DB scheme. The first report showed the comparison between Mr D investing the full, enhanced, CETV of £38,071 into a PPP. The second report

compared the potential returns at retirement if Mr D only reinvested the lower sum of £19,877 and took the additional payment as a lump sum.

On 22 May 2007 Towergate gave Mr D a copy of its pension transfer suitability report. Its recommendation was that Mr D should not transfer out of the DB scheme.

Under a heading of “objectives” near the start of the report, Towergate recorded:

“Objectives

While this report needs to be read in full, in summary you wish to transfer your benefits away from the [DB] Scheme for the following reasons:

Tax Free cash

You could POTENTIALLY receive greater tax free cash at normal retirement age, although there are no guarantees that this will be the case.

Spouse's/Dependent's pension

You could POTENTIALLY increase the spouse's and/or dependent's pension payable upon death.

Security of the pension

While there is no reason to doubt the financial strength and solvency of the [DB] scheme, you wish to transfer out so that you have more control over your pension fund. However, there are no guarantees that by moving you will be more secure or better off and you will be losing the value of the employer covenant.

TRANSFERRING AND TAKING CASH

You wish to transfer and take the Additional Payment being offered as a cash payment to you (as opposed to transferring the Additional Payment into another registered pension scheme, even though you have been made aware that this is a lower payment and will be reduced by tax and National Insurance. You wish to use this for the following reason:

You stated that you and your partner have more than enough security to see you through retirement and that you wish to take the additional payment as cash now, as opposed to adding to your already healthy retirement funds.”

The suitability report added that the growth rate required to meet the benefits of Mr D's DB scheme (which is known as the critical yield) was 7.2%. It said given that critical yield and Mr D's attitude to risk, an alternative plan was unlikely to match the benefits of his DB scheme. But it also said that Mr D had told it that he had decided to go against that advice and he had asked Towergate to make a recommendation to reinvest his pension fund. Towergate recommended that Mr D should invest the full CETV of £38,071 into a PPP. But it noted that Mr D had already decided to take the additional payment as a lump sum immediately. The additional payment figure after deducting tax and national insurance was around £11,984. Towergate repeated that this was against its recommendation.

Four days later, 26 May 2007 Mr D signed documents confirming he wanted to proceed with the transfer. At some point, he also gave Towergate an undated handwritten letter saying that he was aware he was going against its advice but wanted to take the additional payment as cash. He said that he and his family had made an “informed decision” as he felt that he

had “more than enough security” to see him through retirement. Also on Towergate’s file is an undated typed letter, signed by Mr D, which says that he’d read Towergate’s suitability letter and the cashflow illustrations which showed the potential returns of transferring both with and without the additional payment moving to a PPP. The letter said that the difference between the two showed that Mr D would be worse off in retirement but nevertheless wanted to take the additional payment as a lump sum.

Towergate arranged for the transfer out of Mr D’s DB scheme with the net additional payment of around £11,984 paid directly to Mr D and the balance transferred into a PPP.

In July 2008 Mr D spoke with Towergate again. It arranged for the transfer of his pension fund from his PPP to a SIPP. That allowed Mr D to take £8,063 from his pension fund in tax free cash (TFC), the remaining balance being accessible from a drawdown plan.

Mr D complained in 2020 to Towergate about the suitability of the transfer advice because, amongst other things he said that Towergate:

- Gave negligent advice to transfer his DB scheme pension to a PPP.
- Treated Mr D as an insistent client without explaining what that meant.
- Provided “confusing, contradictory and misleading” information in its suitability report.
- Advised Mr D not to transfer from his DB scheme and then made a recommendation to transfer to a PPP.
- Didn’t properly find out what Mr D’s investment objectives were.
- Didn’t explain to Mr D the implications of transferring out of the DB scheme.
- Didn’t establish Mr D’s financial situation and capacity for loss.
- Made a recommendation that wasn’t in line with Mr D’s attitude to risk.
- Didn’t make Mr D aware of the guaranteed benefits he would be giving up.
- Made a recommendation despite the high critical yield.
- Didn’t act in line with the regulator’s guidance.
- Didn’t make the fees for the new pension plan clear.

Towergate didn’t uphold Mr D’s complaint. It said it had identified areas where its advice could have been improved. Most importantly that it hadn’t made it clear to Mr D that his DB scheme would have allowed him to take unreduced benefits at age 60, which would have been beneficial for him. It added that:

- It had advised Mr D not to transfer out of his DB scheme because the critical yield was too high given Mr D’s attitude to risk and the DB scheme benefits were better than a personal plan.
- Mr D gave it a handwritten letter explaining why he wanted to go against Towergate’s advice because he had “more than enough security to see us through retirement”.
- It was satisfied that Mr D knew he was acting against Towergate’s advice and that he had enough information to make an informed decision.
- It felt that explaining further to Mr D about the option of taking his DB benefits at 60 was unlikely to have outweighed his motivation to take the cash incentive to transfer out of the DB scheme.
- Although it hadn’t explicitly explained what an insistent client was, Towergate was satisfied that Mr D knew he was acting against its advice.
- It had correctly determined Mr D’s attitude to risk.
- It’s suitability report provided a clear forecast of the benefits Mr D would lose, including death benefits, by transferring out of the DB scheme.
- It had given Mr D an illustration from the recommended PPP provider which clearly set out the applicable fees.

Towergate concluded that Mr D wasn't in a worse position because some of its advice could have been clearer, as it felt Mr D would have transferred out of the scheme anyway.

Mr D referred his complaint to our service. Towergate initially disputed that we had jurisdiction to look at it. But after our investigator explained why she thought it was a decision we had the power to look at, Towergate withdrew its objections.

The investigator didn't uphold the complaint. She noted that Towergate had advised Mr D not to transfer out of the DB scheme; that he had provided a handwritten letter to explain why he wished to go against that advice; and that he understood the consequences of doing so. She felt that, even if Towergate had refused to transact the transfer, the incentive of the large additional payment on offer would have been enough motivation for Mr D to go ahead with the transfer anyway. So she didn't think Towergate was responsible for any losses Mr D suffered as a result of the transfer.

Mr D didn't agree. He said, amongst other things, that:

- As his letters are undated and Towergate is uncertain when he signed them, that doesn't accord with the regulator's guidance that a firm can only consider a client insistent after advice has been given.*
- Towergate had "coached" him in what to say in his handwritten letter and he didn't understand the guarantees he would lose.*
- Towergate had told him that if he wrote the letter the transfer would be smoother.*
- Towergate didn't use the term insistent client nor tell him what it meant.*
- The large additional payment did appeal to him but if Towergate had explained the guarantees he would lose he wouldn't have been "so tempted" to transfer.*
- Towergate told him that the law was changing and he needed to act urgently to access his TFC and that Towergate gave him an "ultimatum".*
- The declaration he signed going against Towergate's advice on 26 May 2007 was pre-typed and he didn't understand its implications.*
- When completing Towergate's questionnaire on 12 May 2007, he'd said that he didn't think it was appropriate to his situation as, at that time Towergate hadn't provided enough information for him to make an informed decision.*
- In the same questionnaire Mr D had said that he didn't understand the guarantees or benefits he would lose by transferring to an alternative pension provider.*

The investigator replied. She said:

- She'd seen no evidence that Towergate gave Mr D an "ultimatum".*
- The evidence she'd seen showed that Towergate informed Mr D of the risks of transferring but he chose to proceed.*
- She understood that the declaration of 26 May 2007 wasn't in Mr D's own words and that Towergate had confirmed that its adviser provided a typed template letter. But Mr D had provided his own letter, which she believed was Mr D's own words and signed by him. So she was satisfied he was an insistent client.*
- Mr D had said that he didn't feel that Towergate's questionnaire was appropriate and had indicated that he didn't know what benefits and guarantees he would be losing because he made those remarks before Towergate had given him advice.*

As the investigator wasn't persuaded to change her opinion, the complaint was referred to me to make a final decision.

What I've provisionally 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.

Both Mr D and Towergate have made many points in bringing the complaint and in replying to it. And I've considered carefully everything on file. But in this decision I don't intend to address each and every issue or point raised. Instead I will focus on the issues that are at the heart of Mr D's complaint and the reasons for my decision.

When considering what is fair and reasonable, I am required to take into account relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Having done so, I'm intending to uphold this complaint. I'll explain why.

The regulator's position

The FCA says in its Conduct of Business Sourcebook ('COBS') that the starting assumption for a transfer from a DB scheme is that it is unsuitable. In this case Towergate considered two transfer value analysis reports which indicated that, given Mr D's attitude to risk, he was unlikely to be better off than if he remained in the scheme. And it advised Mr D against making the transfer. But it noted that he wanted to go ahead anyway. Where a consumer decides to proceed with an investment against a financial adviser's advice then the consumer is known as an "insistent client", although I note Towergate didn't ever actually use that term in its correspondence with Mr D.

At the time of the advice there was no regulatory advice or guidance in place in respect of insistent clients. But there were COBS rules in the regulator's Handbook which required Towergate to "act honestly, fairly and professionally in accordance with the best interests of its client". In addition, COBS required Towergate to provide information that was clear, fair and not misleading. So, Towergate's recommendation had to be clear and Mr D had to have understood the consequences of going against the recommendation.

Did Towergate give suitable advice?

While Towergate's communication with Mr D did set out that its recommendation for him was not to proceed with the transfer, I think this was seriously flawed by the process it followed in offering advice and also in the statements made in its suitability report. For example under the heading of "objectives" Towergate has recorded this:

"While this report needs to be read in full, in summary you wish to transfer your benefits away from the [DB] Scheme."

So it's apparent from that comment that Towergate had previously discussed with Mr D what his options were before it gave him its suitability report. And, it's on the basis of that undocumented discussion that Towergate says Mr D decided he wanted to go ahead with the transfer. And, as this was against Towergate's recommendation it decided to treat Mr D as an insistent client. But at that point Towergate hadn't yet produced its suitability report. So any information it gave to Mr D, could only have been presented in a raw state, that is without the analysis contained within the suitability report. I find this seriously undermines the advice process. That's because I don't see how Towergate could expect Mr D to make an informed decision about going against its recommendation when it hadn't given him all the information he needed in order to make that decision. That is, it gave him some limited information relating to critical yields and expected him to make a determination that started

him down the road of the insistent client process without giving him enough detail to reasonably make that decision.

A much clearer process would have been for Towergate to provide its advice and recommendations as a whole, taking into account Mr D's objectives and attitude to risk. That advice should have considered the overall picture – both of transferring out of the DB scheme together with the choice of pension and Mr D's desire to take the additional payment as a lump sum immediately. Only then should Towergate have clearly set out in one document why transferring out of the scheme wasn't in Mr D's best interests. Instead, it's apparent that it first discussed the matter with him and while it recorded that its advice was not to transfer, it also told Mr D that it could arrange the transfer for him anyway and recommended a PPP for him to transfer to. So, alongside its recommendation not to transfer, it also told Mr D that he could take a large lump sum immediately. It was only later that it gave Mr D written information about the proposed alternatives in its suitability report, which was after Mr D had already said he wanted to transfer out of the scheme.

Also, under the list of Mr D's objectives in its suitability report Towergate said that Mr D could "POTENTIALLY" have access to higher TFC and also increased death benefits by transferring out of the DB scheme. But it doesn't make it clear that the transfer value reports show that this potential was only if Mr D transferred the full CETV – including the additional payment – to an alternative plan. That potential was lost if Mr D opted to take the additional premium in cash immediately. That is, unless Mr D transferred the full £38,071 to an alternative plan, he would almost certainly be worse off if he decided to transfer a lower sum by taking the additional payment immediately. And given that Towergate was already aware that that was Mr D's intention, then I think it sent him mixed messages about what he could realistically achieve by transferring from the DB scheme. So I think Towergate should have been absolutely clear that by taking the additional payment as a cash lump sum and transferring out of the DB scheme, Mr D would almost certainly be worse off in retirement. It follows that I think its reference to potentially being better off by transferring out of the DB scheme was misleading.

Similarly, the suitability report said that, based on a combination of the critical yield of 7.2% and Mr D's cautious attitude to risk Towergate recommended that he should not go ahead with the transfer. But the critical yield of 7.2% was the growth rate required if the full CETV of over £38,000 was reinvested in an alternate plan. That figure climbed to at least 10.2%, assuming Mr D took his TFC lump sum at retirement, if Mr D took the additional cash offered immediately and didn't reinvest it in an alternative plan. But Towergate didn't make this clear in its suitability report. So, again, I don't think the report gave Mr D all the information he needed in order to make an informed decision about transferring out of the DB scheme.

Further, while Towergate has recorded that Mr D's objective was to take that additional payment straightaway, I've seen little evidence it discussed with Mr D in detail why he wanted to do that. That is what Mr D wanted to achieve by taking the additional payment. At that time it appears that Mr D could afford his outgoings with a surplus income left over each month; he wasn't in any arrears of his mortgage and had other assets. I've noted that the suitability report says that Mr D taking the additional payment as cash would allow him to repay debts and not have to make the repayments. But Towergate hasn't recorded what these debts were or if Mr D could have paid them off by some other method.

Towergate itself said that the critical yield was probably too high to be realistically achieved until Mr D retired and wanted access to his funds. So the prospect of an alternative arrangement not matching the scheme benefits in monetary terms, on the basis of reasonable assumptions, made it all the more important that the other reasons for transferring were sufficiently compelling. But Towergate didn't apparently explore this with Mr D. I don't see how Towergate could actually give Mr D suitable advice in respect of his

objectives without knowing the basic facts about what he wanted the cash for. And I've not seen evidence that Towergate effectively advised Mr D about the long-term nature of pension planning. The need for a pot of funds to provide an income for many years ahead.

Towergate's role was to discern what Mr D's wants and needs were and why Mr D wanted to transfer his pension. Its role wasn't simply to do what Mr D wanted without appropriate analysis and challenge of his motives for doing so with the implications of taking those actions with him. But I've seen no evidence of such a challenge even though that was in Mr D's best interests. Indeed I've seen no evidence that Towergate explored with Mr D exactly what he wished to do with the additional payment and why. Instead, its suitability report says that Mr D's objective was to take the lump sum immediately without exploring what Mr D's wants and needs were. And I don't think Towergate met its obligations to challenge his objectives in light of what he would be giving up. But there's simply no evidence it explored with Mr D what he intended to achieve by transferring his pension and if he could achieve that through another means without giving up the benefits from his DB scheme.

Also I note that Mr D told Towergate that he felt he had more than enough security at retirement. But I've seen no evidence that Towergate established what Mr D's needs in retirement actually were – the fact-find stated that Mr D thought he'd need £1,000 per month (net) in retirement, but it isn't clear how he reached this figure or whether it was realistic. I also haven't seen evidence of whether or not he was correct that his other retirement provisions were enough to meet those needs. And without establishing whether or not that was the case Towergate wasn't in a position to reasonably challenge Mr D's understanding of his likely position in retirement. So, in order to advise Mr D, clearly, fairly and without misleading him Towergate needed to do an analysis of what Mr D's likely income in retirement actually would be and then compare that with his needs. But I've seen no evidence that Towergate did the appropriate analysis or made a reasonable challenge to Mr D's assumptions. I think that was something it needed to do in order to ensure it was providing suitable advice. Instead it recommended that Mr D should not transfer out of his DB scheme, then later in the same report said that it would recommend he transfer to a specific PPP.

Towergate did give Mr D advice not to transfer out of his DB scheme and did bring some of the risks of doing so to his attention. But I don't think it can fairly rely on its recommendation to Mr D not to transfer. That's because Mr D apparently made his initial decision to go against its advice before Towergate had given him its suitability report. It then followed up its recommendation not to transfer with information about how he could do that anyway and a recommendation to transfer into the PPP. I think that sent mixed messages about what its genuine recommendation was.

Also, as Towergate acknowledged in its response to Mr D's complaint, the most beneficial time for Mr D to access his DB scheme would have been at age 60. He then would have had an income, which would increase each year, for the rest of his life. But the suitability report didn't discuss in detail the advantages to Mr D of him staying in the scheme until he reached 60 and then taking his benefits from it at that point. And given that this appears to have been the most advantageous strategy for him, to enable him to make a fully informed decision, this was something that Towergate needed to bring to his attention. But I've seen no evidence that it did so.

In addition, the suitability report comments that in transferring out of the scheme Mr D would be giving up the benefits of the "employer covenant", which is Mr D's former employer's legal obligation to fund the DB scheme. But the report goes on to say:

"Please note the employer covenant in itself is not a guarantee"

And adds

“However, these “guarantees” are reliant on the financial solvency of the [DB] Scheme and the Trustees being able to meet the [DB] Scheme’s liabilities.”

In other words while telling Mr D that he was giving up guaranteed benefits from the DB scheme Towergate’s report also implied that those benefits were not in fact guaranteed and could be lost if the scheme and his employer became insolvent. But I’ve seen no evidence that the funding of the DB scheme was underfunded such that Mr D should have genuinely been concerned about the security of his pension. But that’s the impression Towergate’s suitability report gives. I think this is something that Towergate could have been far clearer about as I’ve seen no evidence that the DB scheme would be unable to meet its obligations or that Mr D’s former employer was likely to become insolvent. Further, the scheme also had the added security of the Pension Protection Fund (PPF), which would have preserved most of Mr D’s guaranteed benefits from the DB scheme had it gone insolvent. So, I don’t think Towergate’s comments here were helpful in the context of Mr D making an informed decision about what he wanted to do.

Towergate was in a good position to have analysed, tested, challenged and advised Mr D about what was in his best interests for retirement planning. It knows valuable pension pots like Mr D’s DB scheme were paid into with the intention of providing for retirement. But Mr D’s chosen path was to give up that income in retirement for the chance of getting hold of a large lump sum of cash, for which he had no obvious need, rather than long-term planning. And I don’t think that applying an insistent client label to someone when they express that their preference is not to follow advice, is the same as applying the rigorous process of arriving at a fair determination of who an insistent client really is. So, given the flaws described above in Towergate’s advice process, I don’t think it fully and accurately informed Mr D about his position. On balance, given these failings, I don’t think it would be reasonable for me to conclude the process Towergate followed meant that it’s fair to truly regard Mr D as an insistent client. So I don’t think Towergate acted in his best interests.

It follows that I don’t think Towergate did enough to fully advise Mr D of his options before it showed him down the insistent client road. And I think Mr D could have misunderstood or believed that overall, Towergate was recommending that he might benefit from going ahead with the transfer. So I don’t think it treated him fairly. And, if it had done so and provided the level of advice I think it should have, I think it’s unlikely that Mr D would have transferred out of his DB scheme.

Towergate argues that Mr D would have transferred out of the scheme regardless of what it told him. I’ve noted that Mr D not only transferred out of the DB scheme but also went against Towergate’s advice not to take the additional payment immediately but to reinvest it in a pension. So he twice went against Towergate’s advice and this is something I’ve thought about very carefully. But I’m not persuaded that Mr D would’ve insisted on transferring out of the DB scheme, against Towergate’s advice if it had brought all of his options to his attention. I say this because Mr D was an inexperienced investor with a cautious attitude to risk. But he was taking a significant risk of losing the guarantees from his DB scheme by transferring out of it.

Had Towergate accurately represented Mr D’s position, including his option of taking DB benefits at age 60 and challenged Mr D about his need to take the additional payment immediately, it’s likely Mr D would have been in a different position. So, if Towergate had provided him with clearer advice against transferring out of the DB scheme, explaining why it wasn’t in his best interests, I think he would’ve accepted that advice.

In light of the above, I think Towergate should compensate Mr D for the unsuitable advice, using the regulator's defined benefits pension transfer redress methodology.

Putting things right

A fair and reasonable outcome would be for Towergate to put Mr D, as far as possible, into the position he would now be in but for Towergate's unsuitable advice. I consider Mr D would have most likely remained in his DB scheme if suitable advice had been given.

Towergate must therefore undertake a redress calculation in line with the regulator's pension review guidance as updated by the Financial Conduct Authority in its Finalised Guidance 17/9: Guidance for firms on how to calculate redress for unsuitable DB pension transfers.

For clarity, while Mr D has taken TFC from his pension pot, he has not yet retired, and – as far as I'm aware – has no plans to do so at present. But my understanding is that Mr D could have taken his DB pension benefits without reduction at age 60. So, I currently think compensation should be based on Mr D accessing his benefits at age 60.

This calculation should be carried out as at the date of my final decision and using the most recent financial assumptions at the date of this decision. In accordance with the regulator's expectations, this should be undertaken or submitted to an appropriate provider promptly following receipt of notification of Mr D's acceptance of the decision.

Towergate may wish to contact the Department for Work and Pensions (DWP) to obtain Mr D's contribution history to the State Earnings Related Pension Scheme (SERPS or S2P). These details should then be used to include a 'SERPS adjustment' in the calculation, which will take into account the impact of leaving the occupational scheme on Mr D's SERPS/S2P entitlement.

If the redress calculation demonstrates a loss, the compensation should if possible be paid into Mr D's pension plan. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr D as a lump sum after making a notional deduction to allow for income tax that would otherwise have been paid. Typically, 25% of the loss could have been taken as tax-free cash and 75% would have been taxed according to his likely income tax rate in retirement - presumed to be 20%. So making a notional deduction of 15% overall from the loss adequately reflects this.

The payment resulting from all the steps above is the 'compensation amount'. This amount must where possible be paid to Mr D within 90 days of the date Towergate receives notification of his acceptance of my final decision. Further interest must be added to the compensation amount at the rate of 8% per year simple from the date of my final decision to the date of settlement for any time, in excess of 90 days, that it takes Towergate to pay Mr D.

It's possible that data gathering for a SERPS adjustment may mean that the actual time taken to settle goes beyond the 90 day period allowed for settlement above - and so any period of time where the only outstanding item required to undertake the calculation is data from DWP may be added to the 90 day period in which interest won't apply.

Where I uphold a complaint, I can award fair compensation of up to £160,000, plus any interest and/or costs that I consider are appropriate. Where I consider that fair compensation requires payment of an amount that might exceed £160,000, I may recommend that Towergate pays the balance.

Developments

Both Towergate and Mr D accepted my provisional decision without objection.

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.

As neither Towergate nor Mr D objected to my provisional decision I see no reason to change it.

My final decision

For the reasons given above I uphold this complaint. I require Towergate Financial (East) Limited to pay Mr D the compensation amount as set out in the steps above, up to a maximum of £160,000.

Where the compensation amount does not exceed £160,000, I would additionally require Towergate Financial (East) Limited to pay Mr D any interest on that amount in full, as set out above.

Where the compensation amount already exceeds £160,000, I would only require Towergate Financial (East) Limited to pay Mr D any interest as set out above on the sum of £160,000.

Recommendation: If the compensation amount exceeds £160,000, I also recommend that Towergate Financial (East) Limited pays Mr D the balance. I would additionally recommend any interest calculated as set out above on this balance to be paid to Mr D.

If Mr D accepts my final decision, the money award becomes binding on Towergate Financial (East) Limited.

My recommendation would not be binding. Further, it's unlikely that Mr D can accept my decision and go to court to ask for the balance. Mr D may want to consider getting independent legal advice before deciding whether to accept any final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 28 July 2022.

Joe Scott
Ombudsman