

LENDING CODE REPORT

Annual report for 2013



Setting standards, creating transparency





FLA LENDING CODE GROUP

The FLA Lending Code Group monitors compliance with the FLA Lending Code. In 2013, the FLA Lending Code Group comprised the following consumer representatives, legal experts and industry practitioners:

Consumer Representatives and Legal Experts

Professor Geoffrey Woodroffe (Chairman), Solicitor, Consumer Law Expert

Nick Lord, Consultant, Money Advice and Personal Finance

Frances Harrison, Consumer and Financial Policy Advice Specialist

Helena Wiesner, Consumer Affairs Specialist

Sally Coles, Trainer, Money Advice

Claire Whyley, Consumer Research and Policy Specialist

Peter Tutton, Head of Policy, StepChange Debt Charity

Industry Practitioners

Judith Mullen, Head of Internal Audit, The Paragon Group of Companies plc

David Evison, Compliance Manager, Shop Direct Financial Services

Carolyn Cockwell, Senior Regulatory Compliance Manager, Barclaycard

Wendy Carpenter, Compliance Manager, Hitachi Capital (UK) PLC

FLA Staff (Providing secretariat support to the Group)

Megan Charles, Code Compliance Manager, FLA

Patsy Calnan, Code Administrator, FLA

Hanifa Teladia, Code Administrator, FLA



CHAIRMAN'S FOREWORD

On behalf of the Lending Code Group, I am pleased to introduce our Annual Report for the year ending 31 December 2013. The report sets out the work undertaken last year by the Group.

2013 was an exceptionally busy year for firms as they prepared for the transfer of credit regulation from the Office of Fair Trading to the Financial Conduct Authority (FCA) from 1 April 2014. The timetable for implementing all the new requirements has been extremely tight and the fast pace of regulatory change looks set to continue.

The Code will now be updated to reflect any changes required as a result of the new regime, and in particular the rules set out in the FCA's Consumer Credit Sourcebook (CONC). The FCA has also included some of the Code's existing consumer protection provisions in CONC, which demonstrates the important role they have played in delivering good standards of practice.

The Code Conciliation Scheme continued to provide consumers with an efficient way of dealing with their complaints. Improvements were made to how the FLA dealt with consumer complaints, particularly in relation to Payment Protection Insurance. The changes ensured that consumers received a more efficient and speedier service.

My thanks go to the members of the Group, both independents and industry representatives, for their support and advice throughout the year, and also to the Code Compliance team at the FLA for all their hard work in monitoring adherence to the Code.



Geoffrey Woodroffe
Chairman, Lending Code Group



STATEMENT BY DIRECTOR GENERAL

Despite the significant regulatory changes faced by firms in 2013 as a result of the impending move to a new system of regulation under the Financial Conduct Authority (FCA), the FLA's Lending Code and the associated Conciliation Scheme continued to provide an effective means of self-regulation, including protections for consumers going beyond those contained in the statutory regime.



Stephen Sklaroff
Director General

We continued our discussions with the FCA about the role Codes of Practice might continue to play in the new regulatory framework for consumer credit. The FCA's new rule book (CONC) runs to hundreds of pages and is unlikely to be read by customers. There may therefore be a continued case for consumer-facing Codes which set out the main standards consumers can expect their lenders to meet. FLA members will continue to keep this important issue under review, including in discussion with the FCA, as the new system of regulation beds down.

2013 was also another busy year for the Code and the Conciliation Scheme. The work involved in checking compliance with the Code and dealing with complaints quickly and efficiently was significant. We also ran several very successful training courses for Code Compliance Officers.

My thanks go to Professor Woodroffe and the rest of the Code Group for their continued hard work and commitment to the Code, to the team here at Kingsway, and to the members of the FLA for all their work in helping to resolve complaints raised under the Code.



REVIEW OF 2013

2013 was a year of change and anticipation as firms prepared for the advent of the new regulatory regime for consumer credit, but it was also a year of business as usual for the Code and its monitoring programme, which continued to help deliver good standards of practice in the credit markets.

A new regulatory regime

During 2013, the Financial Conduct Authority (FCA) published two successive consultation papers on the proposed new regulatory regime for consumer credit. The FCA listened to the FLA's argument that the new framework should follow as closely as possible the existing one, not least because the timetable for implementing the new regime was extremely tight. Much of the Consumer Credit Act governing the content of agreements and disclosure requirements remained in place as a result.

The FCA also transposed a great deal of existing language from existing Office of Fair Trading Guidance into the new rulebook. While welcome in some areas, the first draft of the rulebook included a number of areas where existing OFT guidance had been transposed into fully-enforceable rules, with a resulting loss of flexibility. The FCA agreed

in discussion with the FLA that such flexibility was important in a credit industry providing a huge array of different sorts of product in a wide variety of different markets, and in the final version of the rulebook published at the end of February 2014, much of the lost flexibility had been restored.

On 1 April 2014, approximately 50,000 consumer credit firms came within the FCA's regulatory remit, trebling the number of organisations regulated by the FCA. Between October 2014 and April 2016 all these firms will be required to apply for authorisation, which will present further logistical challenges for both the industry and the FCA.

The FLA secretariat is working closely with members (including via training and conferences) to ensure that firms are as prepared as they can be for FCA authorisation and regulation.

The next five years is likely to see further regulatory change. The FCA has said that its supervision work in 2014 will include a focus on poor debt management practices, a market study of the £150bn credit card market, further thematic work in the High Cost Short Term Credit sector, and work on certain complex credit products which the FCA feels may make it harder for consumers to judge good value.

The new EU Mortgage Credit Directive must also be implemented by March 2016 and the FLA is already working with the FCA on the new rules required to accomplish this.

The FCA is also obliged to review all the remaining provisions of the Consumer Credit Act and the associated secondary legislation by 2019 with a view to repealing and including as many of them as possible in the new rulebook.

This will be a major exercise, which will require detailed discussions with the industry to avoid any potential further disruption to the lending markets.





Conciliation Scheme and Claims Management Companies

Consumer claims of mis-selling by lenders of Payment Protection Insurance (PPI) continued to dominate complaints during 2013. In July 2013, the Ministry of Justice (which regulates the activities of Claims Management Companies (CMCs)) introduced new rules aimed at cracking down on poor practices by some CMCs. The new rules require CMCs to:

- ensure that a contract has been agreed in writing with the customer before any fees can be taken;
- provide customers with details of the CMC's regulator; and
- inform customers if the CMC has been subject to enforcement action by that regulator within 14 days of such action being taken.

Further changes are now being consulted on, which would require CMCs to undertake more due diligence to ensure that spurious complaints are avoided.

The Government has also agreed that complaints about poor practice by CMCs should in future be considered by the Legal Ombudsman, starting probably before the end of 2014.

Against this backdrop, the Code and the associated Conciliation Scheme continued to offer consumers a free and efficient route to resolving disputes with FLA members.





MONITORING THE CODE

Monitoring the Code is an important aspect of the Group's work. The Group uses three main methods to monitor FLA members' compliance with the provisions of the Code:

Complaints

The FLA compliance team maintains a record of the number and type of complaints made by consumers, and the results are reported regularly to the Group. This information is important in identifying potential emerging trends in relation to non-compliance with the Code.

The complaint statistics are regularly updated to allow the Group to monitor the levels of complaints against individual FLA members. Where evidence of any potential breaches arises, the Group works with the FLA's Code Compliance Manager to agree on appropriate action.

Further information on the complaint statistics for 2013 is given later in this Report.

The Statement of Compliance

It is a requirement of the Lending Code that every year all relevant FLA members complete a Statement of Compliance ("the Statement") to confirm that they comply with the Code's provisions.

Before signing the Statement, members are required to undertake an audit of their operations so that they can provide accurate information about how their organisation complies with the Code. This process helps to identify any difficulties members may have encountered throughout the year, which should then be disclosed in the Statement. This is used by the Group to identify areas where additional information or guidance might be needed. Members are also encouraged to declare examples of best practice so that they can be shared with the wider membership.

The high level of compliance reported in the 2013 Statements is a strong indicator of members' continuing commitment to the FLA Lending Code.

Compliance Statement Review Visits

Inspection visits are an essential feature of Code monitoring. Visits to member firms help ensure that their processes and operations comply with the provisions of the Lending Code. The inspections are carried out by an independent Reviewer, to ensure transparency and autonomy. Eight inspection visits were undertaken in 2013.

A risk model is used to select the members to be visited. The choice is also influenced by the Statement of Compliance (see above), by any

complaints received, by the size of the company, and by other relevant factors such as how long the firm has been a member of the FLA.

A report is sent to the firm following the visit, with recommendations for changes or improvements to their processes, as may be necessary.





Enforcement action

The Lending Code Group will take enforcement action, when required, against members who consistently do not meet the provisions of the Code.

Minor infringements are usually dealt with by the FLA Compliance Manager. More serious breaches of the code will be subject to one or more of the following:

- a written warning;
- a request for written submissions on compliance from the member; or
- a meeting with the member to discuss non-compliance.

If none of the above measures proves satisfactory, the Code Group can refer serious breaches of the Code to the FLA's Disciplinary Panel.

There were no serious breaches of the Code in 2013.

Disciplinary panel

The Lending Code Disciplinary Panel deals with disciplinary matters arising from non-compliance with the Lending Code. The Panel will convene only if the Code Group's efforts to resolve a breach of the Code have been unsuccessful, and where

a member firm's actions in not resolving the breach may lead to serious consumer detriment or significant reputational damage to the Code.

The Disciplinary Panel may:

- impose a formal or informal warning;
- make recommendations as to future conduct;
- recommend to the Board that the member is expelled from the FLA.

It was not necessary to convene the Disciplinary Panel during 2013.





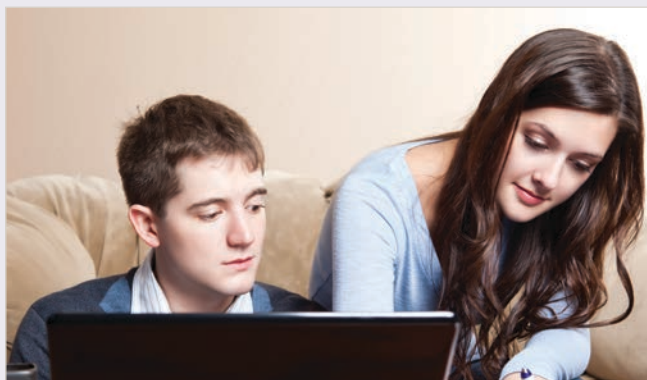
FLA CONCILIATION AND ARBITRATION SCHEMES

The FLA's complaint resolution scheme is open to any customer who has a dispute with a full member of the FLA, which has not been resolved through the firm's own internal complaints process. The scheme is free and complaints are received by the FLA both by post and on-line. The FLA also deals with a large number of telephone and email enquiries.

Complaints are considered against the provisions of the FLA Lending Code. The complaints scheme involves the FLA secretariat liaising with the FLA member about the customer's complaint, with a view to reaching a resolution that suits both parties. The FLA does not make decisions and cannot award compensation in respect of complaints.

FLA members are required to advise their customers that they are members of the FLA and that the Conciliation Scheme is available to them.

The FLA also operates an Arbitration Scheme.¹



1. The FLA's Arbitration Scheme is open to consumers who have not accepted the outcome of the Conciliation Scheme, and where the type of complaint concerned is not eligible for consideration by the Financial Ombudsman Service. Please contact the FLA for further information about this scheme.



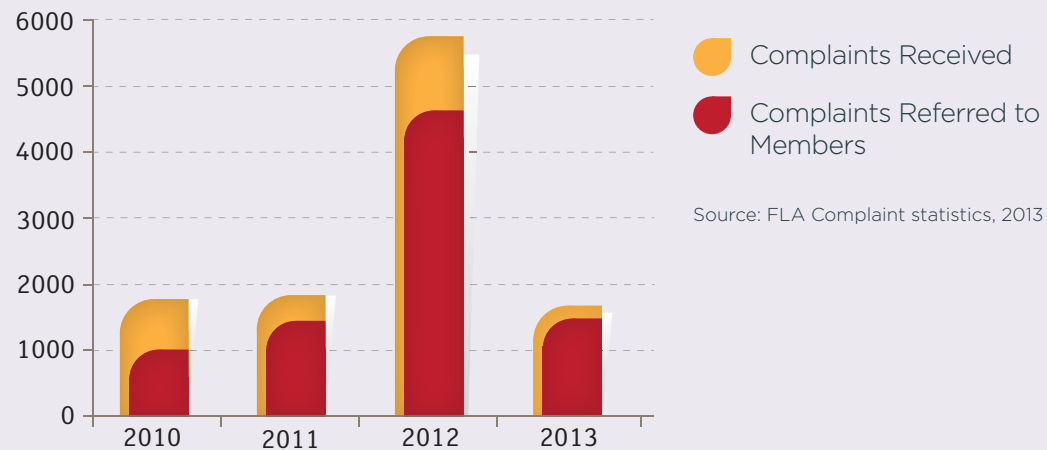
Numbers of complaints

2013 saw a decrease, compared with 2012, in the number of consumer complaints received by the FLA from members of the public and other external agencies. There was in turn a reduction in the number of complaints subsequently referred to FLA members for investigation (see Figure 1 and Table 1). This reduction was in part due to new procedures put in place for dealing with PPI complaints. These changes meant that cases would be considered only where additional new information was available from the consumer, which could have an impact on the initial decision and so allow the Conciliation Scheme to deliver most benefit to consumers.

Of the 1,480 complaints received by the FLA in 2013, 1,293 were referred to FLA members for investigation. In the other 187 cases, either the complainant chose not to pursue the complaint further or the complaint was resolved without the need for FLA conciliation.

As the Financial Ombudsman Service is unable to consider complaints on matters which arose before 14 January 2005, complainants often seek assistance from the FLA where a complaint relates to an incident which happened before then.

Figure 1: FLA complaints received and referred



Source: FLA Complaint statistics, 2013

Table 1: FLA Complaints received and referred

	2010	2011	2012	2013
Complaints received by the FLA	1726	1770	5625	1480
Complaints referred to members	1084	1528	4665	1293
Complaints not pursued	642	242	960	187

Source: FLA Complaint statistics, 2013

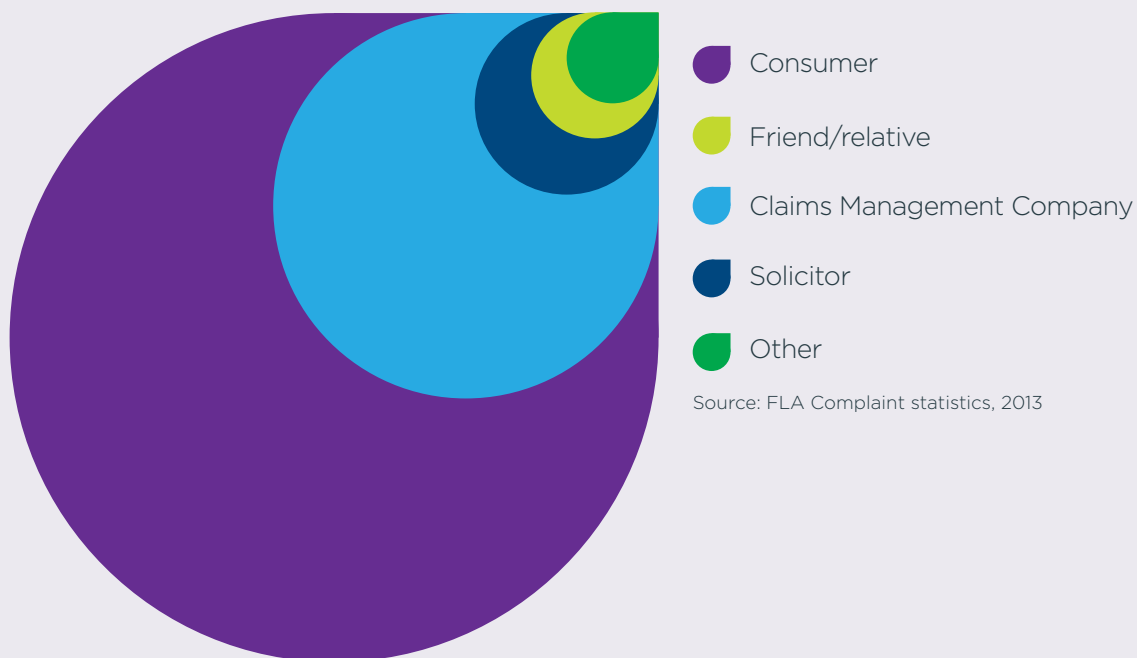
SOURCE OF COMPLAINTS

Consumers

Consumers are the largest users of the complaint scheme. This is consistent with the FLA's aims for the scheme, which is designed to be readily accessible. Consumers are able to submit complaints on-line and via the post.

In 2013, 1,163 complaints were received directly from consumers, accounting for 78.6% of the total (see Figure 2).

Figure 2: Source of complaints



Third party representation

At times complainants may wish to seek assistance from friends and relatives to submit a complaint. This can be particularly important when the complainant finds it challenging to communicate directly with a lender. In such cases, the FLA will accept complaints referred by relatives or friends, provided written authority is given by the account holder.

We also accept complaints on behalf of customers from other third parties such as Claims Management Companies and solicitors.

Other sources of complaints

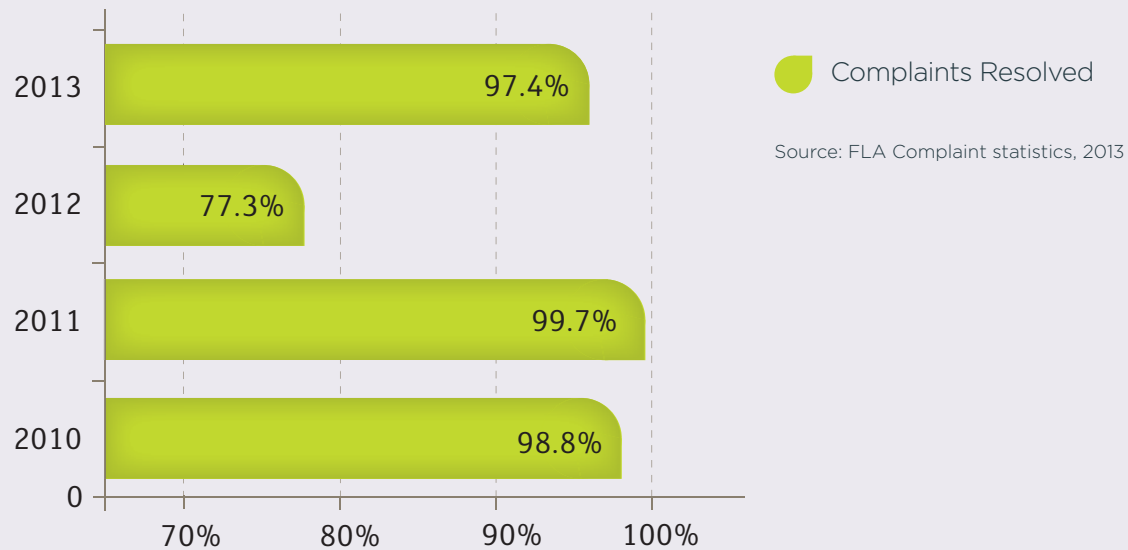
We received a very small number of referrals from other organisations like Trading Standards, Citizens Advice and Members of Parliament. Occasionally, the Financial Ombudsman Service refers cases to the FLA which fall outside its jurisdiction.



Complaint resolution

Of the 1,293 complaints referred to FLA members in 2013, 1,259 were resolved. This represents a resolution rate of 97.4%.

Figure 3: Complaints resolved





Rate of resolution

The FLA complaints team works hard to ensure that complaints are dealt with quickly and efficiently so that a response can be provided to the consumer within a reasonable timeframe. FLA members are given ten days to respond to complaints, after which they are contacted for a response or an update on the progress of the complaint.

In 2013, the FLA resolved 72% of complaints within two months, and 88% within three months (See Figure 4). The remaining 12% took more than three months to resolve. In some cases, this was due to the customer waiting for additional information or requesting that a previously-closed case be reopened due to new information becoming available.

Figure 4: Complaint completion rates



Source: FLA Complaint statistics, 2013



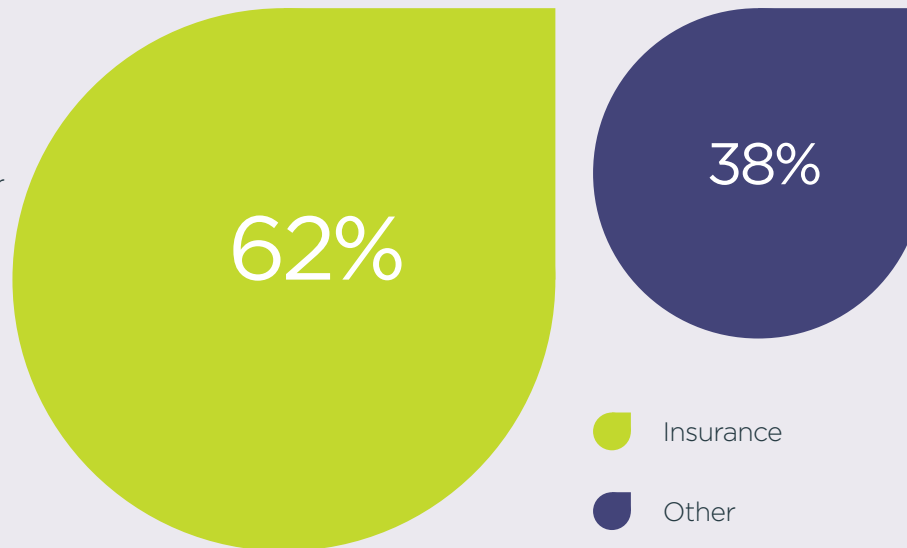
Types of complaints

Throughout 2013, complaints about PPI continued to represent the majority of complaints handled by the FLA. Of the 1,480 cases received, 911 related to PPI, around 62% of all FLA complaints. Figure 5 shows the proportion of PPI complaints compared to other categories of complaint

The complaints received by the FLA regarding PPI fell into three main categories:

- the customer did not realise that they were taking out a PPI policy;
- the customer was aware they were being offered a policy and tried to refuse it but was told that it would not be possible to get the loan without it;
- the customer claimed that the policy was not properly described to them which led them to buy it, not understanding that it was unsuitable for their needs.

Figure 5: Payment Protection Insurance Complaints

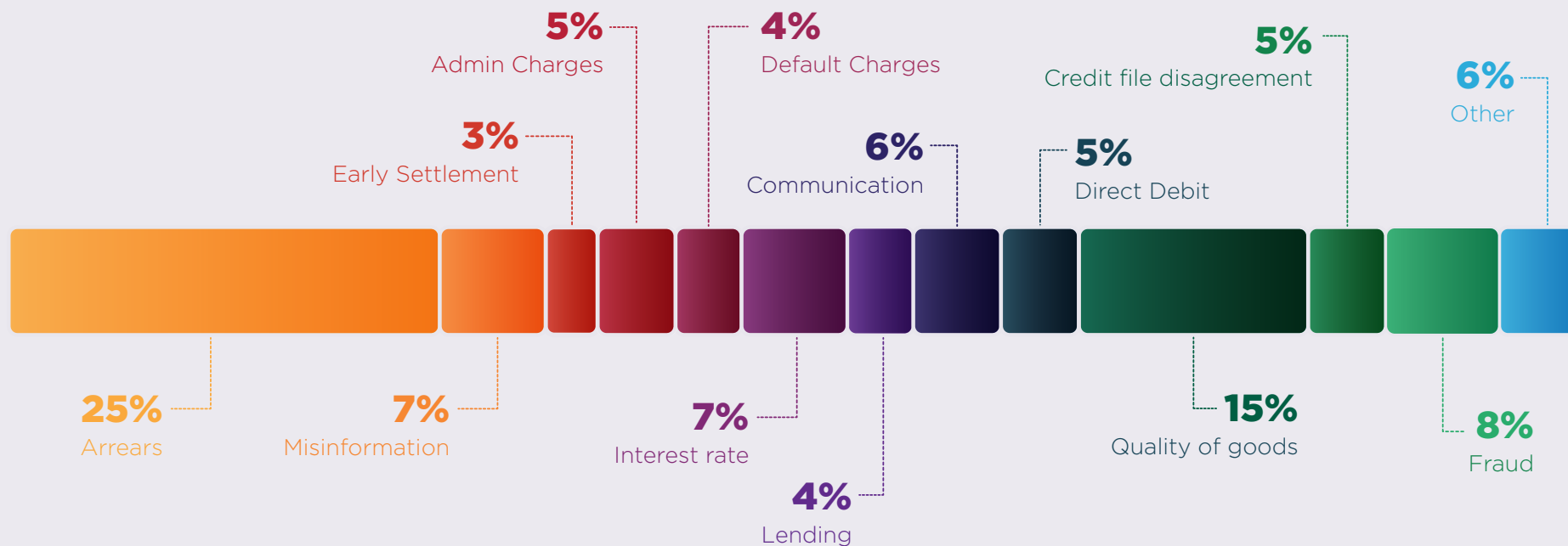


Source: FLA Complaint statistics, 2013



The type and nature of each complaint is recorded and each complaint is categorised. Figure 6 provides a picture of the relative proportions of the types of complaint handled by the FLA in 2013.

Figure 6: Complaint categories (excluding insurance)



Source: FLA Complaint statistics, 2013

More information

If you would like more information on the FLA Lending Code, the Conciliation Scheme, or the Code Group, please visit:

www.lendingcode.org.uk

or, contact

The Finance & Leasing Association
2nd Floor, Imperial House
15-19 Kingsway
London
WC2B 6UN

Tel: 020 7836 6511

Fax: 020 7420 9600

Email: code@fla.org.uk

Website: www.lendingcode.org.uk

If you need information in a different format
(for example, audio tape, braille or different language)
please let us know.

