



# The Independent Standards Framework Complaints Process for Invoice Finance and Asset Based Lending

## Complaints Process

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An independent Standards Framework for the invoice finance and asset based lending industry in the United Kingdom has been in operation since 1 July 2013.

The Framework comprises three key components:

- The Invoice Finance and Asset Based Lending Code and Guidance;
- The independent Complaints Process; and
- The Professional Standards Council.

This document sets out how the independent Complaints Process operates. It complements and should be read in conjunction with the Standards Framework Code Document.

Full details about the Framework can be found at [www.ukfinance.org.uk/standards](http://www.ukfinance.org.uk/standards). Links to all related documents are compiled at the end of this document.

## Contact Details

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# The Independent Standards Framework Complaints Process for Invoice Finance and Asset Based Lending



Provided by the UK Finance Invoice Finance and Asset Based Lending Product and Service Board.

## Introduction

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The Complaints Process provides an independent system for clients<sup>1</sup> who believe they have been treated unfairly by a UK Finance Invoice Finance and Asset Based Lending (IFABL) Member. The Process allows complaints to be independently investigated, considered and adjudicated upon.

The Complaints Process is designed to be:

- Independent;
- Accessible;
- Focused; and
- Effective.

The independent Complaints Process for the Invoice Finance and Asset Based Lending industry, is currently provided by **Ombudsman Services**, a specialist dispute resolution organisation.

There will be no charge for a complainant to access the Complaints Process regardless of whether or not the complaint is ultimately upheld. The Ombudsman's costs associated with dealing with particular complaints will be met by the IFABL Member involved.

The Complaints Process is available to the overwhelming majority of the industry's clients and has been specifically designed to support smaller client businesses. It is currently accessible to IFABL Members' clients with annual turnovers up to £6.5 million. This covers over 80 per cent of the industry's current client base.

This threshold is subject to review, but the expectation is that in most cases larger client businesses would address any issues that they have in other ways, rather than use a dispute resolution process of this type. The maximum award that can be awarded by Ombudsman Services is £28,000. This figure is subject to review from time to time (last reviewed December 2017).

Please note, to make a complaint about an IFABL Member it is necessary to complain formally to the IFABL Member involved to allow them the opportunity to address the issues raised. Once this has been done a complaint can be registered with UK Finance and then considered under the independent Complaints Process.

Please also note, Ombudsman Services will not currently accept complaints about IFABL Members directly from a complainant. Please contact UK Finance in the first instance to register a complaint about an IFABL Member.

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<sup>1</sup> 'Client' is the default term used in this document. However, for clarity (subject to the considerations set out in this document), the Complaints Process is open to clients, prospective clients and also the guarantors/indemnifiers of clients and prospective clients of a UK Finance IFABL Member company. In addition, a complaint can be received from an authorised representative of the above. Please refer to the **Eligibility** section below for further information.

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## IFABL Members' Complaints Processes

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IFABL Members are required to operate their own complaints processes. The independent Complaints Process complements rather than replaces these processes. All clients and relevant parties should be informed of the Member's own internal complaints process and full information should be publicly available, as a requirement of the IFABL Code.

The objective of any complaints process is the successful and fair resolution of a complaint. The IFABL Member will normally be best-placed to address the issues raised in a complaint. This is why one of the underlying principles of the independent Complaints Process is that the IFABL Member must be given an adequate opportunity to consider the complaint. Where it is not possible to resolve the complaint to the satisfaction of the Complainant, the Complainant will then be able to use the independent Complaints Process.

The following must have happened before a complaint is formally accepted into the independent Complaint Process:

- the complaint has been formally registered with the IFABL Member involved; and
- the IFABL Member has been given up to 12 weeks from the point of a complaint being formally made to achieve a resolution, or the Member has issued a 'Deadlock Letter' (this is an official letter from the IFABL Member to the complainant confirming that it has not been possible to resolve a complaint); and
- The complainant has not already accepted a final settlement or resolution in relation to the complaint.

Once a Deadlock Letter has been issued or 12 weeks has elapsed, the complainant is able to formally register the complaint with UK Finance. This should be done by contacting UK Finance directly. UK Finance will log the complaint, ensure that the required basic information is available, and then immediately pass the complaint file on to the independent Ombudsman.

UK Finance's role in this respect is purely administrative. UK Finance will ensure that the basic information is included to allow the complaint to be progressed as quickly as possible, and will then pass the information on to Ombudsman Services.

It should be noted that the 12 week time period is intended to be a maximum (see below). It is expected that the vast majority of complaints will be either addressed and/or resolved by IFABL Members far more quickly than this. A complaint can be registered and taken to Ombudsman Services prior to the end of the 12 week period if the IFABL Member confirms Deadlock.

**Please see 'How the Complaints Process Works' section below for further information.**

Some cases may be more complex than others. In some instances, the independent Ombudsman *may* grant an extension to the 12 week period if it can be clearly demonstrated that the Member is making substantive progress in addressing the substance of the complaint and that a short extension might permit a successful resolution.

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Provided by the UK Finance Invoice Finance and Asset Based Lending Product and Service Board.

## About the Independent Ombudsman



Ombudsman Services are experts in dispute resolution, providing services in a range of industries, including in the communications, energy, copyright and property sectors, as well as in the invoice finance and asset based lending sector. Ombudsman Services have a strong track record in delivering complaint services on behalf of membership organisations, working with the Royal Institution of Chartered Surveyors amongst others.

Some of the schemes provided by Ombudsman Services are under-pinned by statute, such as in the energy and communications sectors, where providers are required to be covered by an Ombudsman.

Other of the schemes - such as that which covers all UK Finance invoice finance and asset based lending Members - are 'voluntary' where by joining an association, as a condition of membership, providers have chosen to be covered by an Ombudsman.

Ombudsman Services' objectives when dealing with complaints about Members are as follows:

- 1 To provide an independent, impartial and cost effective means of resolving disputes outside the courts;
- 2 To give an impartial and independent review of complaints; and
- 3 To work with the Professional Standards Council, the association and its Members to improve the service they give to their clients, making recommendations for improvements or change within the industry.

Ombudsman Services will consider complaints relating to alleged breaches of the Code and Guidance. In handling complaints, carrying out investigations, proposing resolutions and reaching final decisions, Ombudsman Services will proceed fairly and in accordance with principles of natural justice.

Ombudsman Services will consider what is fair and reasonable in the circumstances, having regard to principles of law or judge-made decisions, good practice, equitable conduct, contractual obligations and good administration.

# The Independent Standards Framework Complaints Process for Invoice Finance and Asset Based Lending



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## Eligibility

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### Complainants

The Complaints Process is available to certain parties who have a complaint about a UK Finance IFABL Member.

The following guidelines will apply:

- The Complainant must be, or was at the time of the action occurring: a client; a prospective client; a guarantor/indemnifier of a client or prospective client, or a former client, of an IFABL Member;
- At the point a complaint is received by UK Finance and Ombudsman Services, the company about which the complaint relates must be a UK Finance IFABL Member; and
- The complaint must be received from an 'Officer' of the business, such as a Director or Proprietor (or an authorised representative of the same), or a guarantor or indemnifier who has directly given a personal guarantee and/or indemnity to the IFABL Member.

### Complaints

The objective of UK Finance and Ombudsman Services is to ensure that the independent Complaints Process is as accessible to as many businesses as possible.

A complaint will be eligible for this process if:

- The complaint relates to a factoring, invoice discounting and/or asset based lending facility or a proposed facility through an existing IFABL Member of UK Finance; and
- The annual turnover (revenue) of the business does not exceed £6.5 million per annum (as per the last audited accounts); and
- The action or actions relating to the complaint took place on or after 1 July 2013; and
- The Complainant is not seeking a financial award of greater than £28,000 in relation to the dispute. This is the maximum figure that Ombudsman Services currently has authority to award and the Ombudsman cannot consider cases where the amount sought is clearly in excess of this amount. This figure will be kept under review.

It will not normally be possible for a complaint to be accepted if:

- The Complainant gave the IFABL Member notice of the matter which is subject to the complaint more than 12 months before contacting UK Finance or Ombudsman Services; or
- The complaint is made to UK Finance more than six months after the Member advised the client that it is unable or unwilling to resolve the complaint to the complainant's satisfaction (i.e. a Deadlock Letter or similar was received more than six months' prior).

### The Ombudsman's Discretion

It should be noted that Ombudsman Services retains absolute discretion to decide whether a complaint is within its jurisdiction. Specifically the Ombudsman:

- Has absolute discretion to refuse to accept (or to terminate consideration of) a complaint, if it is considered that the Complainant has no reasonable prospect of success, recovery or redress in relation to such complaint;
- Will not accept a complaint that has been or is subject to court proceedings, arbitration, or other independent procedure for the resolution of the complaint or dispute (unless there is proof that the aforementioned process has been abandoned, stayed or suspended);
- Will not accept a complaint if it appears that the complaint is frivolous or vexatious;
- Will not reconsider a previously handled case unless significant new evidence has come to the attention of the Ombudsman that may have an impact on the previously reached decision.

# The Independent Standards Framework Complaints Process for Invoice Finance and Asset Based Lending



Provided by the UK Finance Invoice Finance and Asset Based Lending Product and Service Board.

## Other Complaints Bodies

As is the case with most types of commercial finance, factoring, invoice discounting and asset based lending services are not subject to statutory regulation at the present time in the UK.

The UK [Financial Ombudsman Service](#) will not currently consider complaints which primarily relate to these services and there are no other dedicated external processes available to consider such complaints. This is why the Standards Framework is in place.

However, depending on the nature and size of the Complainant (and a number of other factors), the Financial Ombudsman Service might consider a composite complaint which primarily relates to wider regulated financial services but which also contains an invoice finance or asset based lending element.

Ombudsman Services cannot accept a complaint that is subject to consideration by the Financial Ombudsman Service or any other regulatory or equivalent body.

The Complaints Process is available for complaints about the behaviour of IFABL Members in relation to the provision of invoice finance or asset based lending. It cannot be used for complaints which primarily relate to the behaviour of 'Third Parties' such as advisors, brokers, lawyers or insolvency practitioners. Many of these industries or professions will have their own regulatory or self-regulatory systems in place. Complaints about the behaviour of such Third Parties should be made to the appropriate representative or regulatory bodies.

## Reaching a Decision

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The professionals at Ombudsman Services are experts at dispute resolution. They are trained to listen and to provide a firm and fair helping hand to Complainants. Their objective is to help resolve complaints as quickly as possible with the most appropriate outcome. They do so independently of UK Finance and its IFABL Members.

There are four key factors that will be taken into account in the decision-making process for all cases reviewed by Ombudsman Services. These are:

- Relevant laws;
- The contract in place between the IFABL Member and Complainant;
- The UK Finance Invoice Finance and Asset Based Lending Code; and
- Fairness and reasonableness.

The Complainant is not obliged to accept Ombudsman Services' Final Decision. If the Complainant does accept the Ombudsman's decision it is binding on the IFABL Member and they must put in place any remedy that is required. The Complainant, however, can decline the decision if they wish to; in that case it will not be binding on the Member.

If a complaint is upheld, Ombudsman Services has the authority to require any one or more of the following actions from the IFABL Member:

- An apology;
- An explanation of what went wrong;
- Any appropriate remedial action that is required;
- A financial award (up to a maximum of £28,000).

Ombudsman Services has committed to complete investigations and issue either a proposed resolution, or a binding Final Decision, within 84 days of receipt of the complaint, for at least 90 per cent of complaints received.

In addition Ombudsman Services is able to make reports, observations and/or recommendations to the Professional Standards Council as appropriate about general or specific issues that arise in its consideration of complaints.

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## How the Complaints Process works

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1. A client or prospective client (or guarantor/indemnifier of a client or prospective client) formally raises a written complaint with the IFABL Member.
2. The Member will manage the complaint in accordance with their own complaints process. The Member has a maximum of 12 weeks to review, investigate and - if appropriate - propose a resolution that is acceptable to the Complainant. It is expected that the majority of cases will progress to this stage more quickly than 12 weeks.
3. Three outcomes are then possible:
  - a. A resolution is proposed that is acceptable to the Complainant – CASE IS CLOSED; or
  - b. If no acceptable resolution is reached a Deadlock Letter can be issued summarising the situation and indicating that no resolution is possible; and/or
  - c. 12 weeks elapses since the complaint was formally registered
4. If b) or c) are the result, subject to the parameters noted in the **Eligibility** section above, the complaint can be entered into in this independent Complaints Process.
5. The Complainant must contact UK Finance to register their complaint. This should be done in writing (which includes by email).
6. UK Finance records the complaint, checks that it falls within relevant parameters, compiles basic information (obtaining required consents) and then immediately passes the complaint file to Ombudsman Services.
7. Ombudsman Services reviews evidence, requests additional documentation from Complainant and Member as required. Ombudsman Services conducts any additional investigations that are required.
8. If appropriate and possible, Ombudsman Services recommends an informal resolution to both parties.
9. If both parties accept the informal decision, the Member is bound by the decision and the CASE IS CLOSED
10. If the informal resolution is not accepted by either party, Ombudsman Services will complete a full investigation, and produce a report along with a Final Decision.
  - a. If the Final Decision is accepted by the Complainant the Member is bound by the decision and the CASE IS CLOSED (the Member cannot refuse to accept a Final Decision).
  - b. If the Complainant rejects the Final Decision, neither party is bound by it.

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## Further Information

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Please note Ombudsman Services will not currently accept complaints about IFABL Members directly from Complainants. Please contact UK Finance in the first instance if you wish to register a complaint about an IFABL Member through the independent Complaints Process.

Please also note, to make a complaint about an IFABL Member it is necessary first to complain formally to the Member involved to allow them the opportunity to address the issues raised. Once this has been done a complaint can be registered with UK Finance and then considered under the independent Complaints Process.

For further information on the UK Finance Invoice Finance and Asset Based Lending Code, the Complaints Process and other associated elements is available at [www.ukfinance.org.uk/ifablstandards](http://www.ukfinance.org.uk/ifablstandards) or by contacting UK Finance on:

Call: +44 (0)203 934 1456.

Email: [ifablstandards@ukfinance.org.uk](mailto:ifablstandards@ukfinance.org.uk)