

Silent sufferers: Identifying predictors of non-complaining behaviour in legal services

A literature review

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1) Executive summary

1.1 The first port of call for consumers dissatisfied with their legal service provider is to initiate a complaint with them, but some elect not to complain and remain 'silent sufferers'.

1.2 This review analysed academic and non-academic (or 'grey') research from across services industries to identify factors that predict silent sufferer behaviour, and how legal service providers can take steps to understand and address the barriers silent sufferers face.

1.3 Four overarching factors were identified:

- *Situational factors*: Consumers' cost analyses particularly in time and effort required to initiate a complaint, along with the magnitude of the issue, in relation to the perceived benefit may be a key determinant of silent suffering.
- *Service provider and market factors*: Consumer perceptions of a provider's responsiveness and professional reputation, along with the size of the marketplace may predict complaining.
- *Demographic factors*: Consumers' age, socio-economic status, and education, particularly in 'raising the bar' for dissatisfaction to prompt making a complaint and affecting confidence.
- *Behavioural factors*: A lack of loyalty to, or interest in, a long-term relationship with a provider may promote inaction among consumers to complain.

1.4 An archetypal silent sufferer is profiled as someone older in age and of lower socio-economic status and education, who may be less likely to self-report dissatisfaction and lack confidence to complain. They view complaining as carrying high cost relative to benefit, may see the provider as aloof or elitist, and hold low loyalty to maintaining a working relationship.

1.5 To encourage consumers to voice grievances, the review highlights the need for:

- Increased consumer awareness of the complaints process.
- Greater understanding of the magnitude of issues that constitute dissatisfaction.
- More openness on the part of providers to welcome complaints.
- Provision for more accessible routes for consumers to seek redress.

2) Introduction

2.1 Consumer dissatisfaction with goods or services, such as financial loss, distress, or inconvenience, can be expressed via written or verbal complaints to a provider. Within legal services, a consumer's first avenue for redress is 'first-tier' complaint processes, engaging with a provider about their issue to seek a suitable remedy. Typically, once a consumer has exhausted the first-tier complaints process but still believes their complaint has not been addressed, they may further engage in second-tier complaint processes by contacting the Legal Ombudsman which investigates complaints between consumers and their legal service provider. Consumer issues in legal services broadly fall within two types: complaints about the quality of work or service, or about the behaviour/integrity of regulated individuals.

2.2 In general, over half of consumers say they feel very confident about making complaints (Department for Business Innovation and Skills, 2015). But it is sometimes the case that consumers *do not* seek redress with a provider. Exact figures on how prevalent this issue is are unclear, varying across industries. It was estimated that consumers took action in 82% of detrimental experiences in the UK in 2020-21, while inaction was estimated at 11% after accounting for those who, for example, intended to complain later (Department for Business, Energy and Industrial Strategy, 2022). In the EU, inaction towards complaints has been estimated to correspond to 23% of consumers (European Commission, 2011). Focusing specifically on legal services, one study of dissatisfied respondents who had engaged with legal counsel reported inaction in 26% of cases (Reifner et al., 1980), while the Legal Services Board's (LSB) own Individual Legal Needs survey estimated 7% of consumers were fairly or very dissatisfied with their main provider, of which 37% took no action (LSB, 2019). This corresponds to the Legal Services Consumer Panel tracker survey, which also suggests around 35% of dissatisfied consumers do not complain (LSCP, 2021).

2.3 Consumers choosing not to report a complaint have been dubbed "silent sufferers". Understanding why some consumers do not engage in first-tier complaints processes is of importance both for empowering consumers and improving the quality of legal service provision, through identifying particular factors that predict this outcome, such as certain groups being less confident to complain or having reduced awareness of their legal rights. Legal service providers also benefit from feedback on their service from consumers, and potentially risk losing future business if consumers do not engage in the complaints process when they may otherwise have been able to offer satisfactory solutions.

3) Objectives and overview

3.1 The aim of this review was to identify what factors within both academic and grey literature have been identified that predict silent suffering among consumers, to allow us to build a picture of the archetypal silent sufferer in terms of their attitudes, behaviour, circumstances, and personality. For example, are silent sufferers averse to conflict, or do they lack confidence in asserting themselves with a provider? While this profile would be based on literature of silent sufferer behaviour from across service industries, it should nevertheless also provide a broad character for such individuals within the legal services sector.

3.2 Moreover, we aimed to examine what potential changes could be made in response to this among legal service providers to encourage silent sufferers to air their grievances and engage with their provider to seek redress for their issues. For instance, do consumers encounter 'friction' in complaining, whereby the process is too arduous or complicated, and would complaining intentions increase if the process was more accessible and streamlined by providers?

3.3 Focusing across service industries, academic research has examined the topic of "consumer complaining behaviour" to understand how consumers respond when receiving poor goods or services from a provider, and the actions consumers typically take in response. This literature spans the forms of complaining behaviour consumers engage in, such as public or private complaining, as well as the role of personality in how complaints are expressed, such as what factors predict vindictive complaining. An early taxonomy of consumer complaints behaviour by Hirschman (1970) provides a simple model of consumer choices when faced with poor goods or services. A consumer follows faces three basic pathways: they *voice* a complaint, they *exit* their relationship with their provider, or they remain *loyal*. The definition of silent sufferers within legal services conform to these latter two pathways.

3.4 In addition, grey literature on consumer complaints behaviour, such as that commissioned by the UK government, has focused on consumer protection and empowerment to understand the impact of consumer problems on the general public. As with academic literature, this focuses across service industries, ranging from hospitality, retail, and healthcare to construction, financial services, accounting and legal services.

4) Methodology

4.1 A literature review was carried out following the steps of: mapping the field through a scoping review, comprehensive search, quality assessment, data extraction, synthesis, and write up. The scoping review highlighted the broad topic of research within academic literature of “consumer complaints behaviour”, used as a keyword for subsequent search. The search was limited by language to a timeframe of later than Hirschman’s early taxonomy of consumer complaints behaviour (i.e., 1970 onwards). Given the size of the academic literature, the search encompassed multiple jurisdictions including the United States, Europe, and Asia. The search for academic literature emphasised peer-reviewed sources, but also included other sources (e.g., book chapters, unpublished dissertations). The search for grey literature emphasised governmental sources, but also other stakeholder sources (e.g., work commissioned by non-government organisations such as charities).

4.2 It should be noted that a literature review is not exhaustive and should not be interpreted as a definitive summary of all research within the field of interest. For example, slight variations in defining the topic among publications, such as in the title or abstract, may not be encapsulated by the search terms used. In addition, an overly niche focus on complaints behaviour within an industry, such as telephone complaints over dissatisfaction with food in restaurants, were excluded during the quality assessment phase of the review. While this review acts as a thorough assessment of the state of the literature, a scholar within this field may identify other work not captured here.

4.3 Following the initial scoping review, the string “consumer complaints behaviour” (or ‘behavior’) was used to conduct a search of academic literature using Google Scholar, along with additional strings for “silent sufferers”, “non-behavioural” and “no action”. Following a first round of quality assessment, with a particular focus on extant literature reviews, a snowballing methodology was then applied on applicable articles, where other resources cited by the primary resource are then consulted based on quality assessment, their resources cited are consulted, etc. For grey literature, similar search criteria were applied initially, followed by a broader search for “consumer complaints”, “redress”, and “non-complaining”. Similar findings across different resources were synthesised for the purposes of this review, with key resources cited in favour of extensively listing all citations reporting the same result. Within this report, 24 academic literature resources are directly cited along with five grey literature resources, while the total number of resources consulted was ~150.

5) Factor overview

5.1 A larger proportion of academic research in this field has focused on the behaviour and psychology of complainers rather than non-complainers or silent sufferers, who can also be termed as “non-behavioural” or “no action” consumers (Kwok, 2019; Ro & Mattila, 2015). Nevertheless, research that has focused on silent sufferers has produced general taxonomies on the factors that predict this behaviour (e.g., Kwok, 2019). Based on analysis of previous models and the prevalence of factors highlighted across primary empirical studies, the following taxonomy is used here to group consumer non-complaining predictors:

- Situational factors.
- Service provider and market factors.
- Demographic factors.
- Behavioural factors.

For each factor, research is outlined below along with broad implications that can be formed on the basis of this evidence.

6) Situational factors

Summary: Silent suffering may depend on consumers conducting cost/benefit analysis before lodging a complaint, particularly the time and effort or ‘friction’ involved, along with the magnitude of the issue at hand. Issues of lower magnitude typically spur fewer complaints.

6.1 Situational factors can be subdivided into two subcategories. First, economic factors and consumer expectations may influence the likelihood of complaining. This can arise from consumers calculating the cost/benefit of lodging a complaint and deciding that doing so may consume too much time, cognitive effort, stress, or financial cost (e.g., telephone charges), versus the size of the potential tangible (e.g., financial compensation) and intangible gains (e.g., relief, positive feeling; Durukan et al., 2012; Singh & Wilkes, 1996). For example, Voorhees et al (2006) found that time/effort considerations were the most-cited reasons among consumers for failing to engage in the complaints process, a finding also mirrored in other studies (e.g., Department for Business, Energy and Industrial Strategy, 2022; Huppertz et al., 2003). This can also be termed as consumer ‘friction’, referring to difficulties consumers can have in lodging a complaint such as getting through to the right person to complain to or accessing an appropriate complaints channel. Furthermore, silent

suffering may arise from decisions made about the importance of the good or service to the consumer; if the cause for complaint relates to an unimportant good or minor service, consumers are less inclined to raise a complaint (e.g., Bolting, 1989; Durukan et al., 2012).

6.2 The second subcategory of situational factors relates to seriousness of the consumer's issue. Consumers may be less likely to complain over issues considered trivial (e.g., Kim & Chen, 2010), or when the magnitude of the failure by a provider is considered low. According to the consumer protection survey run by the Department for Business, Energy, and Industrial Strategy (2022), "problem not serious enough" was the most popular reason among consumers to refrain from complaining. Smith et al (1999) found that consumers typically prefer to initiate a complaint and seek redress matching the scope of the failure, and therefore may be less likely to seek resolution if, for example, an issue was caused by simple human error.

Implications: *As the time/effort involved in engaging in a complaint appears to be a key determinant in silent suffering, reducing the friction or perceived friction for consumers to easily lodge a complaint with their provider may encourage greater participation. Moreover, challenging the view that a consumer's issue is not of a large enough magnitude to warrant a complaint may also foster more engagement, as well as greater understanding of the benefits of complaining and the scale of redress consumers can expect to receive.*

7) Service provider and market factors

Summary: *Silent suffering may depend on consumers' perception of a provider's responsiveness and professionalism. This reputation may need to be one of openness rather than elitism, with clear pathways to connecting with the provider. A wide competitive market may also encourage consumers to lodge complaints against an individual provider.*

7.1 Service provider factors relate to the type of establishment and perceptions about their reputation. One study by Vorhees et al (2006) found that providers considered to have a low reputation or low responsiveness were the second most-cited reasons for consumers refraining from engaging with them (after time/effort considerations). Similarly, a perceived lack of accessibility can also discourage complaints behaviour. For example, Bolting (1989) found that perceptions a provider's service was aloof or luxury-oriented discouraged complaints and instead fostered private complaining (such as to family or friends), as opposed to when businesses appeared to encourage participation in service management.

More practical perceived barriers, such as an inability to get in touch with customer service or a lack of access to find a channel by which to complain, can also reduce consumer propensity to complain (e.g., Tronvoll, 2008).

7.2 Market factors concern the degree of market competition perceived by the consumer in relation to their provider. Dissatisfied consumers may be more likely to take no action when their provider is considered to have a loose monopoly in the service it provides, as opposed to when the market is considered competitive (Kolodinsky, 1995), though note this is typically postulated through comparing consumer complaints behaviour across industries such as healthcare (loose monopoly) versus hospitality, raising possible confounds of comparing complaints to public and private sector providers in the UK. Instead, consumers may be more likely to complain privately about loose monopoly providers, such as through engaging in negative word of mouth (Singh, 1991). On the other hand, there is some evidence that large competitive marketplaces result in greater availability for consumers to simply exit from a provider for an alternative rather than voice a complaint (Fornell & Didow, 1980), though this may equally embolden consumers to exert stronger influence in querying service delivery, as providers can easily risk losing them as a customer (NESTA, 2013).

***Implications:** Legal service providers promoting complaint-friendly procedures, with an open and responsive attitude, may ameliorate the prevalence of silent suffering. Promoting market competition and shopping around may also empower consumers to expect more positive outcomes when complaining, though greater choice may come at a cost to consumers engaging with their incumbent provider as they may quietly switch to a competitor.*

8) Demographic factors

***Summary:** Older consumers may be less likely to complain, but this could be explained by a reduced likelihood to become strongly dissatisfied with a service provider in the first place (i.e., a higher bar to trigger complaints intention). There is also evidence that lower socio-economic status can reduce engagement in complaints procedures, potentially mediated by reduced self-efficacy.*

8.1 Demographic factors have been suggested to predict complaints behaviour, with particular emphasis on consumers' age and social-economic status. There is some evidence that older consumers are less likely to self-report unsatisfactory experiences but, when they

do, they typically undertake similar behaviours to younger consumers (Lee & Soberon-Ferrer, 1999), and have relatively low reported difficulty knowing where to complain (Meiners et al., 2021). Indeed, there is even some evidence that older adult consumers have higher confidence than younger ones in making a complaint (though note that groups compared were aged 16-34 v 35+ years; Department for Business Innovation and Skills, 2015). Older consumers may also be more influenced by factors such as attitude to the business, their marital status and their race/ethnicity, whereas for younger consumers, market knowledge and attitude to the business are key factors. Older and married individuals have been suggested to complain significantly less than younger and single consumers (Nimako & Mensah, 2012). Moreover, older consumers tend to become more dissatisfied with poor service rather than poor products (Bernhardt, 1981).

8.2 Socio-economic status has also been postulated to influence complaints behaviour, though is often based on indirect evidence. Socio-economic status is positively related to participation in a range of social-political activities (Smith, 1980), and individuals with high community involvement are more likely to engage in complaints behaviour (Warland et al., 1984). Thus, the relationship between high socio-economic status and market participation in turn may predict propensity to silent suffering (see Tronvoll, 2007, for further discussion).

8.3 More direct evidence of a link comes from the consumer empowerment survey conducted by the Department for Business Innovation and Skills (2015). They defined “constrained strugglers”, comprising roughly 17% of the UK population, as individuals tending to have lower qualifications and more likely to be job seeking or living in social housing. Constrained strugglers were less likely to shop around for a service provider, tending to go with the first suitable one they encountered. Notably, they were also significantly less likely to self-report feeling confident to complain about poor goods or services received, in contrast to groups associated with higher qualifications and financial stability. This result was also mirrored in the consumer empowerment survey conducted by the Department for Business, Energy, and Industrial Strategy (2022), where consumers in financial difficulty were also more likely to report being unsure who to contact to initiate a complaint or how to go about complaining.

8.4 Finally, the LSB’s own Individual Legal Needs survey also supports the role of consumer confidence in predicting silent sufferers. We found that dissatisfied consumers who took no action against their legal service provider were significantly more likely to report

lower legal confidence than those who did, particularly when comparing low to medium confidence respondents (52% who took no action had low legal confidence v 42% who did take action; LSB, 2019). In addition, dissatisfied consumers were generally more likely to report both low self-efficacy (45% v 34%) and legal confidence (42% v 33%).

Implications: Increased awareness about the level of standard a consumer should expect may aid them in voicing feedback on inadequate legal service to their provider. Having clear, accessible, and multiple complaints channels may aid in empowering consumers to engage in first-tier complaints regardless of their circumstances or background.

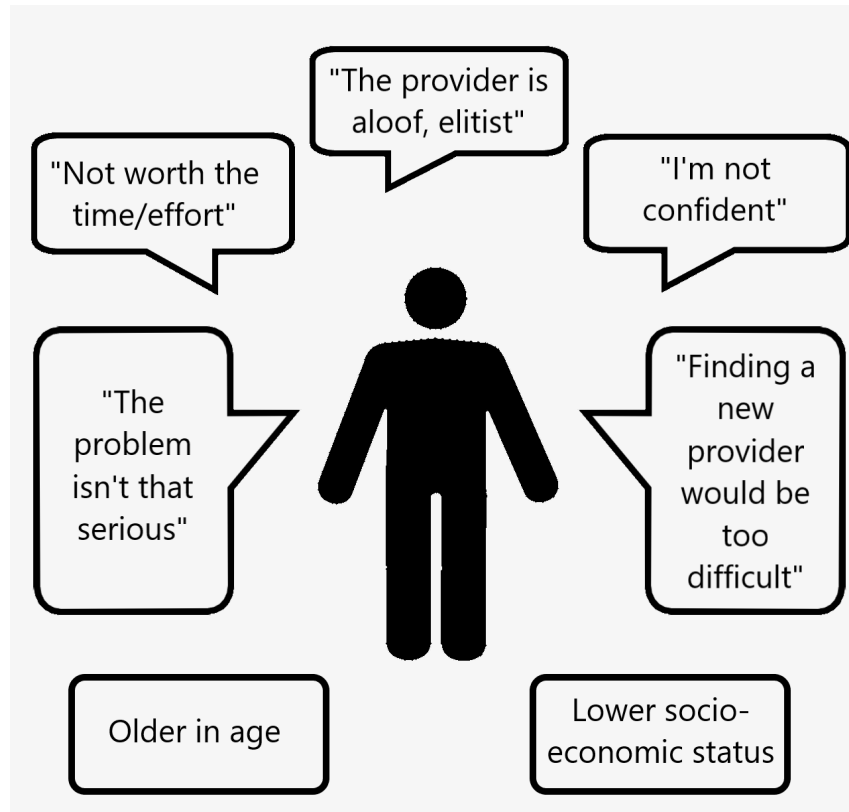
9) Behavioural factors

Summary: Consumers loyal to a provider and interested in maintaining a long-term working relationship may be more open to complaining versus exiting to an alternative provider. However, high rapport and empathy for individuals within firms can discourage complaints.

9.1 Behavioural and emotional responses among consumers can also be linked to the likelihood of initiating complaints with a provider versus silent suffering. In particular, a consumer's level of loyalty to a firm has been found to not only be related to an increased likelihood of repeat business (Ro & Mattila, 2015) but also positively correlated with complaining (Durukan et al., 2012). In this sense, loyal consumers feel better able and emboldened to approach their provider and voice their grievance rather than silently exit the relationship with the provider altogether. Furthermore, higher levels of affective commitment, defined as the desire to build and sustain a valued relationship with a service provider, also predicts a consumer's willingness to engage in complaints behaviour with them (Evanechitzky et al., 2011). On the other hand, high rapport with a service provider may temper enthusiasm to complain in some situations (Mittal et al., 2008), as may empathy for individuals within the provider's firm for individual mistakes (Voorhees et al., 2006).

Implications: Given that it may be beneficial for legal service providers to maintain client relationships and more reliable than attracting new customers, it is in their interests to foster loyalty and encourage consumer-friendly complaints procedures. Acknowledging individual mistakes regardless of the rapport built with consumers may also encourage constructive engagement with complaints.

10) The archetypal silent sufferer



10.1 Based on this analysis, who is the archetypal silent sufferer? Such a person may be:

- Older in age and of lower socio-economic status and education, who may be less likely to self-report being dissatisfied with a legal service received (i.e., a higher tolerance level), and lack the self-efficacy to pursue a complaint when they do.
- Perceive complaining as requiring high investment of their time and effort, and believe that the benefits of complaining are not worth the process in terms of the redress they will receive or the magnitude of their issue.
- Hesitate over the perceived responsiveness of their provider, consider them difficult to contact and aloof, and be more likely to hold lower loyalty or commitment to maintaining a strong relationship with them, while lacking the impetus to seek out an alternative provider.

11) Conclusions

11.1 Overall, this literature review reveals some key factors in predicting silent suffering behaviour: the cost/benefit to consumers of engaging in complaints (particularly with regards to the time and effort required and the magnitude of the issue), consumer perception of a provider's responsiveness and openness, market competition, demographic factors of age and socio-economic status, and consumer loyalty and commitment to a provider.

11.2 Consumer dissatisfaction alone is not considered a sufficient driver for consumers to seek redress. In order to encourage silent sufferers to voice their complaints, legal service providers should create an environment where consumers are aware of the ease and accessibility with which complaints can be initiated, as well as emphasising how complaints will be processed regardless of their perceived magnitude of severity. Complaints processes should also be open and responsive as part of a competitive marketplace in order to empower consumers. In addition, clear, accessible, and diverse complaints channels, along with promoting consumer awareness of what constitutes unacceptable service, should be employed and disseminated among consumers. Finally, forging consumer-provider loyalty and a culture of welcoming feedback/complaints at the individual and firm level may embolden consumers to engage more with first-tier complaints procedures.

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