

Knowledge, Capability and the Experience of Rights Problems

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Plenet Legal Empowerment Conference 2010

Public Legal Education

PLEAS Task Force

- Set up in January 2006 to develop proposals for how to promote and improve PLE
- Chaired by Dame Professor Hazel Genn
- Supported by DCA (now MoJ)

“Public legal education provides people with awareness, knowledge and understanding of rights and legal issues, together with the confidence and skills they need to deal with disputes and gain access to justice.”

Needed to assess difficulties people have when faced with legal issues and extent of lack of knowledge -

“Education Implications from the English and Welsh CSJS”
Buck, A., Pleasence, P., and Balmer, N.J. (2007)

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Public Legal Education – using the CSJS

New questions were also added to the CSJS to attempt to inform Public Legal Education policy

1. Asked about knowledge of rights
2. Asked about knowledge of processes
3. Asked what they wish they had known
4. Asked if they felt they could have acted sooner

Simple questions to measure lack of understanding

New report commissioned by PLENET using 2006-2009 Survey (CSJS) findings

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Aims of the report

Identify specific target groups who lack legal capability and problems where public legal education might be targeted

Gaining a clearer insight into the relationship between knowledge, skills and confidence

Develop a better understanding of how skills may impact on the ability to pursue desired outcomes

Use 'real-life' case studies in order to bring to life issues

Make recommendations on any further research that will improve understanding of the needs for PLE and any delivery mechanisms.

Balmer, N.J., Buck, A., Patel, A., Denvir, C., and Pleasence, P. (in press) Knowledge, Capability and the Experience of Rights Problems – Report to PLENET

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The English & Welsh Civil & Social Justice Survey (CSJS)

- Nationally representative household survey of people's experience and response to civil justice problems.
- 10,537 face-to-face interviews of 25 minutes duration
- Most comprehensive of a line of surveys dating back, coincidentally, to the time of the Great Depression.
- Includes 106 'everyday' civil justice problem types, in 18 categories (no crime).

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CSJS Problems

- **Not abstract legal problems**
- **Problems of everyday life, such as those concerning:**

Discrimination

Consumer

Employment

Neighbours

Owned Housing

Rented Housing

Homelessness

Money/Debt

Welfare Benefits

Divorce

Relationship Breakdown

Domestic Violence

Children

Personal Injury

Clinical Negligence

Mental Health

Immigration

Unfair Police Treatment

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Problem Type	Example	%	N
Consumer	Faulty goods/services (e.g. building work)	12.4	1306
Neighbours	Anti-social behaviour	8.1	851
Money/debt	Severe money difficulties, disputed bills	5.8	611
Employment	Sacking/redundancy, terms employment	4.9	520
Negligent accidents	Road accidents, workplace accidents	3.6	377
Housing (renting)	Unfit housing, lease terms, rent arrears	3.0	317
Welfare benefits	Entitlement to/quantification of benefits	3.0	312
Divorce	-	2.0	214
Discrimination	Disability discrimination, race discrimination	2.0	214
Housing (owning)	Boundaries/rights of way, mortgage arrears	1.9	198
Relationship breakdown	Residence/care of children, division of assets	1.8	191
Clinical negligence	Negligent medical or dental treatment	1.7	178
Children	School exclusion, choice of school	1.4	152
Housing (homelessness)	Experience/threat of homelessness	1.3	132
Unfair police treatment	Assault, unreasonable detention by police	0.9	93
Domestic violence	Violence against respondent/children	0.8	88
Immigration	Obtaining authority to remain in the UK	0.3	32
Mental Health	Conditions of/care after hospital discharge	0.3	29

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Survey Questions

Screen Section (all problems)

- Incidence of problems
- Impact of problems
- Problem resolution strategies
- Types of advisers
- Manners of conclusion
- Demographics

Main Section (one problem)

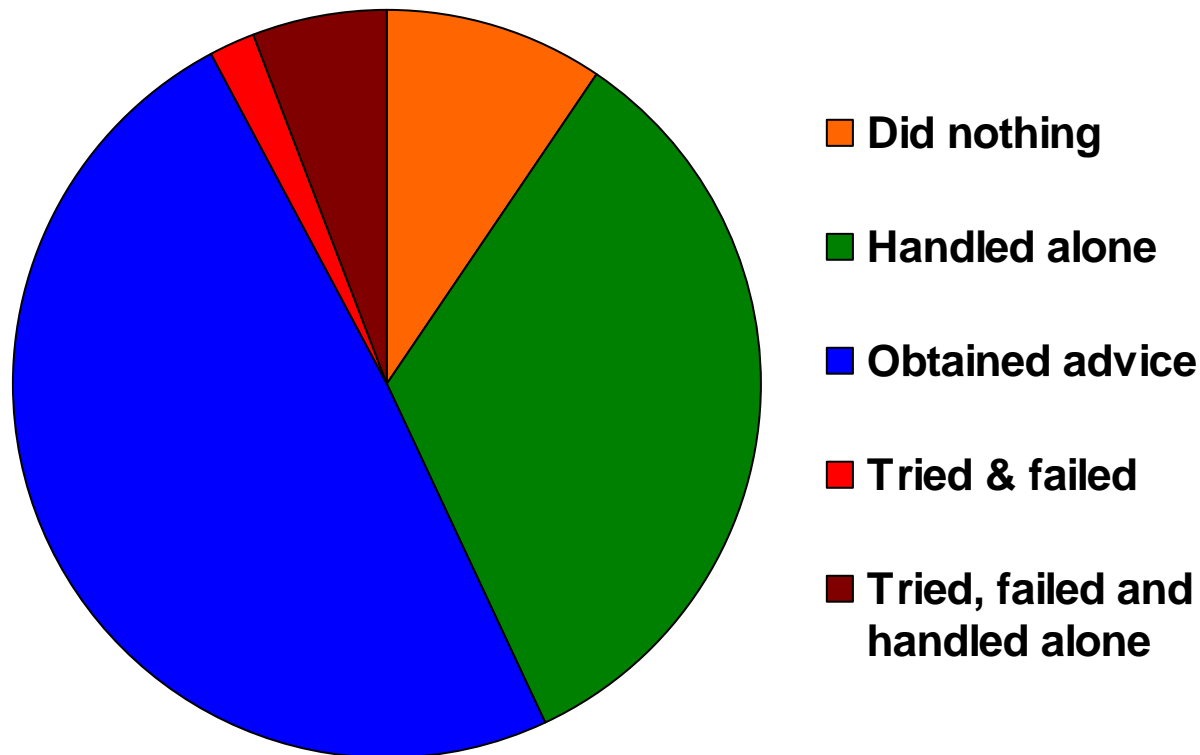
- Awareness of advisers, ordering of advisers and forms of advice
- Obstacles to advice
- Use of courts, tribunals and ADR
- Objectives and Outcomes
- Attitudes to the justice system

Overview

- 1. Strategy – what people do when faced with problems**
 - who adopts particular strategies?
 - does it matter what you do?
- 2. Inaction and forms of inaction**
 - who did nothing but wanted to act?
 - does it matter?
- 3. Knowledge of rights**
 - who lacked knowledge?
 - what do people wish they had known?
 - case studies
 - what were the implications of lack of knowledge?
- 4. The relationship between knowledge, strategy and outcome**
 - is knowledge more important for particular strategies?
 - who fares best?
 - who fares worst?
- 5. What next?**

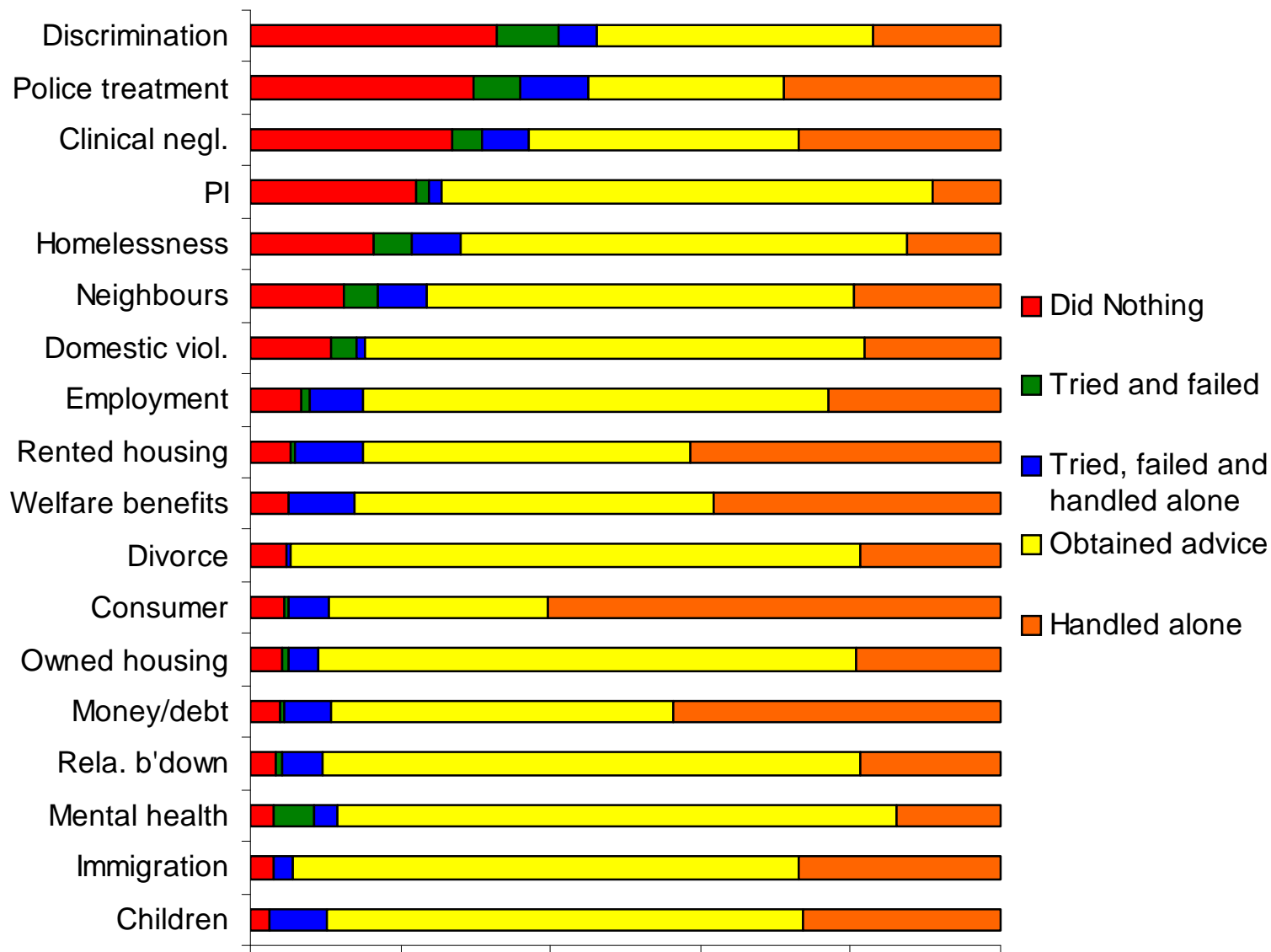
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Strategy when faced with problems – CSJS 2006 to 2009



Areas for concern in each group

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Some problems may benefit more from interventions

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Strategy when faced with problems

BME respondents had lower rates of obtaining advice

Disadvantaged groups (e.g. lone parents, in receipt of welfare benefits, no academic qualifications, mental health issues) had a higher percentage obtaining advice and a lower percentage handling alone – capacity issues

More affluent/educated had a higher percentage handling alone

Youngest and oldest age groups had lowest percentage obtaining advice and highest doing nothing or handling alone

Some groups could benefit more

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Strategy when faced with problems

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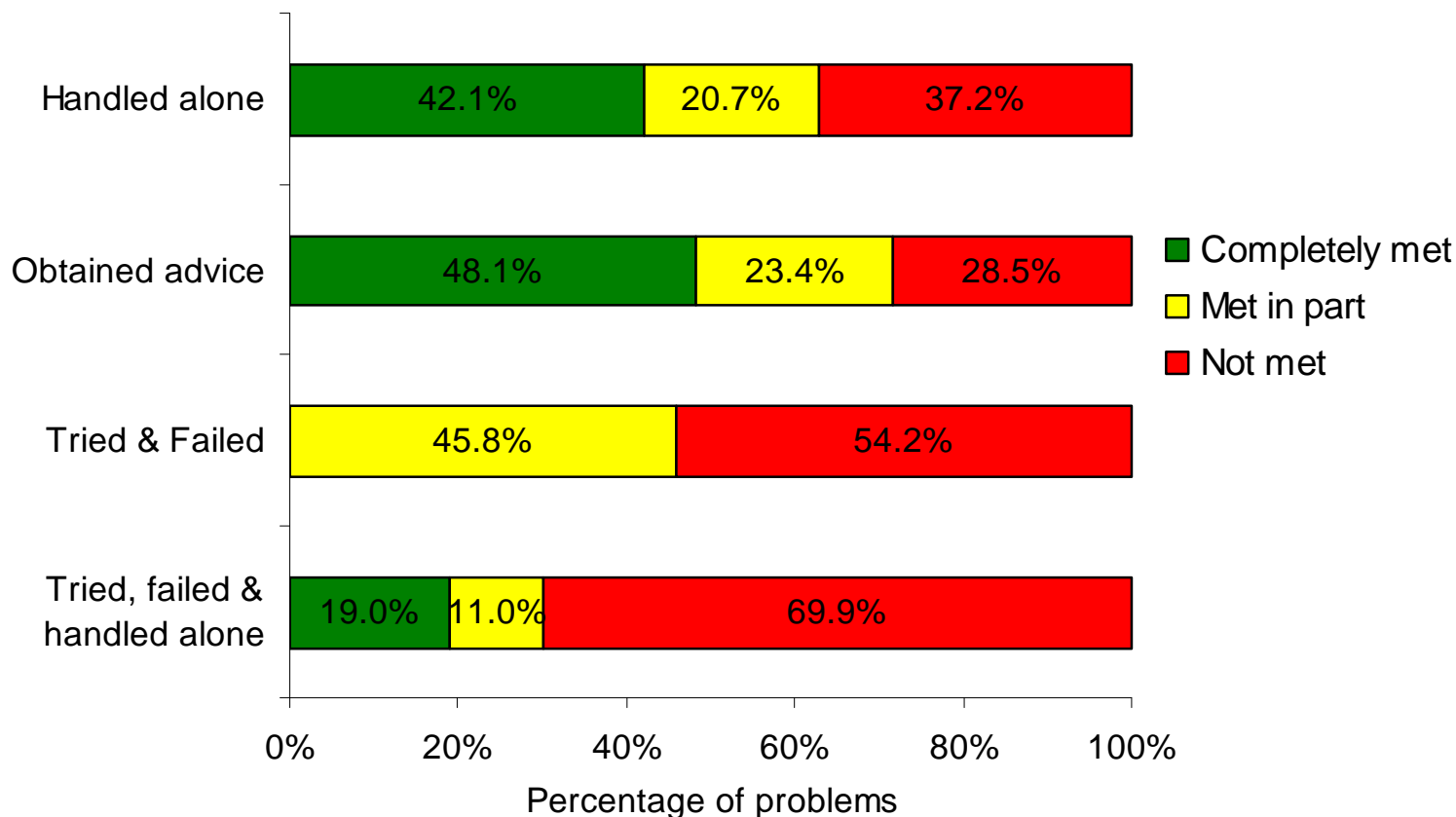
More affluent/educated had a higher percentage handling alone

Youngest and oldest age groups had lowest percentage obtaining advice and highest doing nothing or handling alone

Should we be too concerned about strategy

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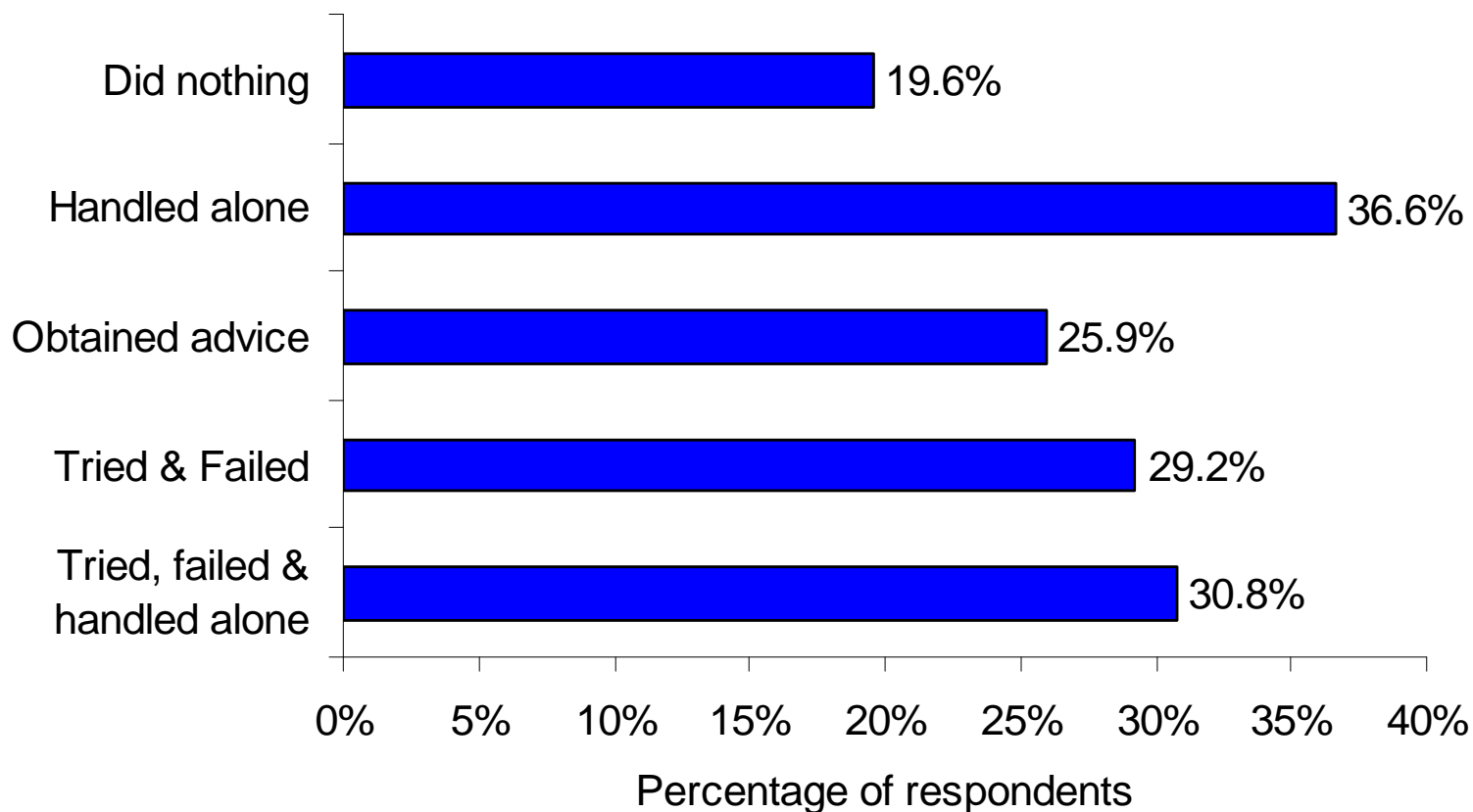
Strategy and meeting objectives



Trying and failing = less meeting objectives
Handling alone similar to obtaining advice (but people differ)

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Strategy and regrets over actions



Those who handled alone frequently regretted lack of advice

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Adverse consequences by strategy

Adverse consequences	Broad strategy									
	Did nothing		Handled alone		Obtained advice		Tried & failed		Tried failed handled alone	
	N	%	N	%	N	%	N	%	N	%
Any	217	41.8	656	33.3	1734	61.1	74	67.0	207	59.4
Phys. ill-health	81	15.7	123	6.2	501	17.7	23	20.8	50	14.2
Stress rel.ill-h.	68	13.0	324	16.5	1024	36.1	40	36.0	124	35.6
Rela. b'down	11	2.2	47	2.4	156	5.5	4	3.6	8	2.4
Violence	12	2.3	24	1.2	161	5.7	9	8.1	17	4.9
Damage to prop	12	2.2	43	2.2	203	7.1	12	11.1	27	7.7
Move home	16	3.1	45	2.3	183	6.4	6	5.1	15	4.3
Loss of emp.	12	2.4	41	2.1	156	5.5	13	12.1	18	5.3
Loss of income	41	8.0	186	9.4	480	16.9	14	12.4	50	14.2
Loss of conf.	56	10.7	146	7.4	546	19.2	27	23.9	59	17.0

If you have a problem I recommend you do nothing!

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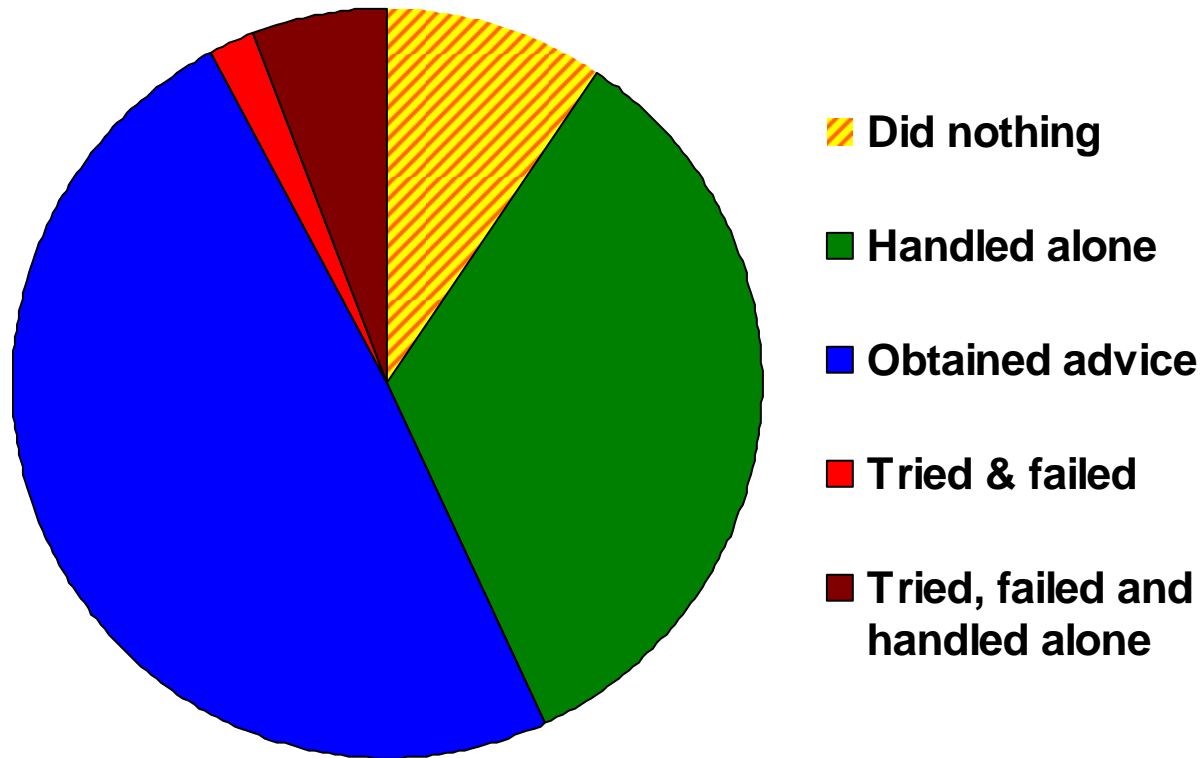
Of course not everyone acts (or fails to act) for the same reason

Strategy

1. Strategy linked to problem type
evidently some problems where acting is less common
2. Strategy linked to demographics
*handling alone/obtaining advice related to capability
some do nothing/try and fail more too (e.g. younger respondents)*
3. People and problems who may benefit more from interventions?
4. Trying and failing results in failing to meet your objectives far more often (whether you go on to handle alone or not)
5. Doing nothing does not seem like to bad a strategy?
particularly with regard to stress-related ill health

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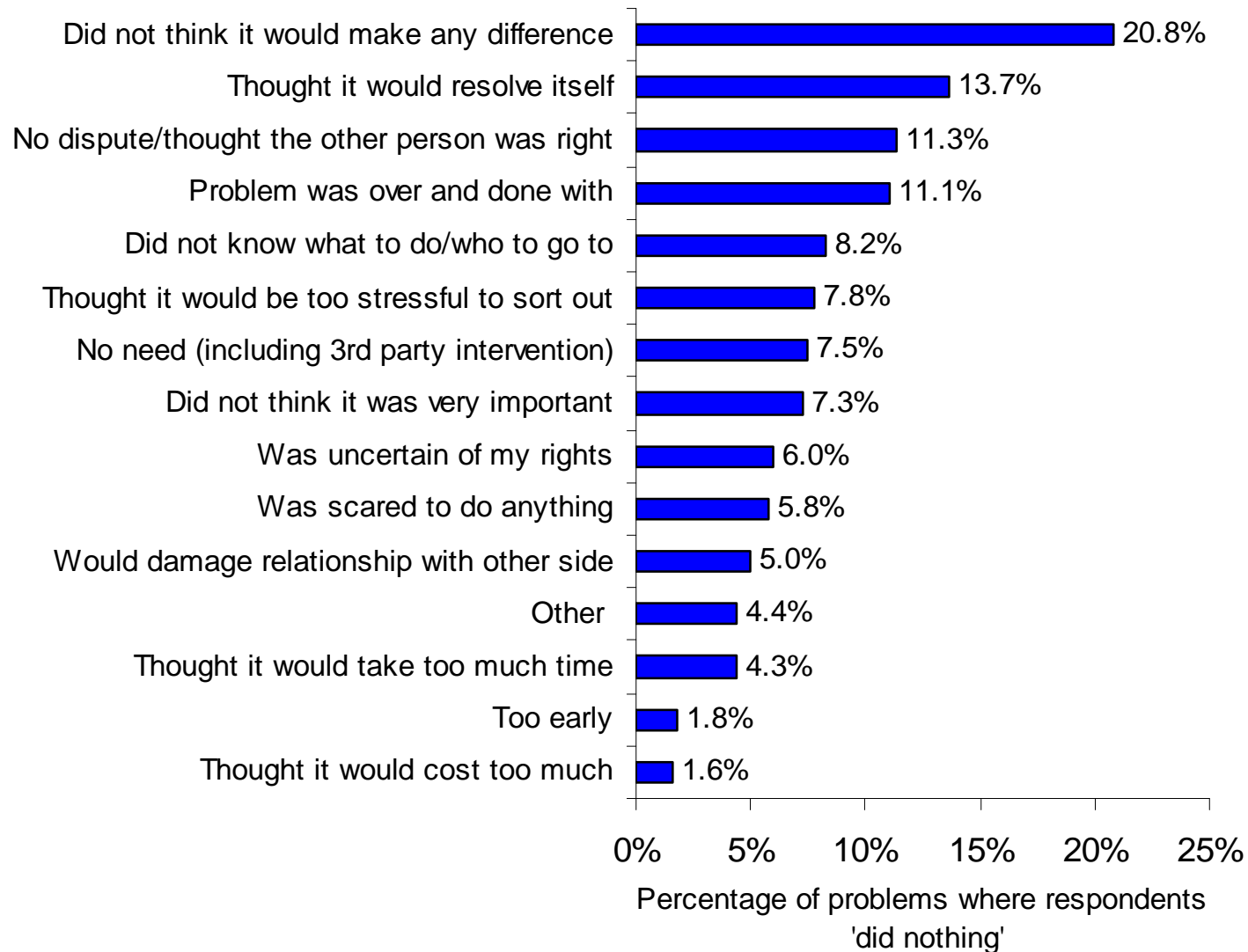
Doing nothing



Of course, not everybody does nothing for the same reason

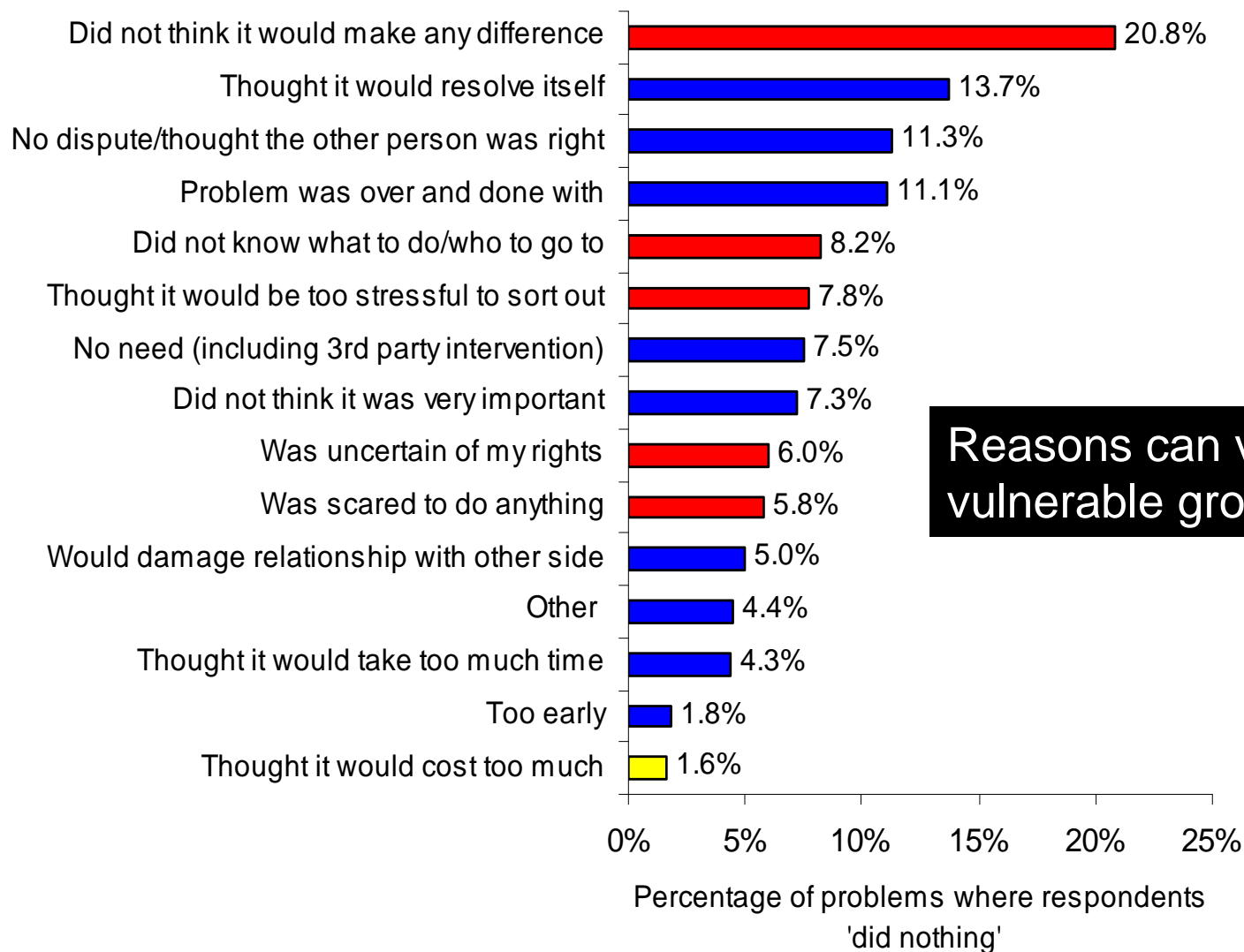
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Why people did nothing



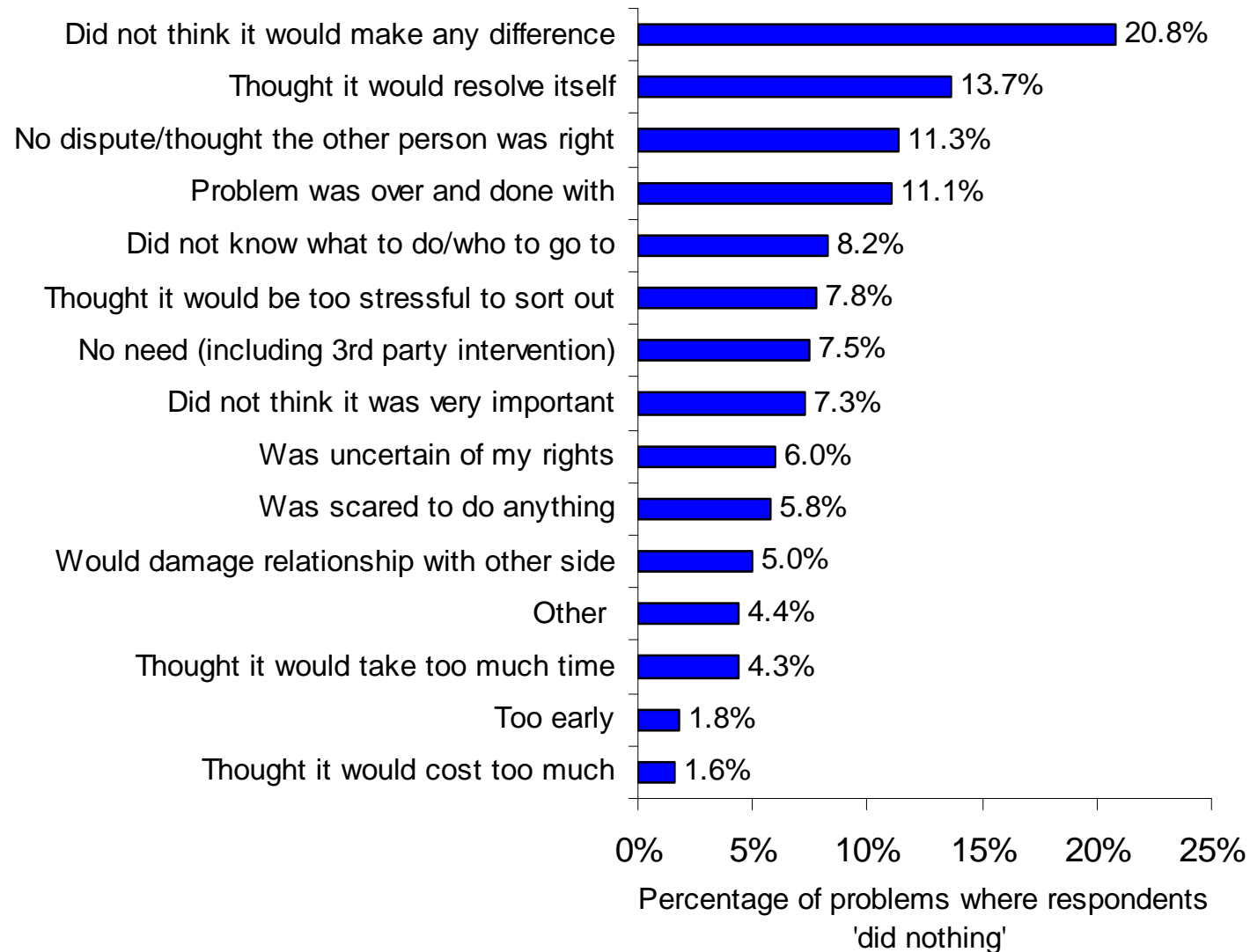
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Why people did nothing – reasons of concern



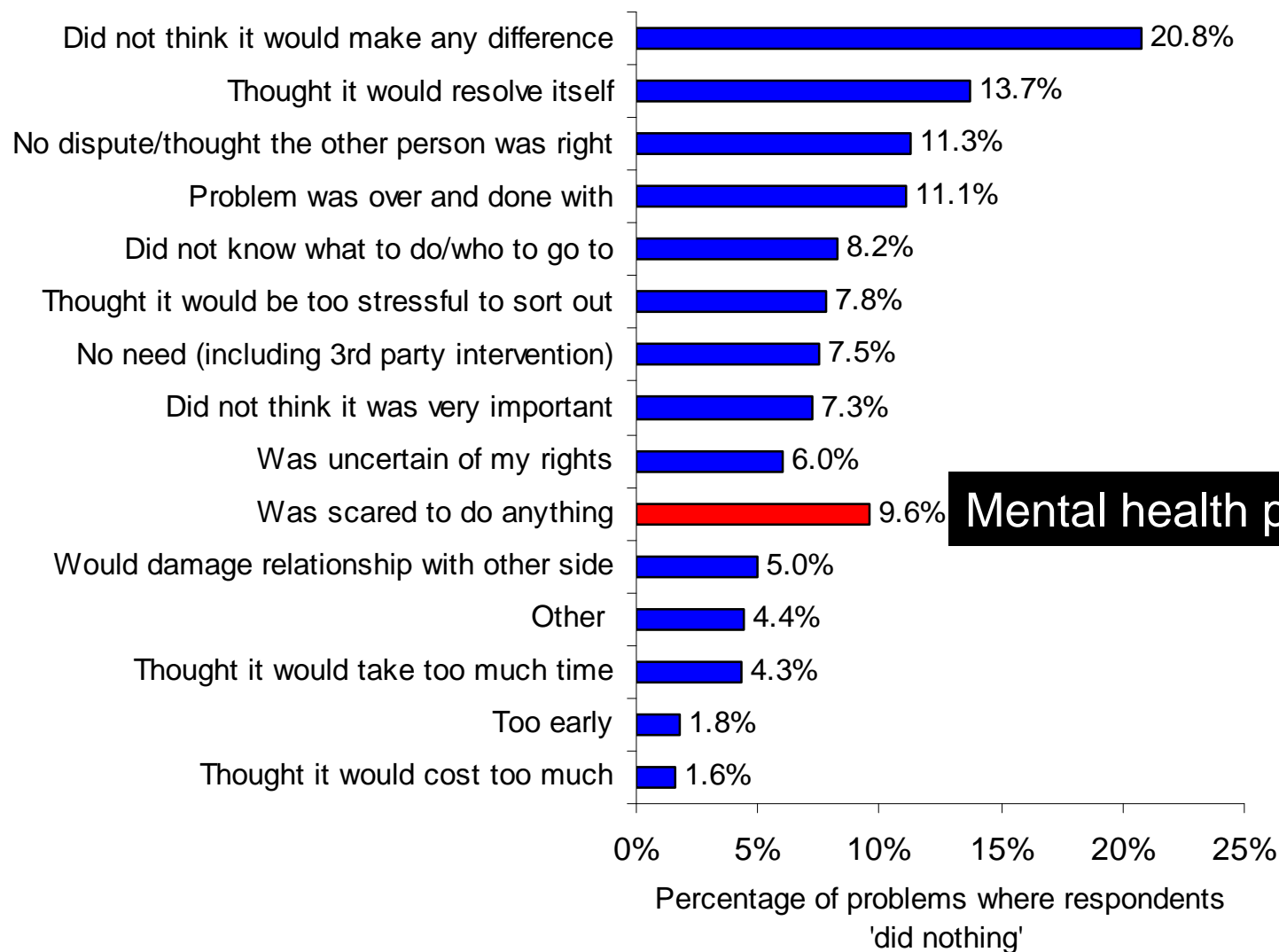
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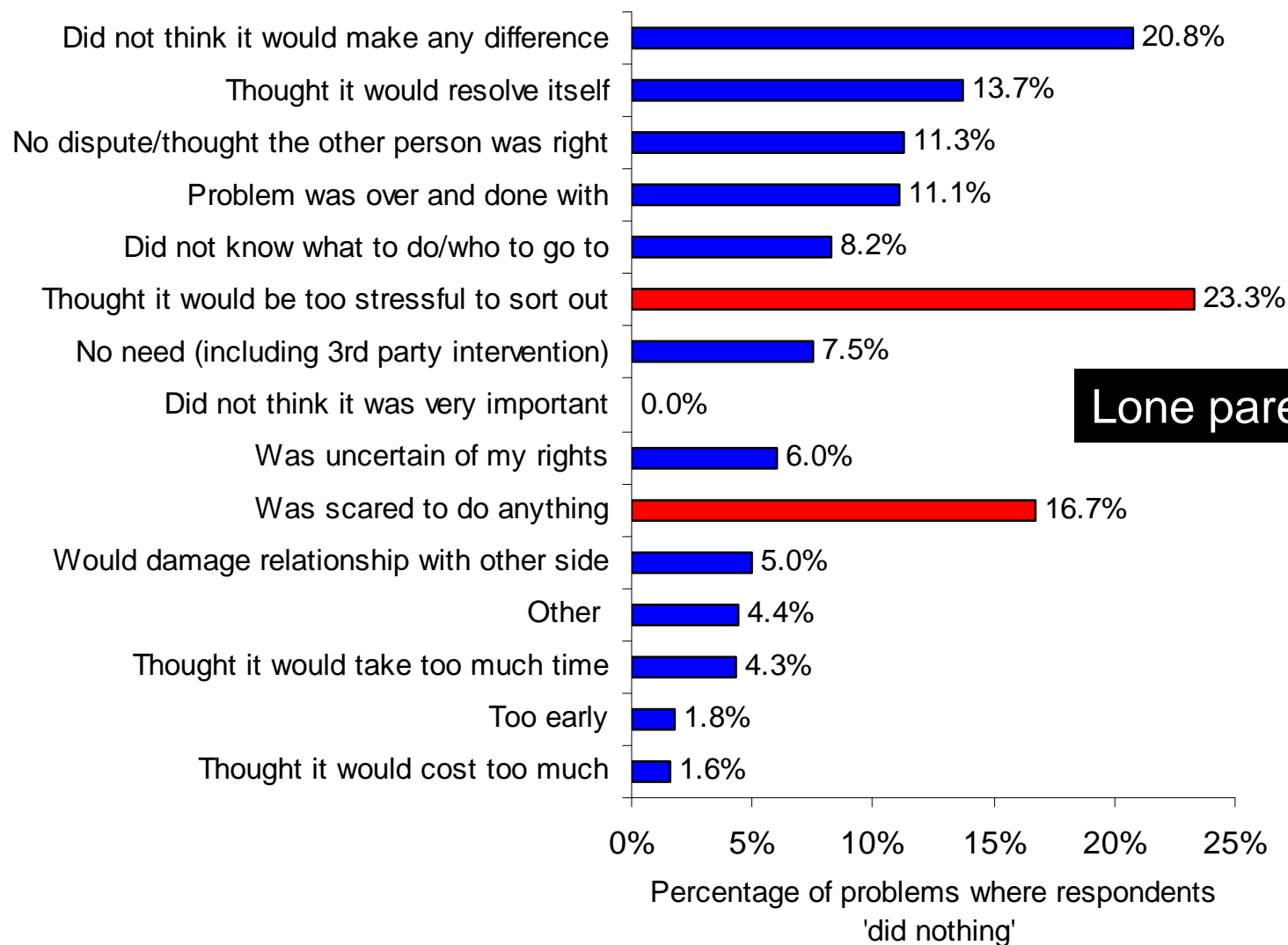
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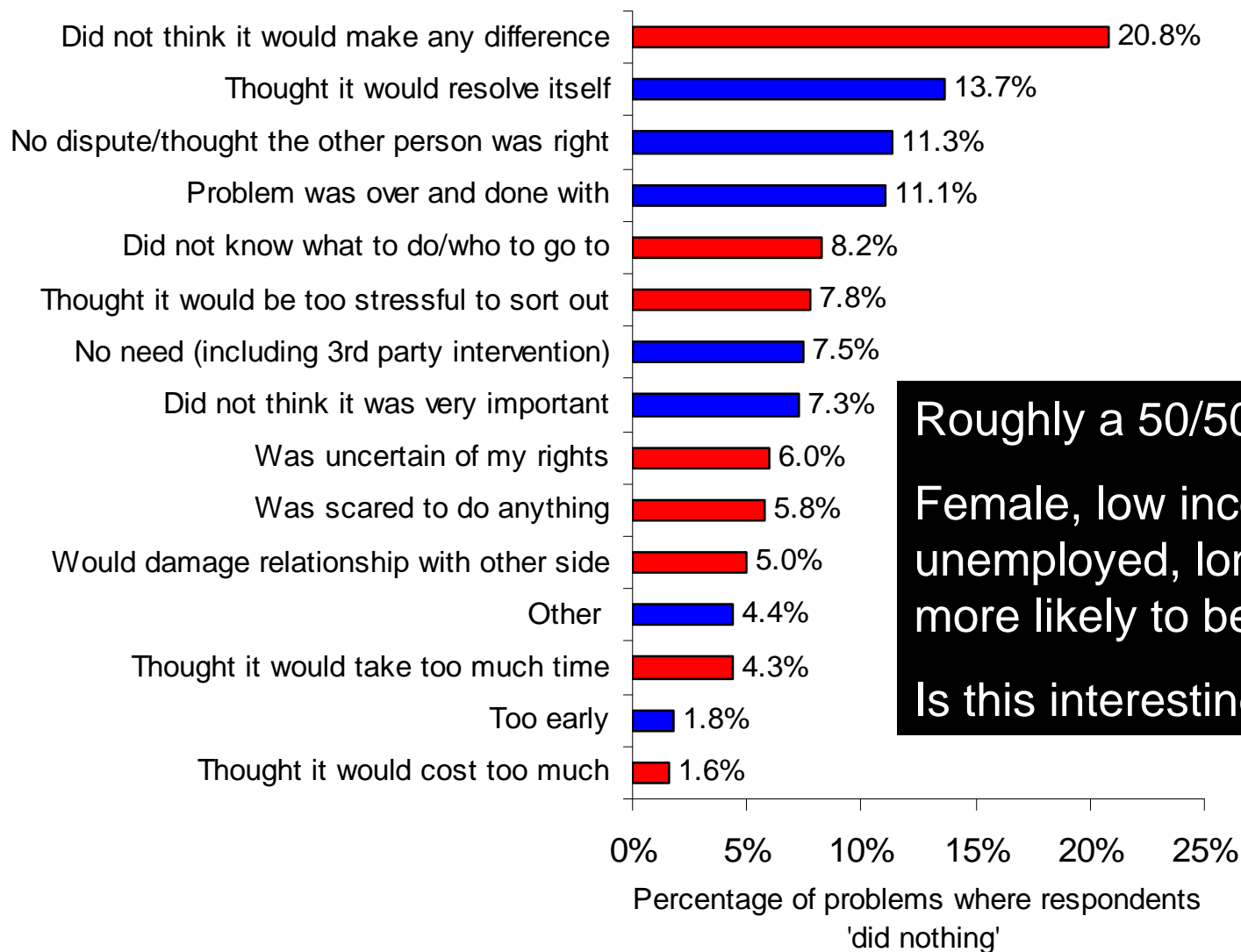
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Why people did nothing



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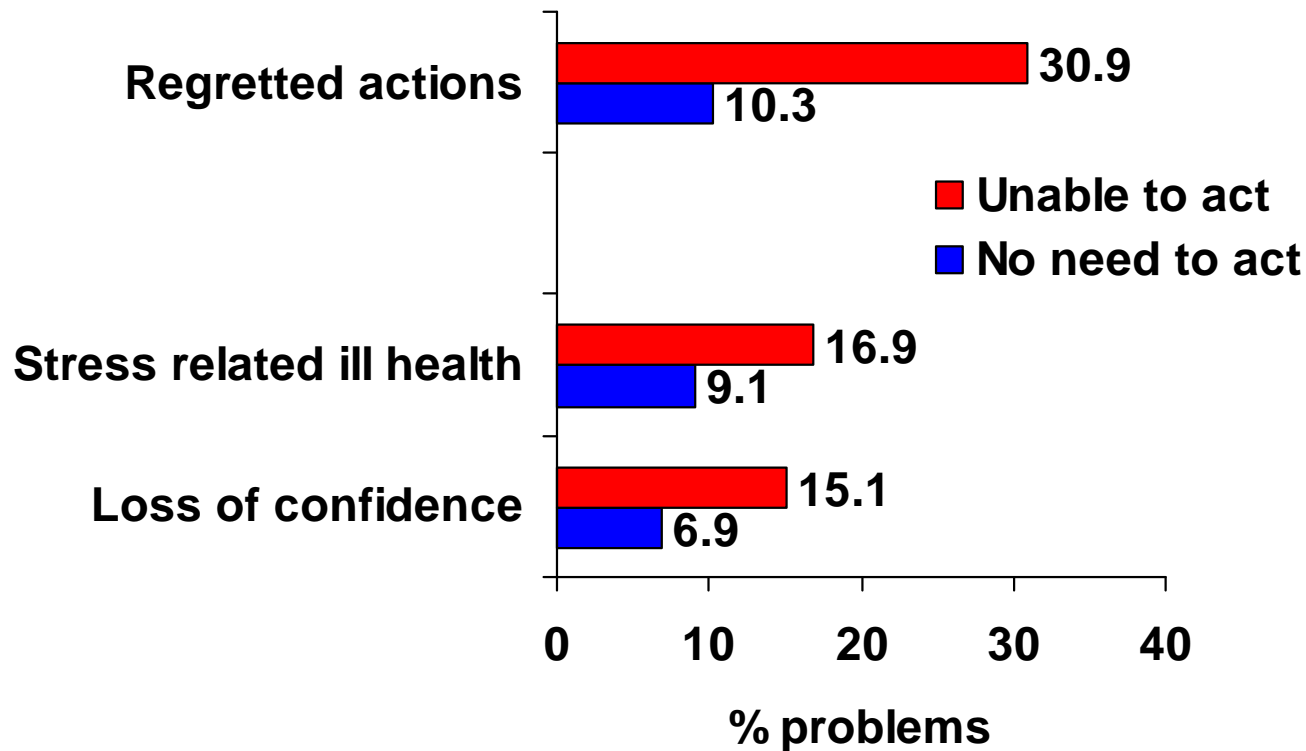
Wanting to act but being unable to do so



Roughly a 50/50 split
Female, low income,
unemployed, lone parent
more likely to be in the red
Is this interesting?

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Wanting to act but being unable to do so



Regret centred on wishing advice/information had been obtained

Doing nothing (for different reasons)

1. Overall, doing nothing doesn't look a bad idea
2. Depends whether or not you wanted to act
3. Some (disadvantaged) groups more likely to 'want to act' when they did nothing
e.g. Low income, unemployed, lone parents
4. If you do nothing but wanted to act, you get worse outcomes
e.g. more stress-related ill health, far greater levels of regret
5. Around half of those who did nothing could have benefited from some knowledge

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Public Legal Education – using the CSJS

New questions added to the CSJS to attempt to inform Public Legal Education policy

1. Asked about knowledge of rights
2. Asked about knowledge of processes
3. Asked what they wish they had known
4. Asked if they felt they could have acted sooner

Simple questions to measure lack of understanding

What respondents wish they had known

– open answers

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Respondents were asked

“At the time of the (problem descriptor), did you know what your legal rights were relating to this problem?”

1,357 of 2,095 respondents (64.8%) suggested that they did not know their rights

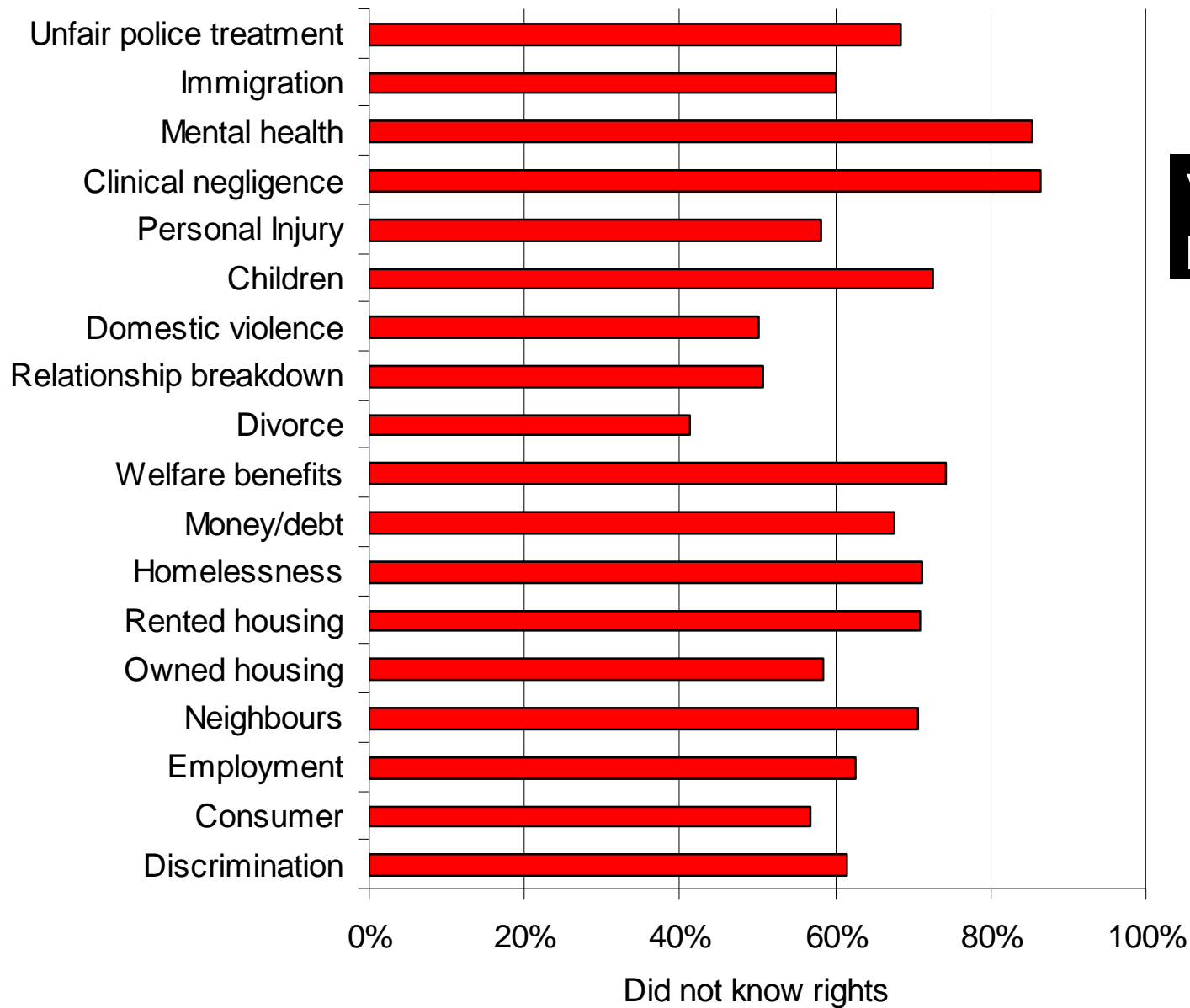
Respondents were asked

“At the time of the (problem descriptor) did you know what formal processes (such as court proceedings and tribunals) are sometimes used to deal with these sorts of problems?”

1,483 of 2,128 respondents (69.7%) suggested that they had no knowledge of processes

Extensive lack of knowledge

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Variation by
problem type

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Demographic differences in knowledge of rights

Higher percentages lacking knowledge for –

- Those with mental health problems (72%)
- Those with a long-term illness or disability (69%)
- Lone parent (69%)
- Renting (over 70%)
- No academic qualifications (70%)
- < £10,000 (69%)
- Off work because of illness (74%)
- In education (72%)

Contrasts with education and affluence

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What respondents wish they had known

36% of main survey respondents gave an answer

- My rights/formal processes – 13% of responses
- That I should get advice – 5% of responses

Oversimplifies some in depth responses

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Some highlighted frustration

'I wish it had just been one source...no agency was able to help me in one go',

'[I wish I had known] the most effective person to contact to get things done' and '[I wish I had known] who I should speak to rather than being pushed from pillar to post'

'First time buyers need more help. They send you all this paperwork but no-one tells you what it means in layman's language.'

Some wished for factual understanding of the law

'First time buyers need more help. They send you all this paperwork but no-one tells you what it means in layman's language.'

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Many highlighted issues around knowledge of rights

'(I) should have found out about my legal position before ending the contract'

'It would have been helpful to have known our legal rights-it would have been good if at the time he was diagnosed we have been given an information pack on what to expect and what we needed to do.'

Some wished they had known how simple the law was

'having understood the procedure I would not [have used/use] a solicitor. I would have just used the mediation. I would not [have used/use] a solicitor because it was so simple.'

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Many highlighted early action and handling alone

'should have attempted more earlier'

' If I had known about Money Claim On-Line- a government site, and how little the cost...to take out action. It would have changed my plans earlier, so I would have started Court action earlier so that the Debt Collectors did not continue to threaten. This is a cheaper way to take action without using a solicitor and the high charges solicitors use.'

Many go to the heart of public legal education

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CASE STUDIES (quali diversion)

Take a row of survey data

Bernadette, a 37 year old University educated, white British female, is the sole carer of Norm her 75 year old father. In November 2006 Bernadette suffered a heart attack, forcing her- on an income of less than £10,000 per annum, and not in receipt of means tested benefits- to pay for her father to be cared for in a home, while she recovered.

Bernadette was informed that were she not under the local Health Authority, funding would have been available to support the cost of her father's care. As it is not, she feels discriminated against and disadvantaged. In seeking advice on the matter, she spoke with a social worker and a doctor, from whom she obtained some, but not all advice needed. Bernadette also used the Internet to seek answers but was unable to identify the appropriate advice source.

She expressed frustration in being unsure of how to go about obtaining the right advice, saying that '[I wish I had known] the most effective person to contact to get things done.' As a result of these difficulties which have spanned two years, Bernadette now experiences stress related ill-health, and has been diagnosed by her GP as suffering from a mental illness.

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CASE STUDIES

Alexander is a 40 year-old white British male who lives in his own home. He is university educated and widowed with no children. Alexander was an applicant in a claim against an online sales website for charges they stated he owed and which he disputed.

Having an understanding of his rights, but a lack of familiarity with the processes involved in instigating a proceeding, he sought legal advice from a solicitor. However, he opted to deal with the matter himself, after the solicitor told him not to take the online sales website to court. He went on to seek advice from Trading Standards and his local Community Advice Bureau where he obtained some, but not all of the information he needed.

His successful resolution of the problem led him to state that, 'If I had known about "Money Claim On-Line" a government site and how little the cost to take out action, it would have changed my plans earlier, so I would have started Court action earlier so that the Debt Collectors did not continue to threaten me. This is a cheaper way to take action without using a solicitor and the high charges solicitors use.'

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CASE STUDIES

Janet is a 36 year-old, white, British woman, in receipt of a household income in excess of £60,000 and with a mortgage on a detached home. She cohabits with her husband and her two children, Chester, a 10 year-old boy with Autism and a 4 year-old girl called Bonnie. Chester has difficulties with his schooling on account of his Autism, which requires Janet to discuss these issues with his school, including having to frequently persuade the school to provide more resources in order to assist him.

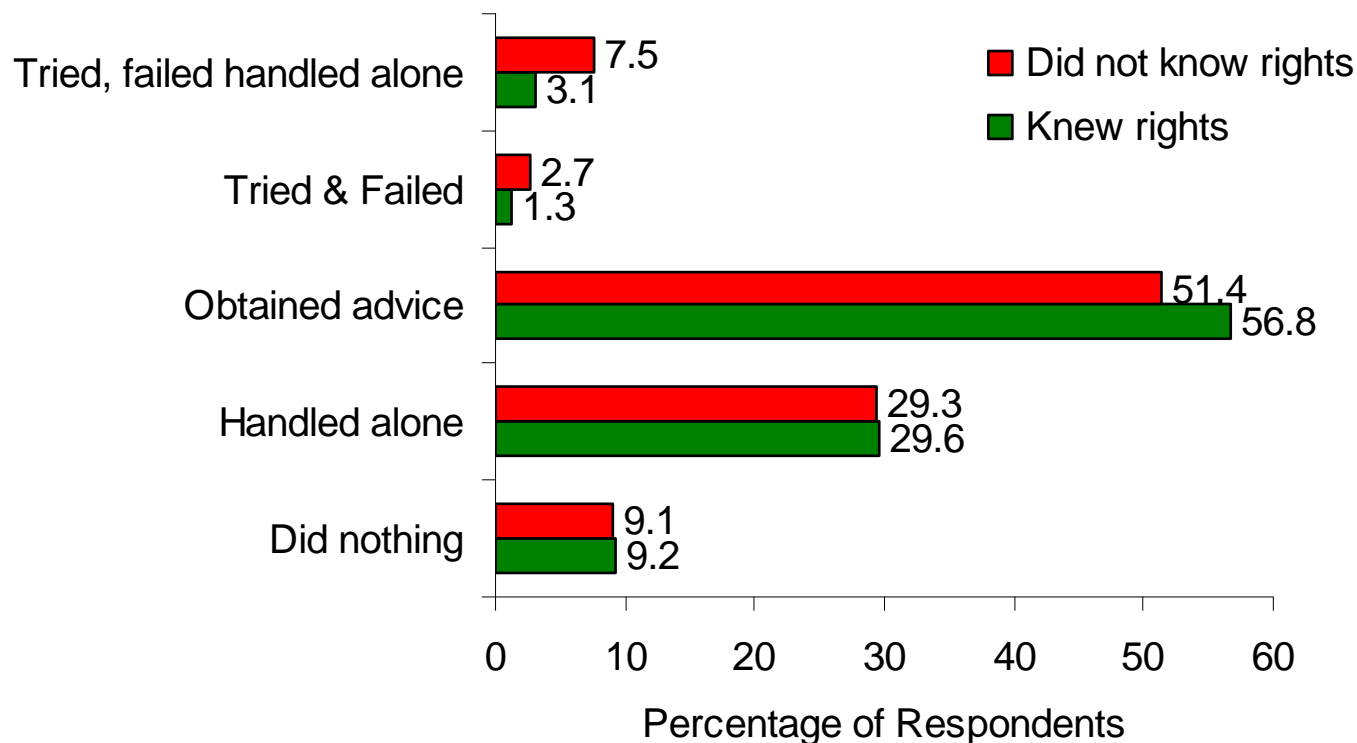
She has been active in seeking advice and has had success gaining information from the Internet, the National Autistic Association and another advice agency, with less success obtaining information and assistance from her local council.

The fact that she has had to approach a number of agencies, combined with the mixed outcomes of these efforts, prompts her to state that *'It would have been helpful to have known our legal rights-it would have been good if at the time he was diagnosed we had been given an information pack on what to expect and what we needed to do.'*

Seems we should care about lack of knowledge of rights
Does lack of knowledge make any difference?

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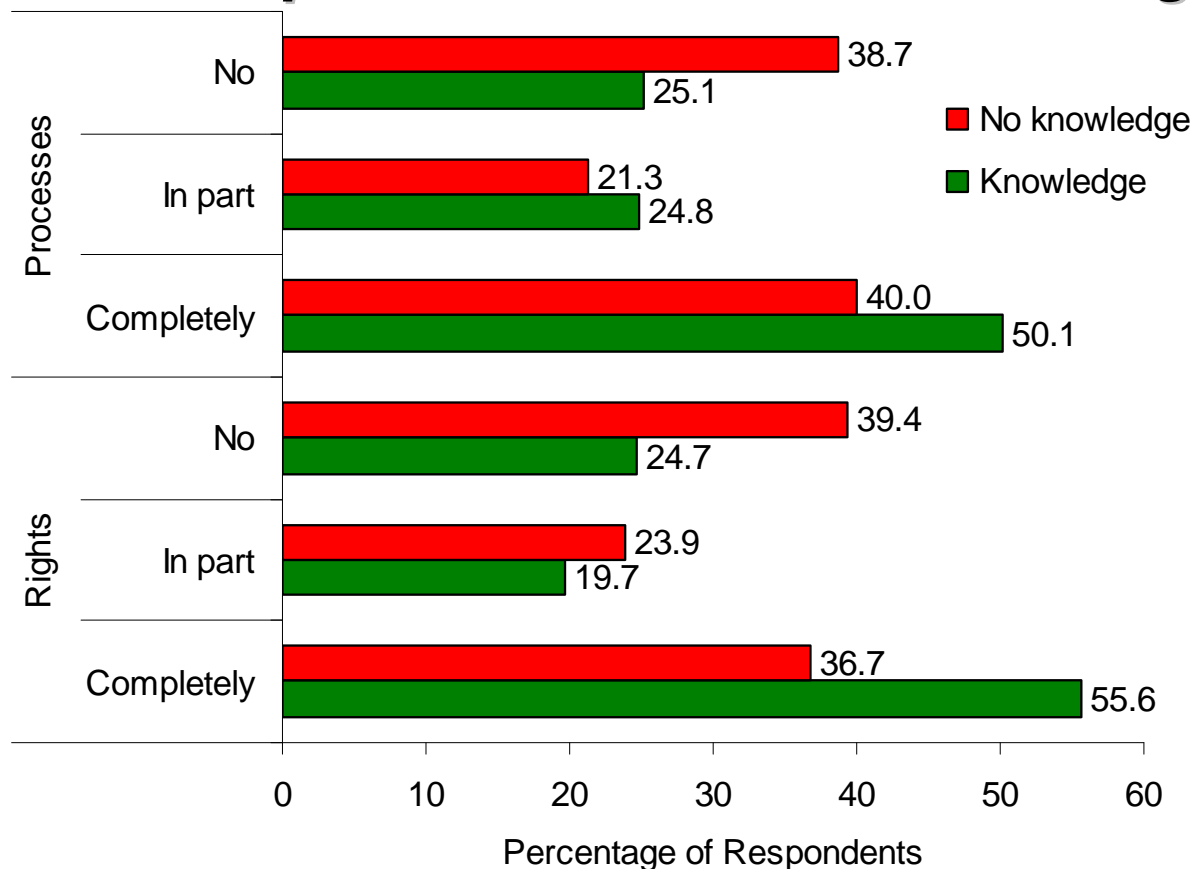
Implications of lack of knowledge



Lack knowledge = less obtained advice, more failures
Statistically significant, but is it practically significant?

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Implications of lack of knowledge



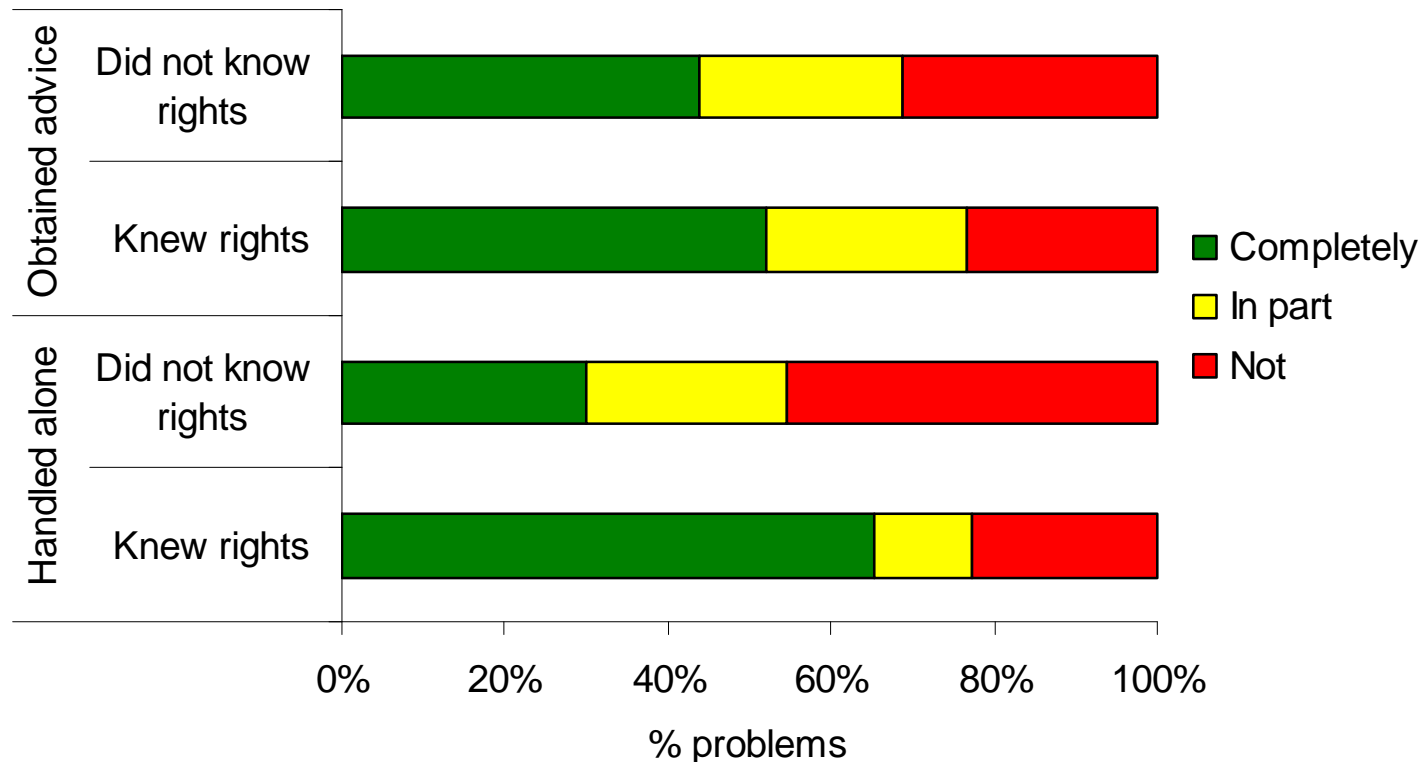
Lack knowledge = far less meeting objectives

Convinced of need for PLE?

What if knowledge is simply a proxy for strategy?

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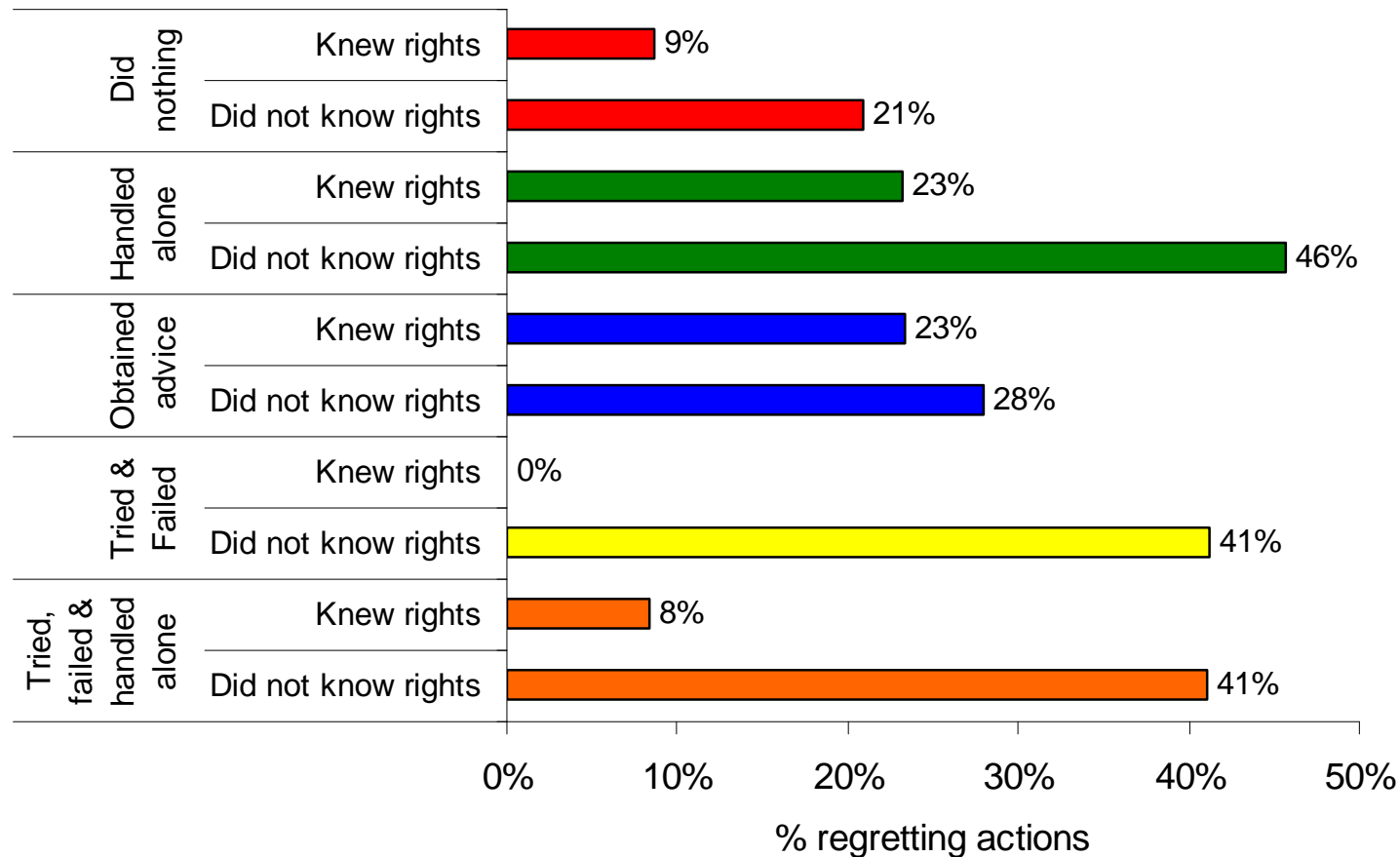
Implications of lack of knowledge – meeting objectives



What if we also split by strategy (knowledge of rights only)?
Knowledge makes a big difference where when handling alone
Knowledge makes little difference where advice is obtained
If you don't know your rights, you had better get advice

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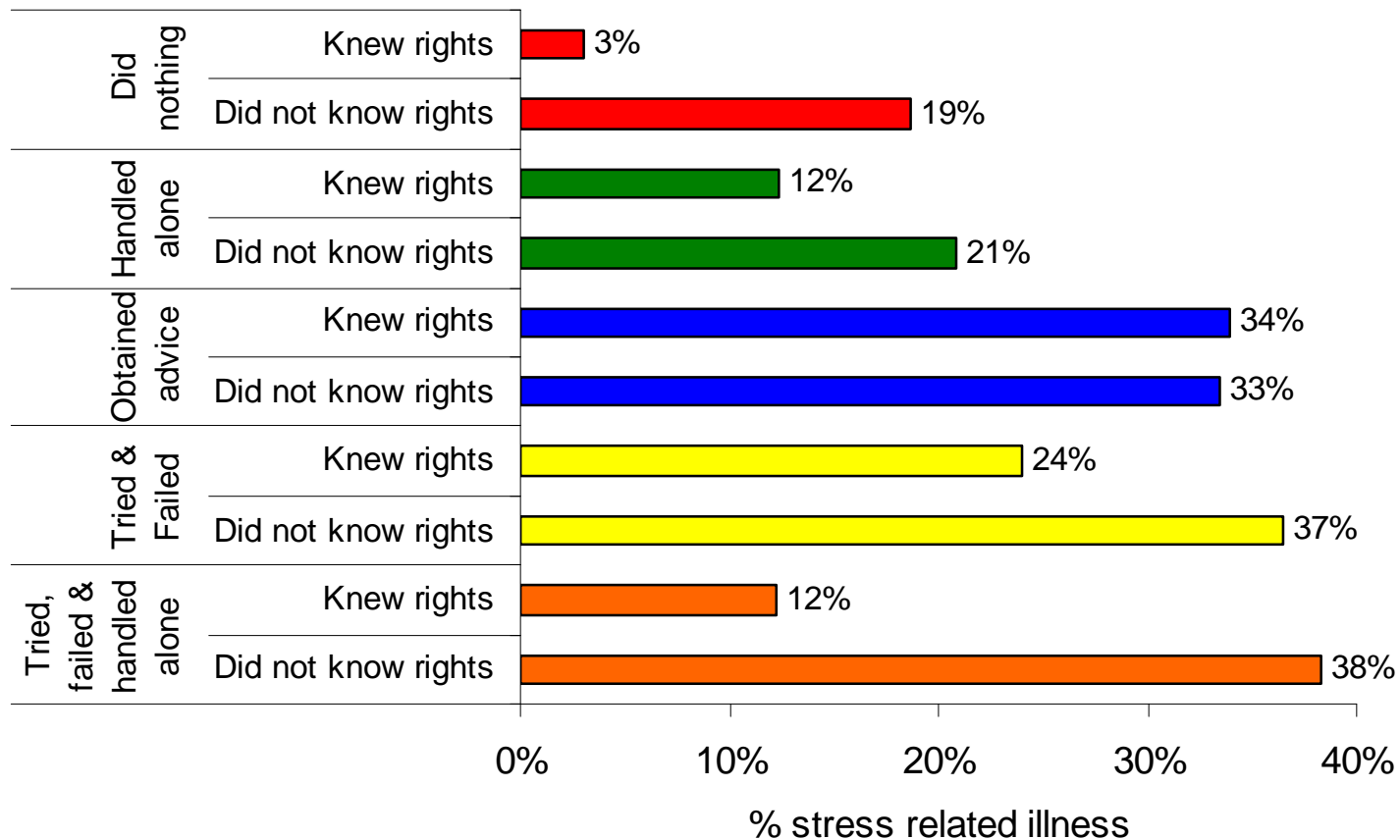
Implications of lack of knowledge



Similar approach for whether or not they regretted their actions
Big impact of knowledge of rights except where advice obtained

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Implications of lack of knowledge



Same thing for stress-related ill health as a consequence
Important to have knowledge if you do not obtain advice

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Implications of lack of knowledge

Who fares worst? - Not obtaining advice, lacking knowledge and suffering the consequences

Female respondents

Those in high density accommodation (i.e. terraces or flats)

Those without use of motorised transport

Single respondents and lone parents, particularly when contrasted with married couples without children

Ill/disabled and those with mental health problems

Public renting

No academic qualifications

In receipt of means tested welfare benefits

Low income.

In general, disadvantaged groups were far more likely than others to not obtain advice, lack knowledge, and suffer adverse consequences.

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Implications of lack of knowledge

Who handles alone with knowledge of their rights?

As we saw handling alone with knowledge results in better outcomes

Male respondents

Those in detached housing, particularly compared to those in flats

Married couples with children, particularly when compared
cohabitants with children

Those who owned their homes or had mortgages

Those not in receipt of means tested benefits

Those without mental health problems

Far more meeting objectives (in full, 65% vs. 30%)

Less stress-related ill health

Clear benefit of handling alone with knowledge of your rights

Knowledge, strategy and outcome

1. Extensive lack of knowledge of rights
Related to demographics and problem type (high for clin.neg., low for divorce, high for lone parents, low for affluent/educated)
2. Regrets over lacking legal knowledge common among what respondents wish they had known
e.g. Many examples went to the heart of PLE
3. Lack of knowledge related to strategy
e.g. More failed attempts at obtaining advice
4. If you have knowledge handle alone, if you do not you had better get advice!
Lack of knowledge related to far worse outcomes where no advice was obtained
5. Whether your fared well or poorly strongly related to disadvantage, education and affluence

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What next?

The English & Welsh Civil & Justice Panel Survey

Respondents presented with a range of detailed scenarios and asked about persons rights and how they should act

- *Covers issues around rented housing, employment, consumer problems and relationships*
- *Far more specific information on knowledge of rights and capability*

Detailed information added on why people acted as they did and why they did not act in other ways

- *Again, should give far more detail on knowledge & capability*

Internet surveys on problem severity and characterisation

Information on the extent to which problems are characterised as legal (and what impact this has)

What would you conclude from this?

What else would you want to know?

We have a problem of lack of understanding of the law/ rights. How do you address this?

What might interventions look like?

Who would you target?

Knowledge, Capability and the Experience of Rights Problems – Report to PLENET

Balmer, N.J., Buck, A., Patel, A., Denvir, C., & Pleasence, P. (2010)
LSRC and PLENET

Will be available from www.lsrc.org.uk and www.plenet.org.uk