

Meaningful Access to Civil Justice: What We Know and Should Know About Costs at Critical Junctures

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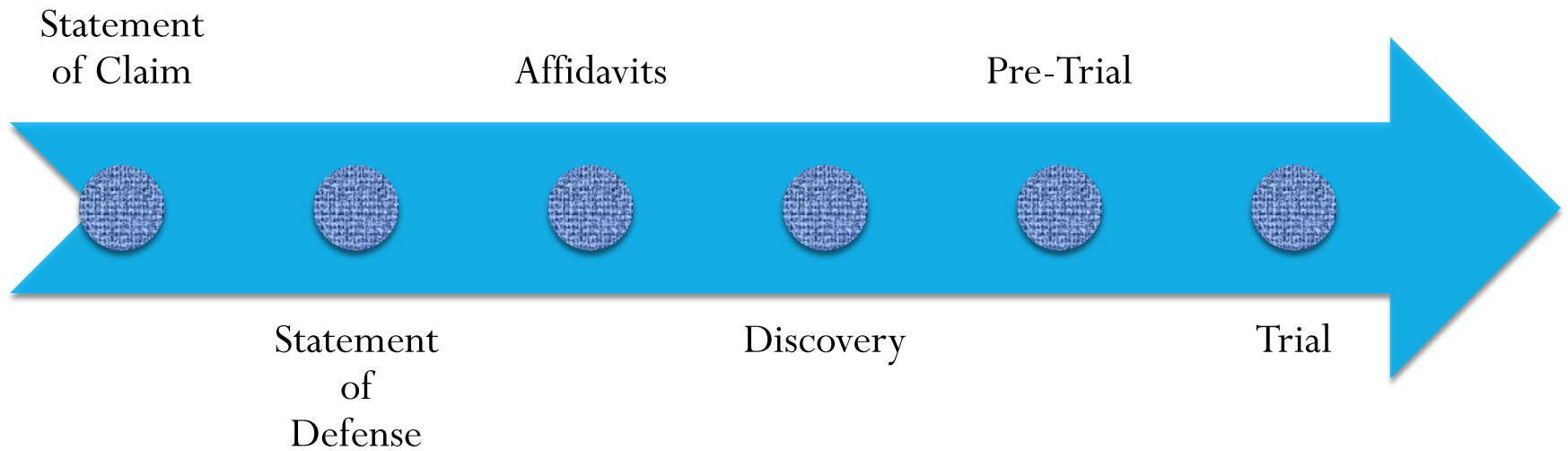
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Rod Macdonald (2012) :“good empirical scholarship on access to justice needs a theory of what the statistics are meant to tell, how they can be interpreted, and where to find “the dogs that are not barking” (p. 571)

The theoretical framework of meaningful access to civil justice can be understood in terms of impacts or outcomes for people with legal problems. Access to civil justice including in family matters is meaningful because either it helps someone resolve or address their problem, it can provide compensation or some other sort of remedy, or it has the potential to have an impact or an effect in terms of legislation, policy, or social change (Jacobs, 2014,, 2015)

Traditional Focus for Access to Civil Justice Policy and Costs



The Received View: Increasing Legal Costs Leads to Decreasing Access to Civil Justice

Legal Costs



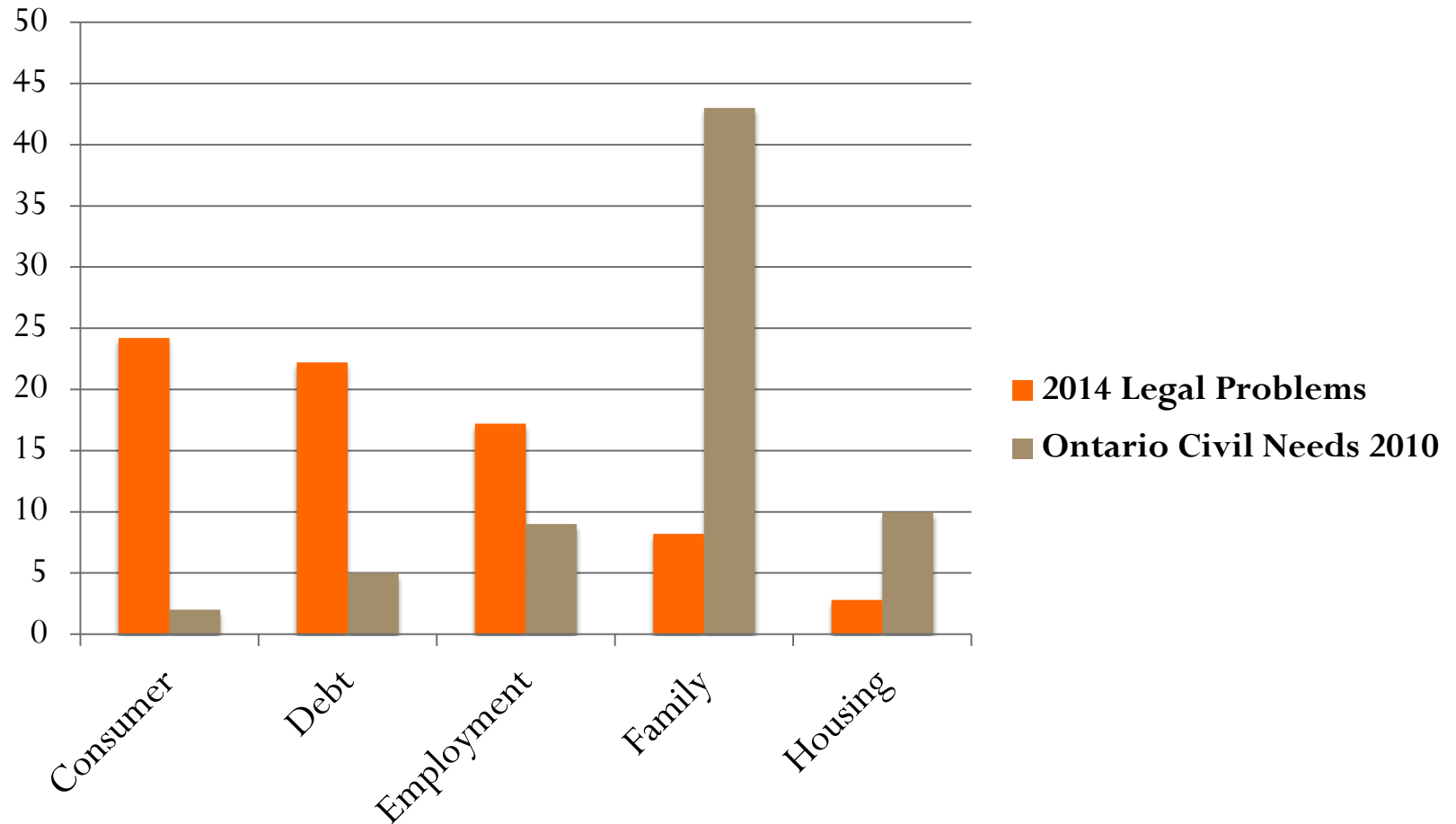
Access to Justice



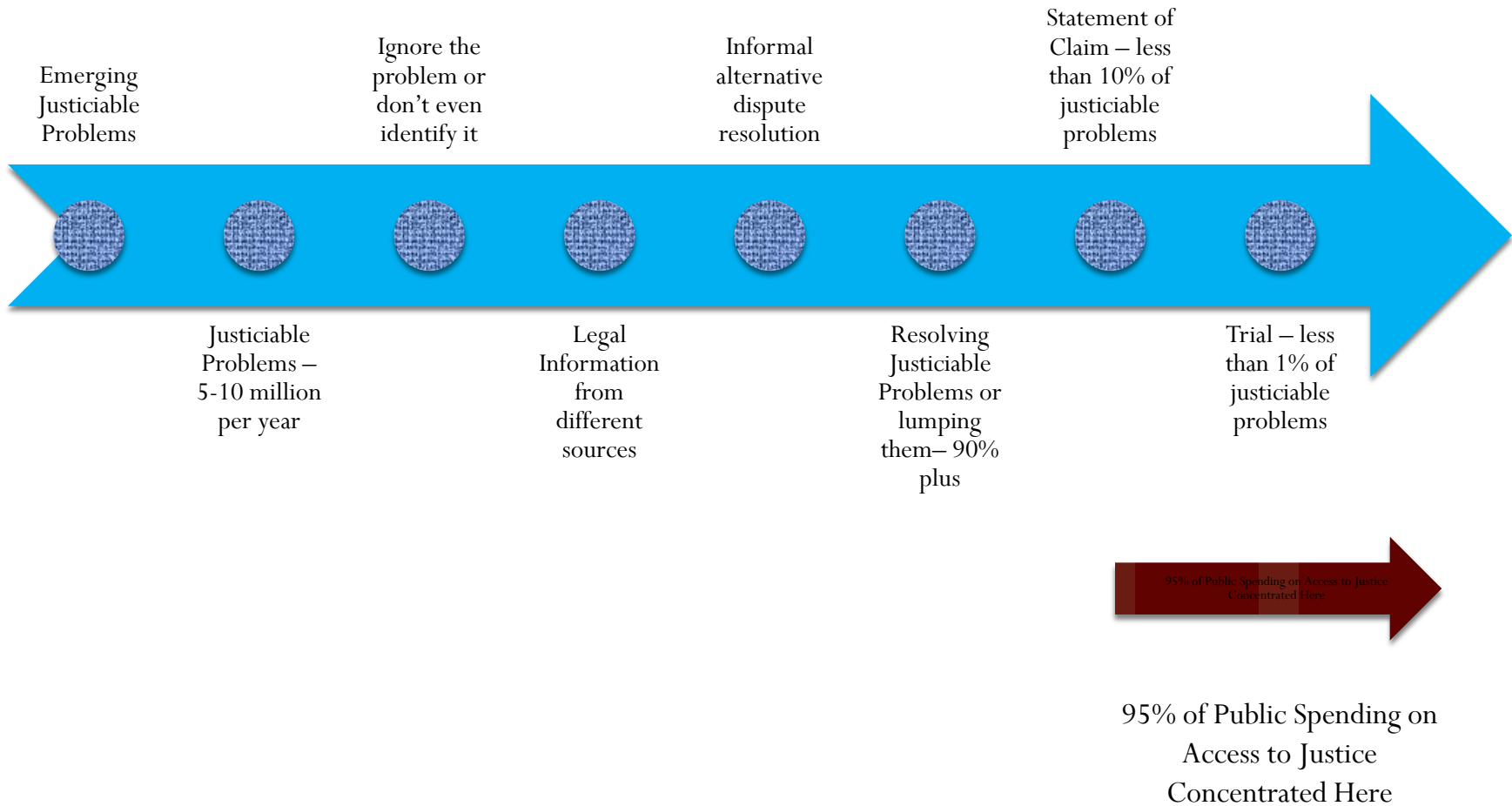
Six Pillars of Meaningful Access to Justice

- Person-centred (as opposed to service or system-centred)
- Justiciable Problem-Focused
- Few of these problems are resolved in the formal justice system.
- The emphasis should be on trying to get upstream on these problems and in effect be proactive and take preventative measures
- How ordinary people understand and make sense of law and legality—their legal consciousness—is of fundamental importance to if and how they address their legal problems
- Within a problem-centred approach to access to justice, what matters for fair outcomes and fair processes are the paths to justice or legal journeys people take, and not so much the opportunities for legal advice available to them

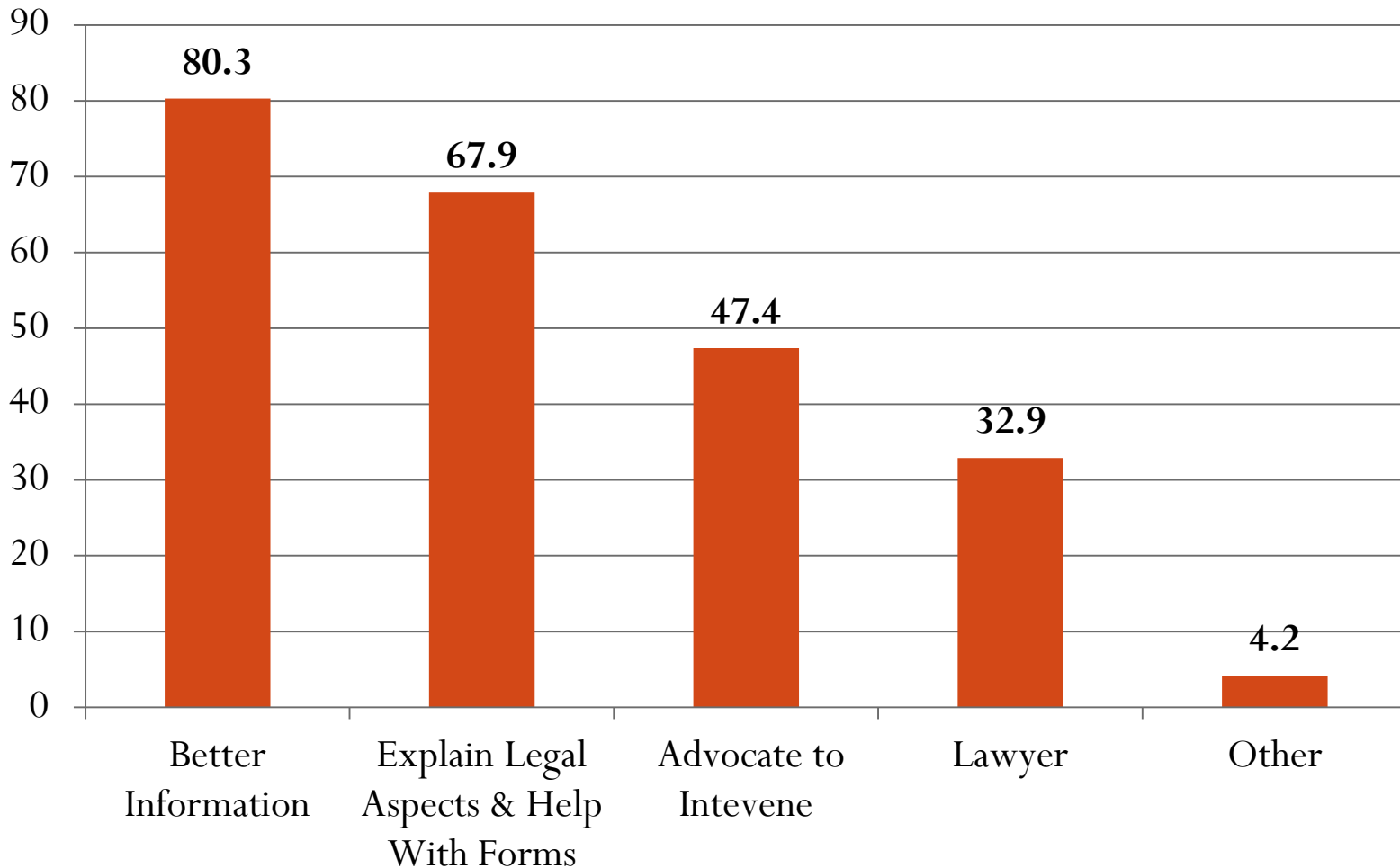
For many, the surprising but consistent finding from this type of survey is the low frequency of family problems. But some of this has to do with research methodology.



Justiciable Problems and the Concentration of Public Spending on Access to Civil Justice



What kind of assistance do they want?

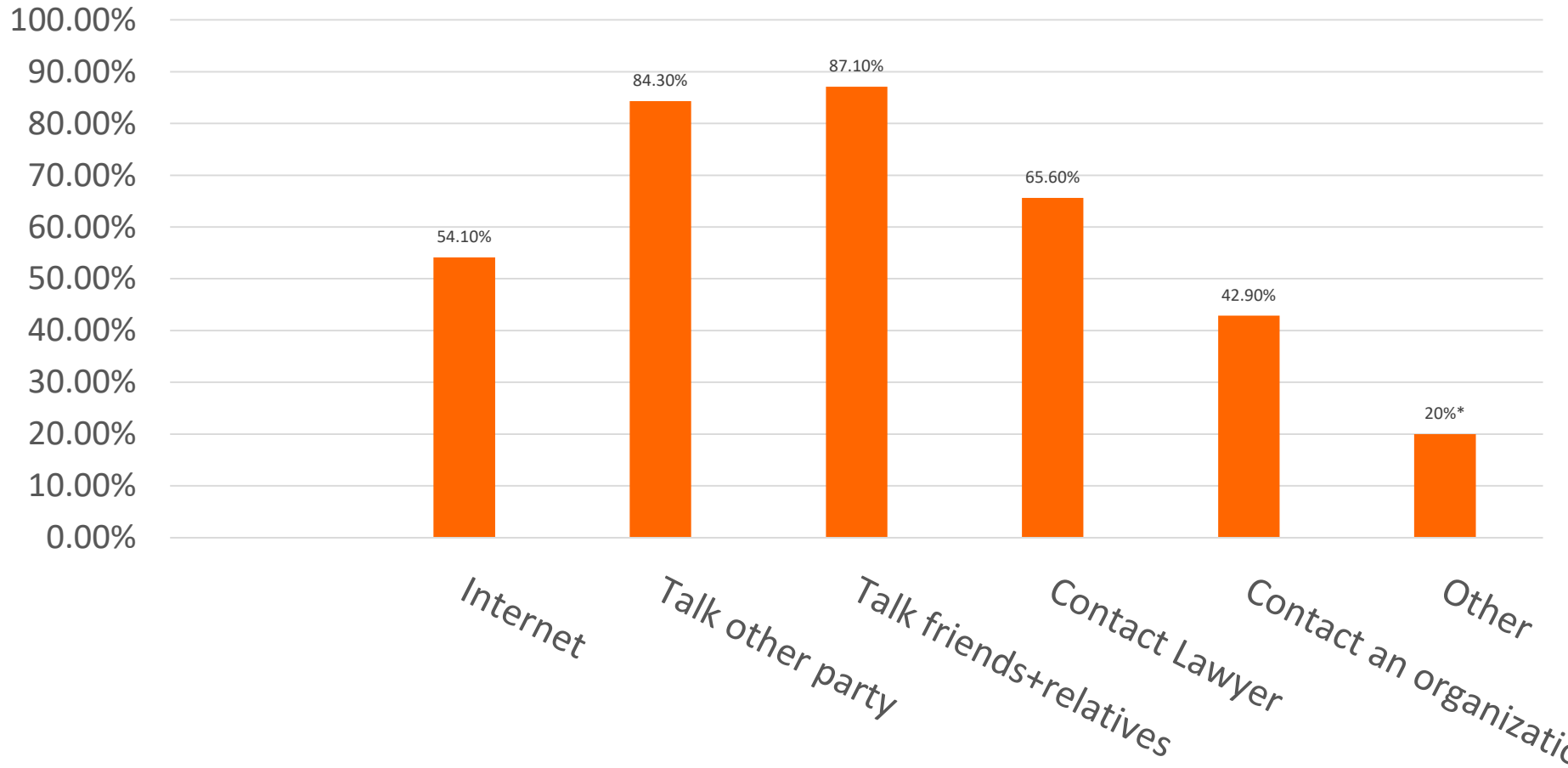


Four Types of Costs at Critical Junctures

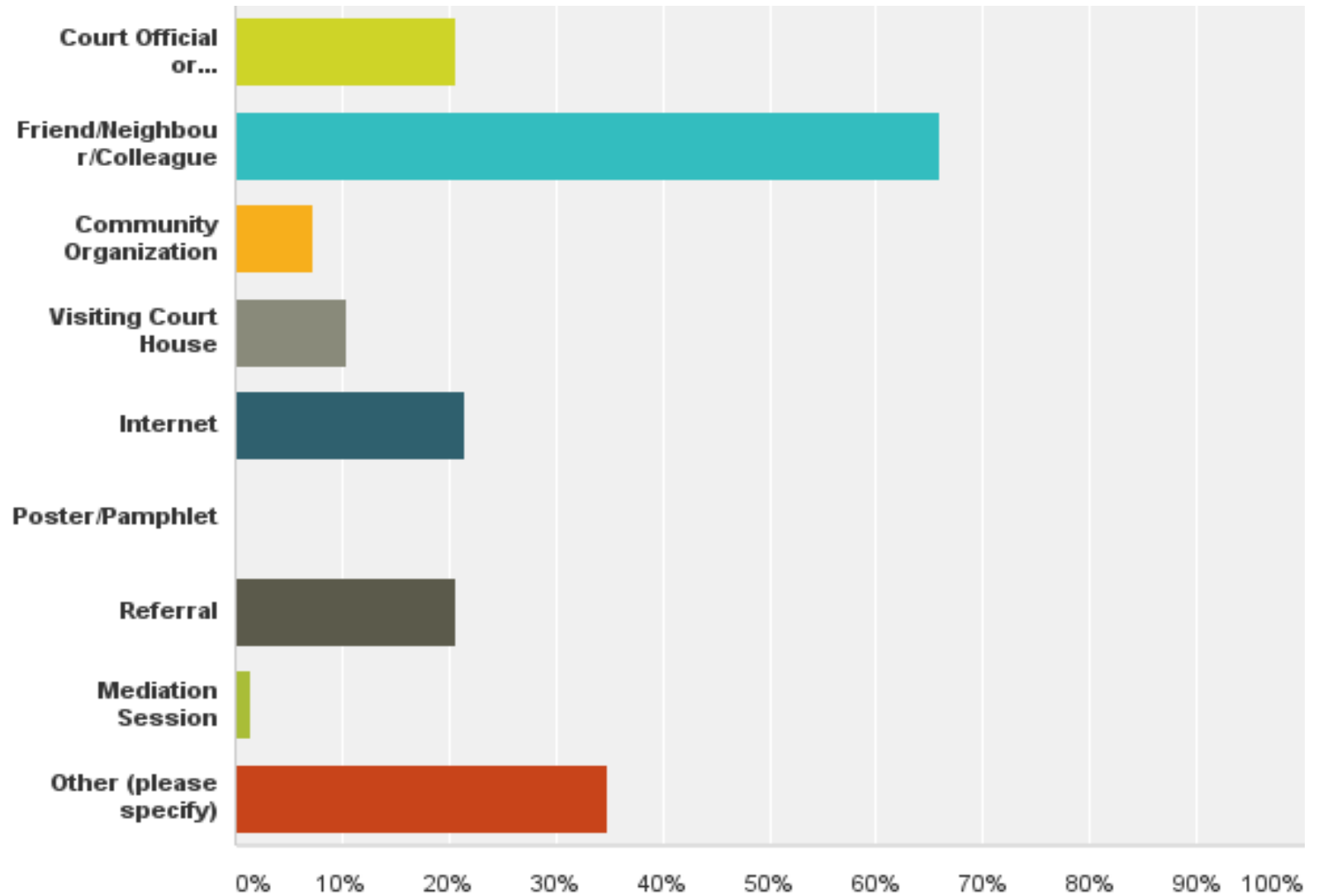
- Search Costs
- Journey Costs
 - Direct State-Incurred Costs (Justice Administration/Legal Aid)
 - Personal Costs
 - Lawyer fees etc
 - Missed Work/Lost Income
 - Health Impacts
 - Indirect State-Incurred Costs (EI, Health Care, Other Social Services)
- Journey Opportunity Costs
 - Note the need for Randomized Control Trials in Legal Service Provision
 - Path Dependency and Costs of Changing Paths
- Resolution Costs
 - Fairness
 - Efficacy

Search Costs for Family Problems

Search Experiences: Family Problems

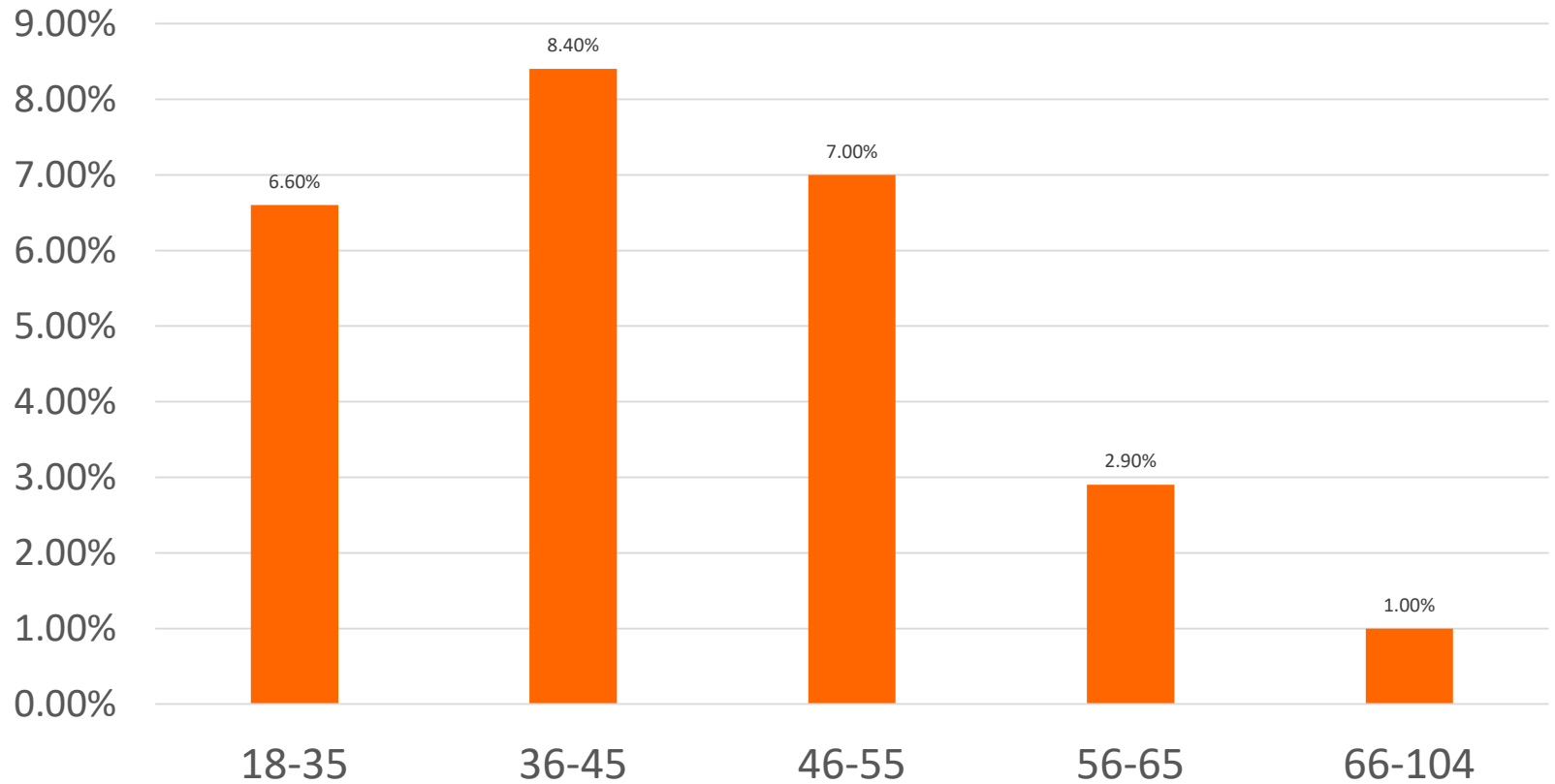


How did the client learn about the FLIC?

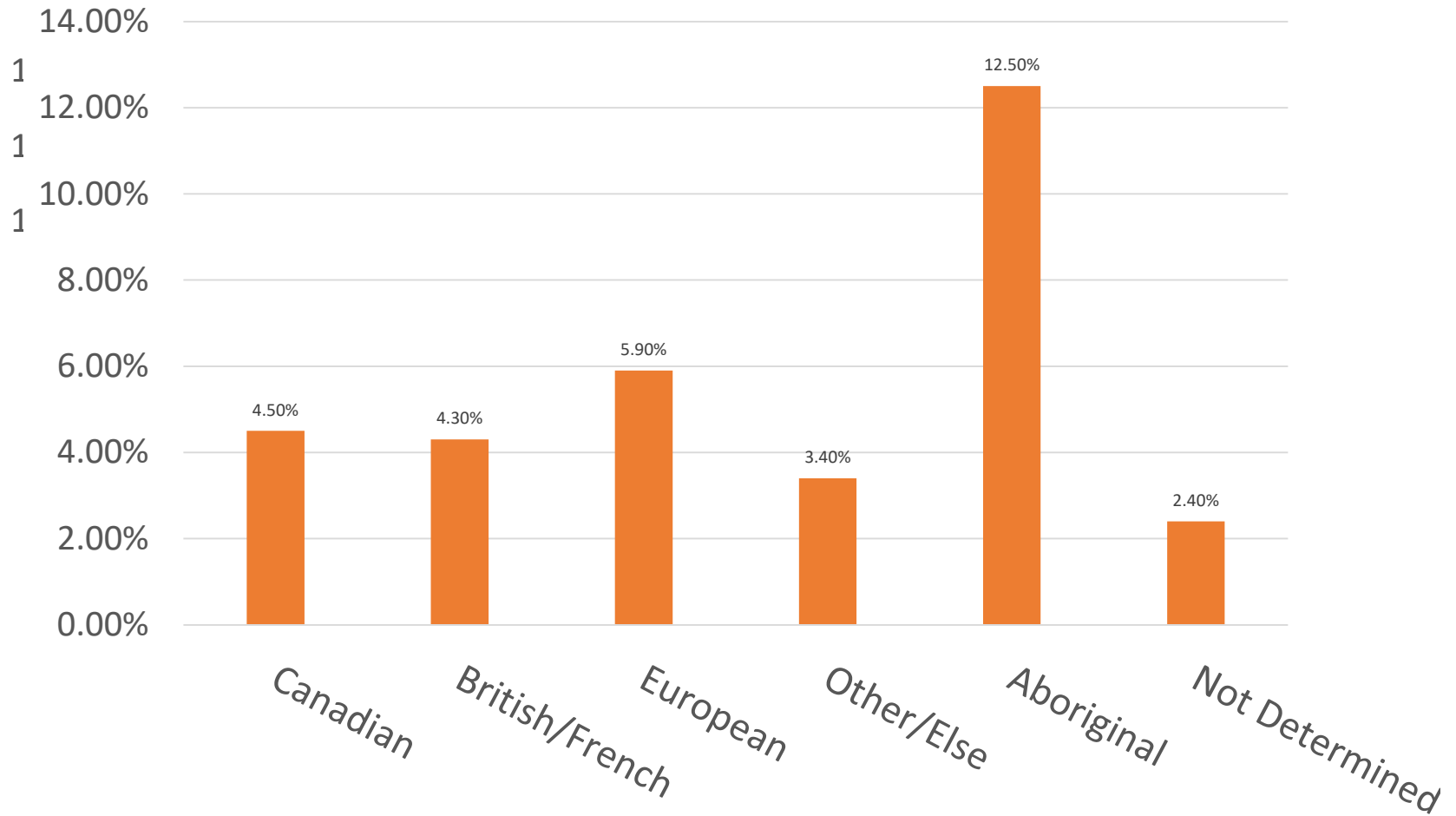


Family Problem Demographics

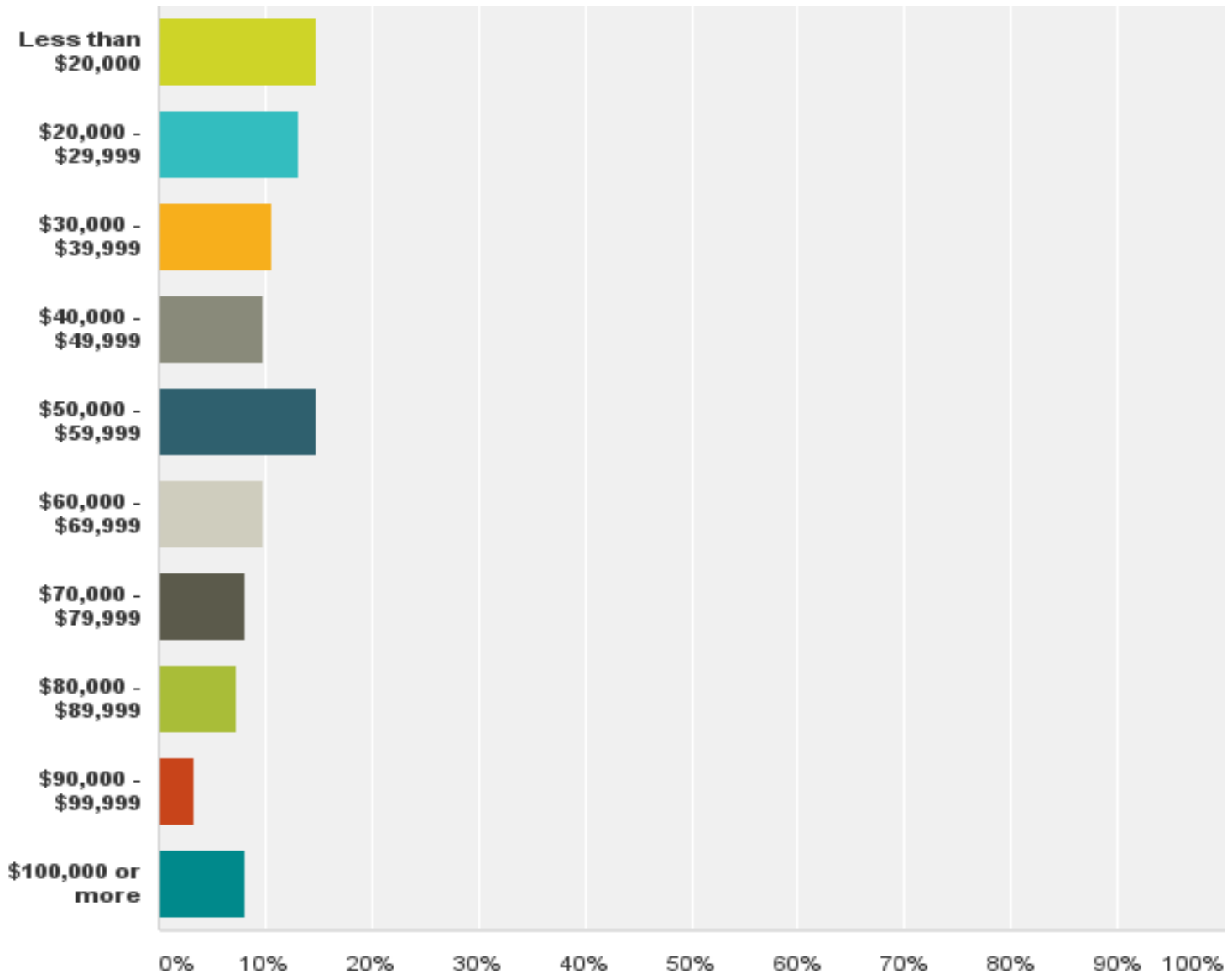
Experienced family problem by Age



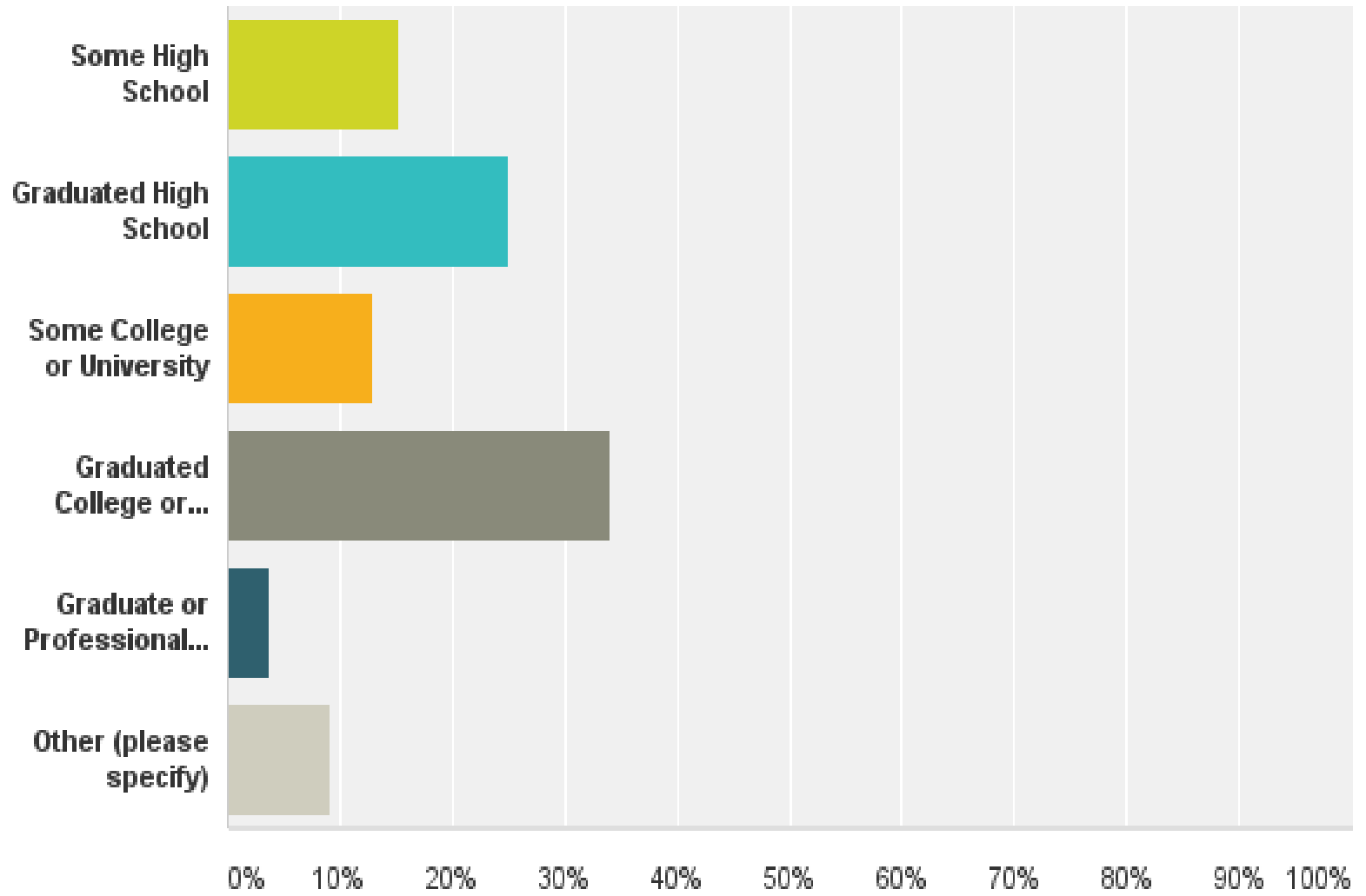
Experienced family problem by Ethnicity



Household Annual Income at FLIC

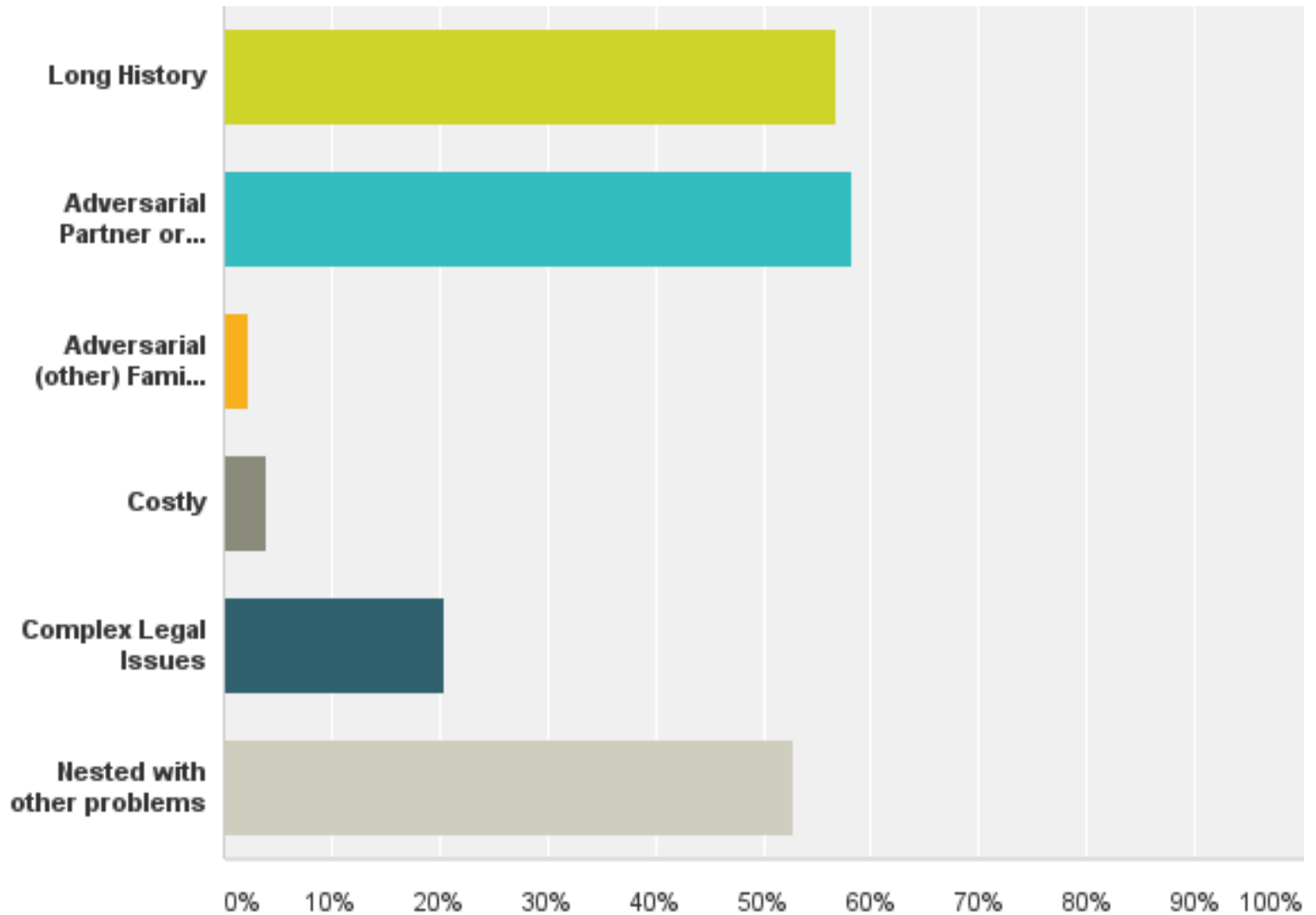


Highest Level of Education

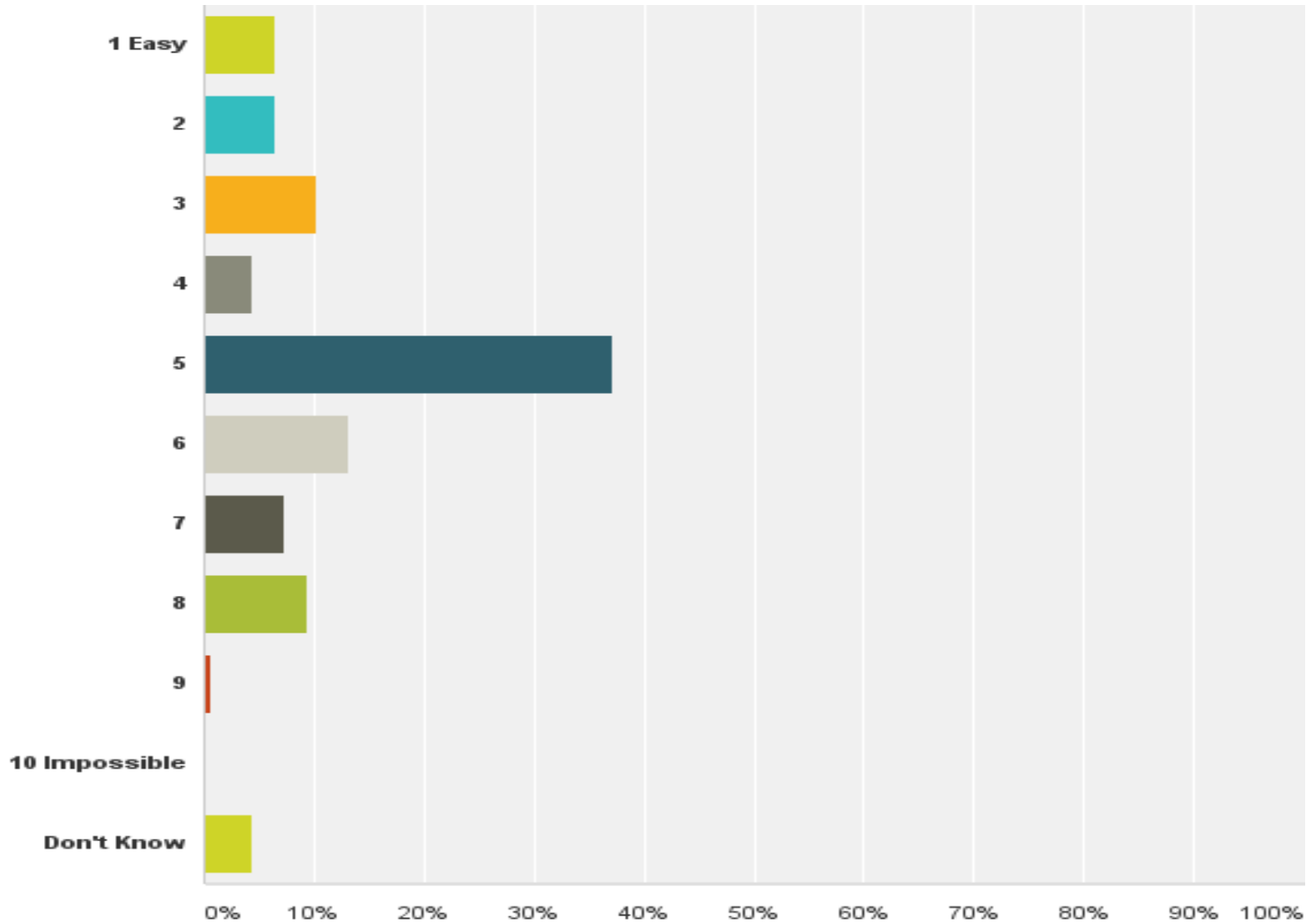


Journey Costs

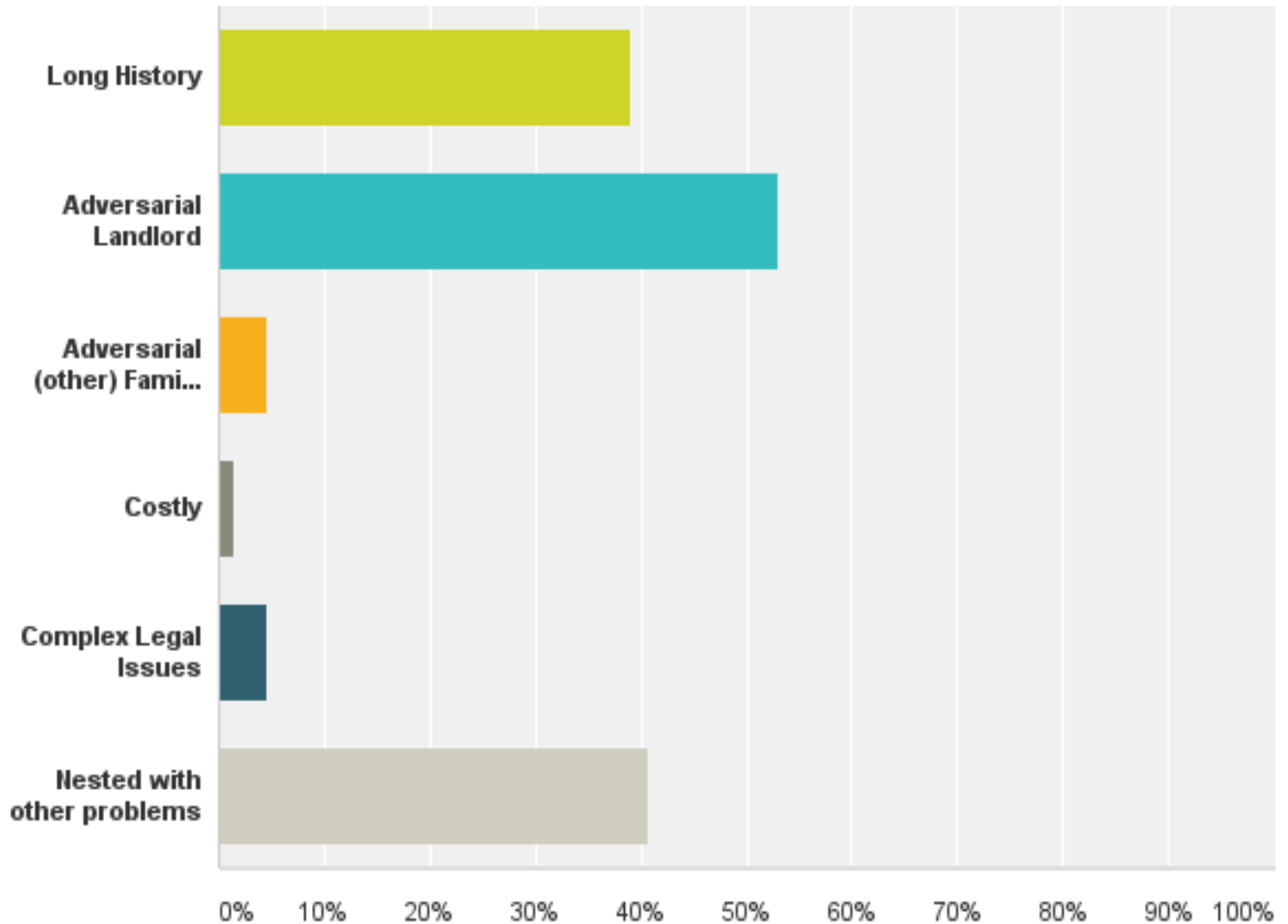
Family: Difficulty of problem - Applicable Factors



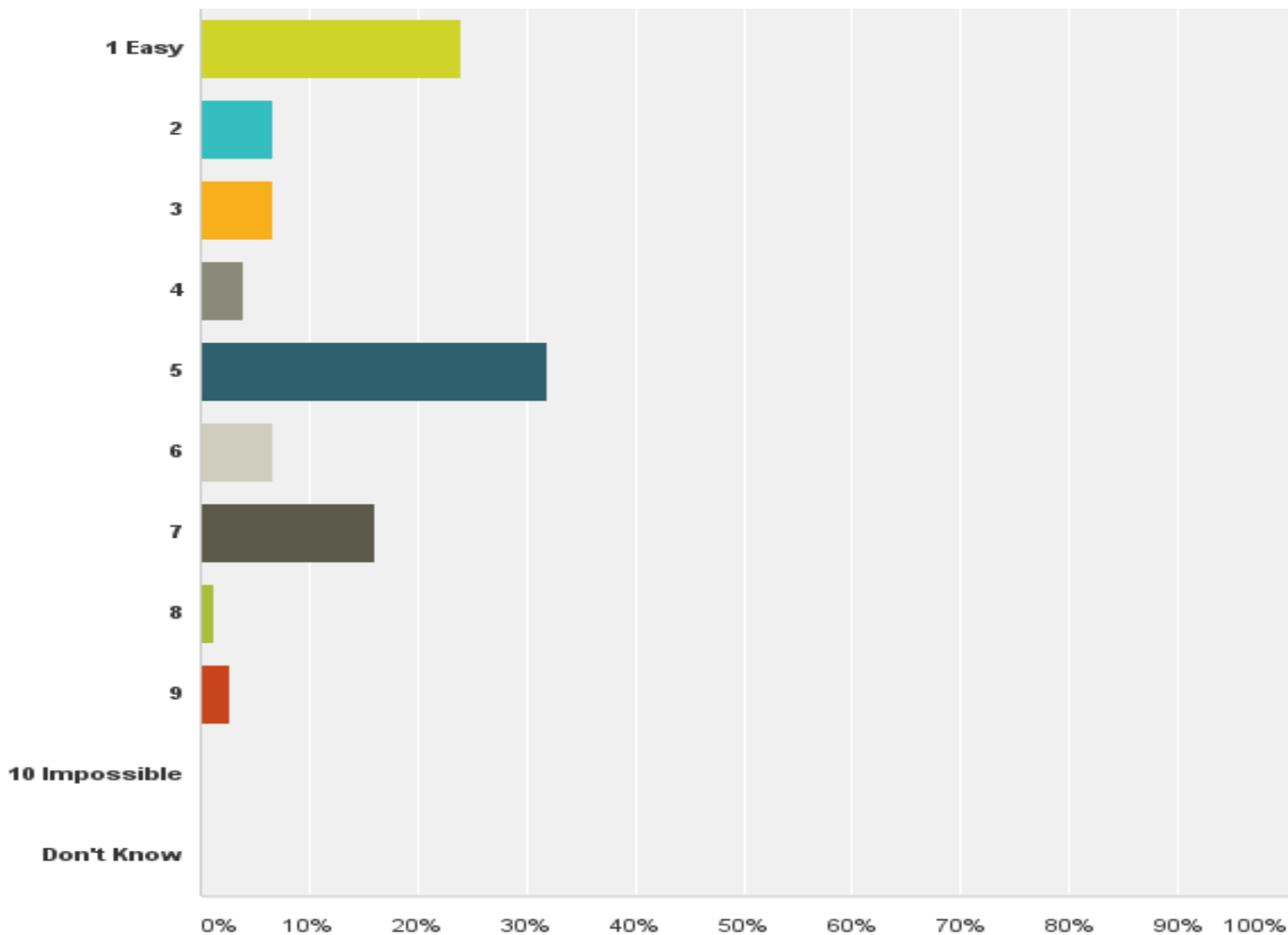
Family: Ease to resolve the problem (with 1=easy to resolve; 10=impossible to resolve)



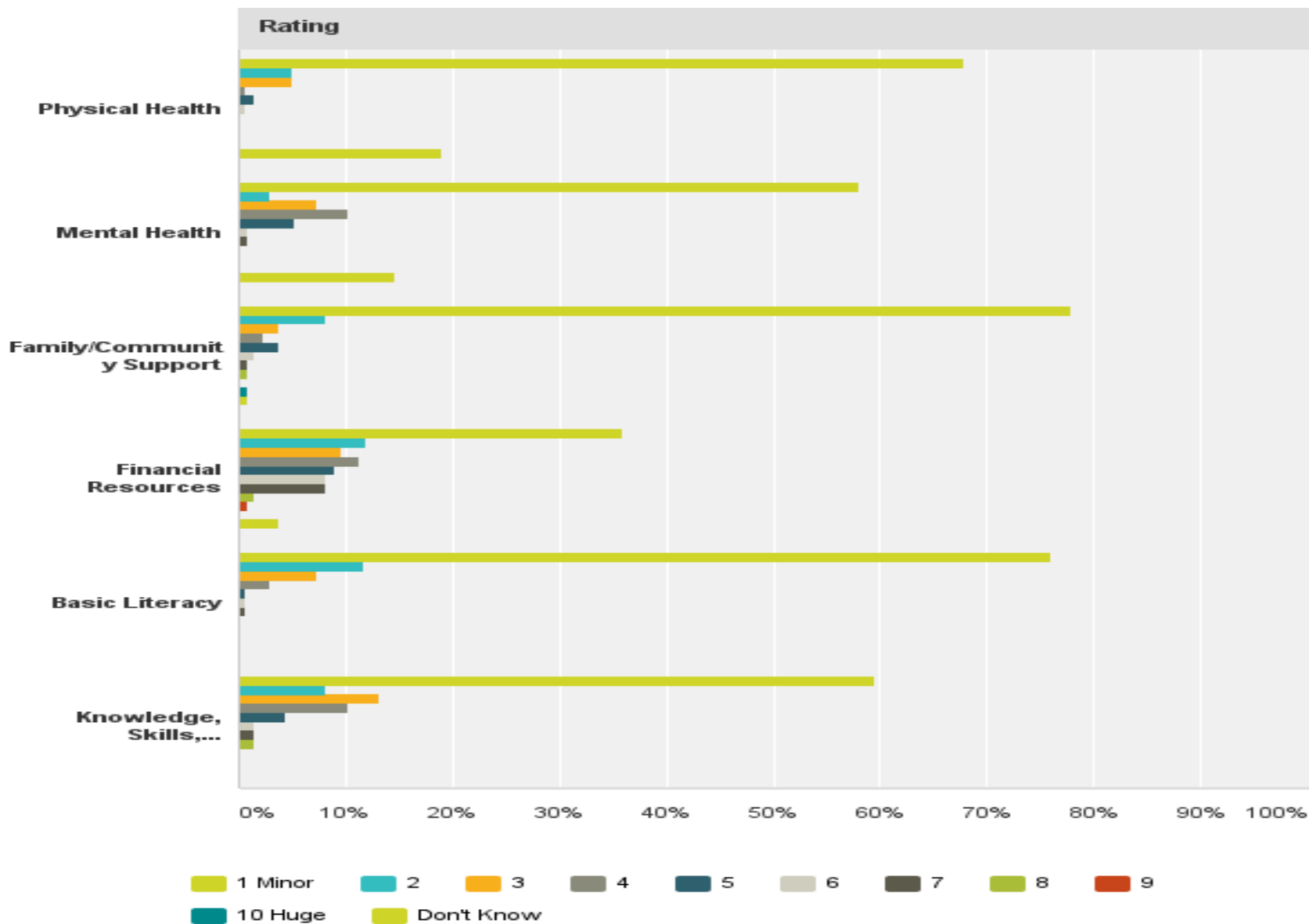
Housing: Difficulty of problem - Applicable Factors



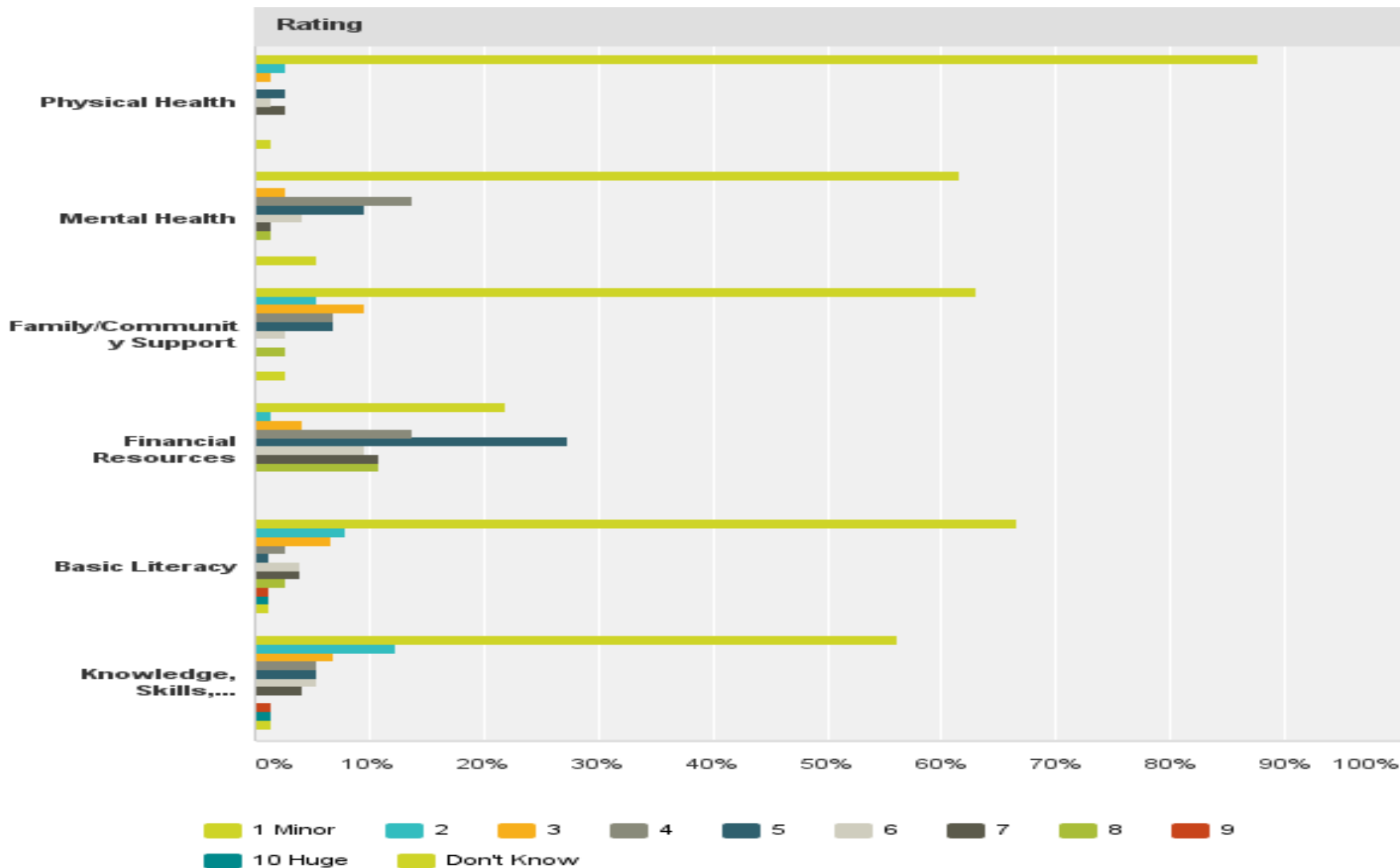
Housing: Ease to resolve the problem (with 1=easy to resolve; 10=impossible to resolve)



FAMILY: Personal Legal Capabilities of the Client - Personal Challenges (1 = minor challenge, 10 = huge challenge)



HOUSING: Personal Legal Capabilities of the Client - Personal Challenges, 1 = minor challenge, 10 = huge challenge

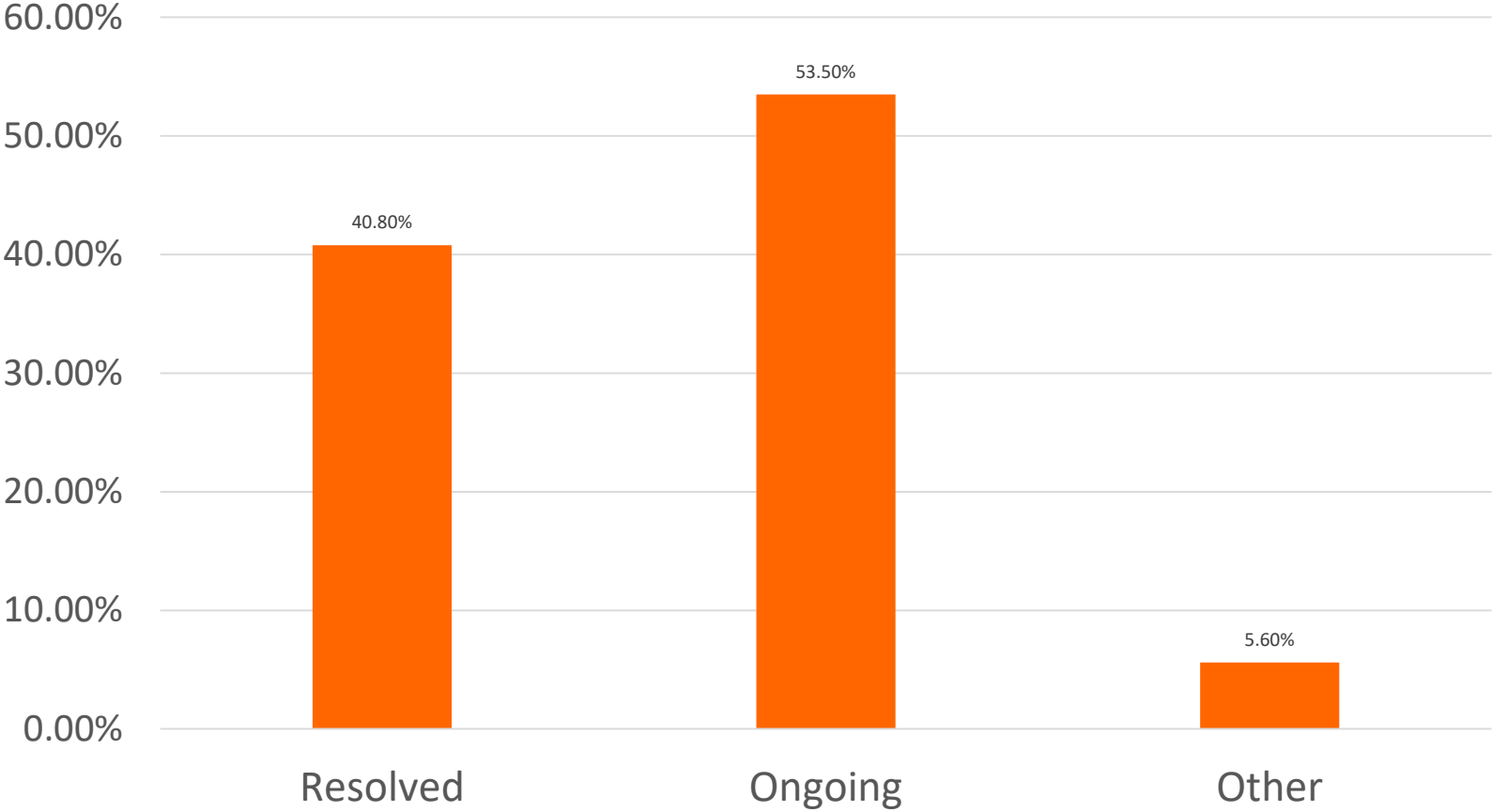


Journey Opportunity Costs

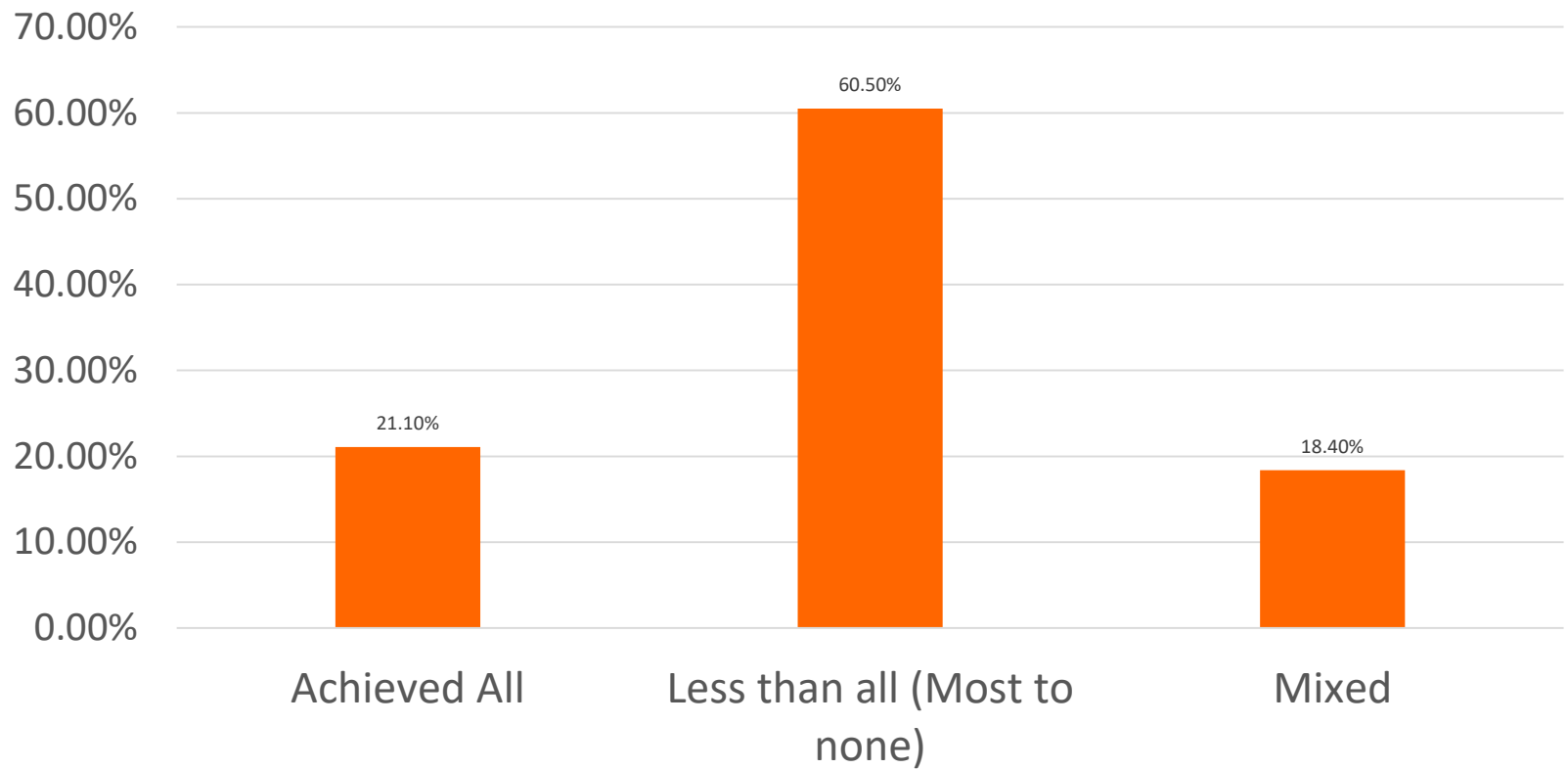
- Note the need for Randomized Control Trials in Legal Service Provision
- Path Dependency and Costs of Changing Paths

Resolution Costs

Has this problem been resolved or is it still ongoing? (%within family problems)



Did you achieve all you hoped with the outcome of your family problem? (%within family problem)



FAMILY: Overall Assessment of personal legal capacity of the client - 1 LOW level, 10 HIGH level

