

The logo for actlaw society, with 'act' in orange, 'law' in white, and 'society' in grey, all in a sans-serif font, set against a dark blue rounded rectangle.

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2024 Intensive Conference

BRINGING THE BALANCE

13 – 14 MARCH 2024 | NOVOTEL CANBERRA



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How Mental Health Can Affect Legal Professionals

IN CONVERSATION WITH

Dr. Owen Bradfield and Desi Vlahos

Overview

- Introduction & context setting
- Dr Owen Bradfield to share PhD research
- Historical research in the legal profession (Australia)
- IBA Mental Wellbeing in the legal profession findings
- Similarities /challenges in both professions – drivers of stress
- Impacts – compounding/mitigating factors
- Regulation in the profession an Regulation more broadly
- Consequences for the professions
- Safeguarding against risk and injury





LEGALCHEEK Posts



legalcheek





Dr Owen Bradfield
Chief Medical Officer,
MIPS

MBBS(Hons), BMedSc(Hons),
LLB, MBA, PhD, FRACGP

**Regulation in Need of Therapy? Relationships
Between Doctors' Health, Medical Regulation,
and Medical Negligence Claims in Australia: A
Legal, Quantitative, and Qualitative Analysis**

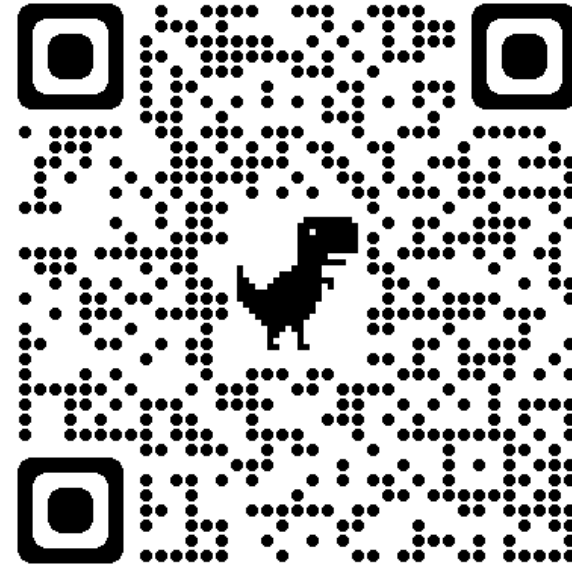
Dr Owen Matthew Bradfield
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ORCID: 0000-0002-8955-7432

Submitted in total fulfilment for the degree of
Doctor of Philosophy

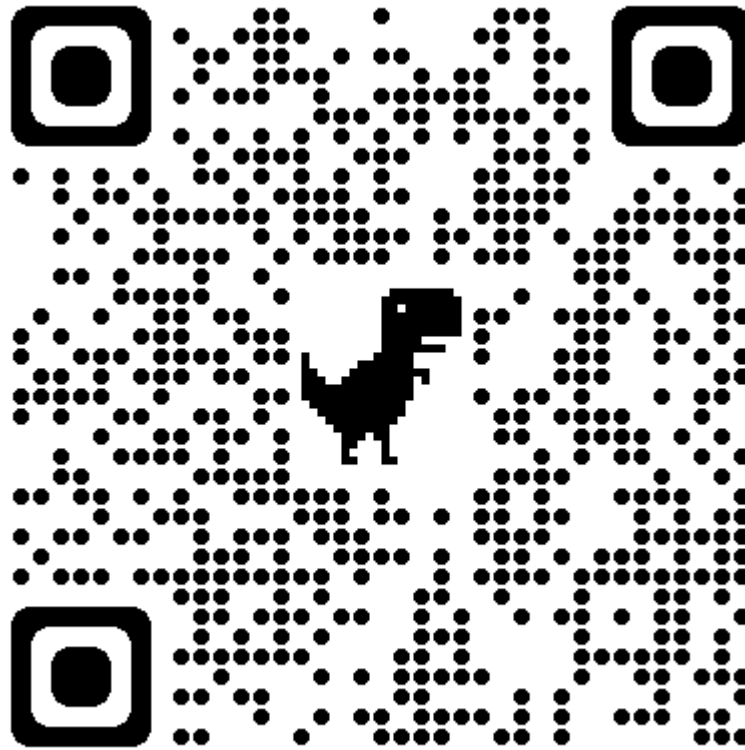
May 2023

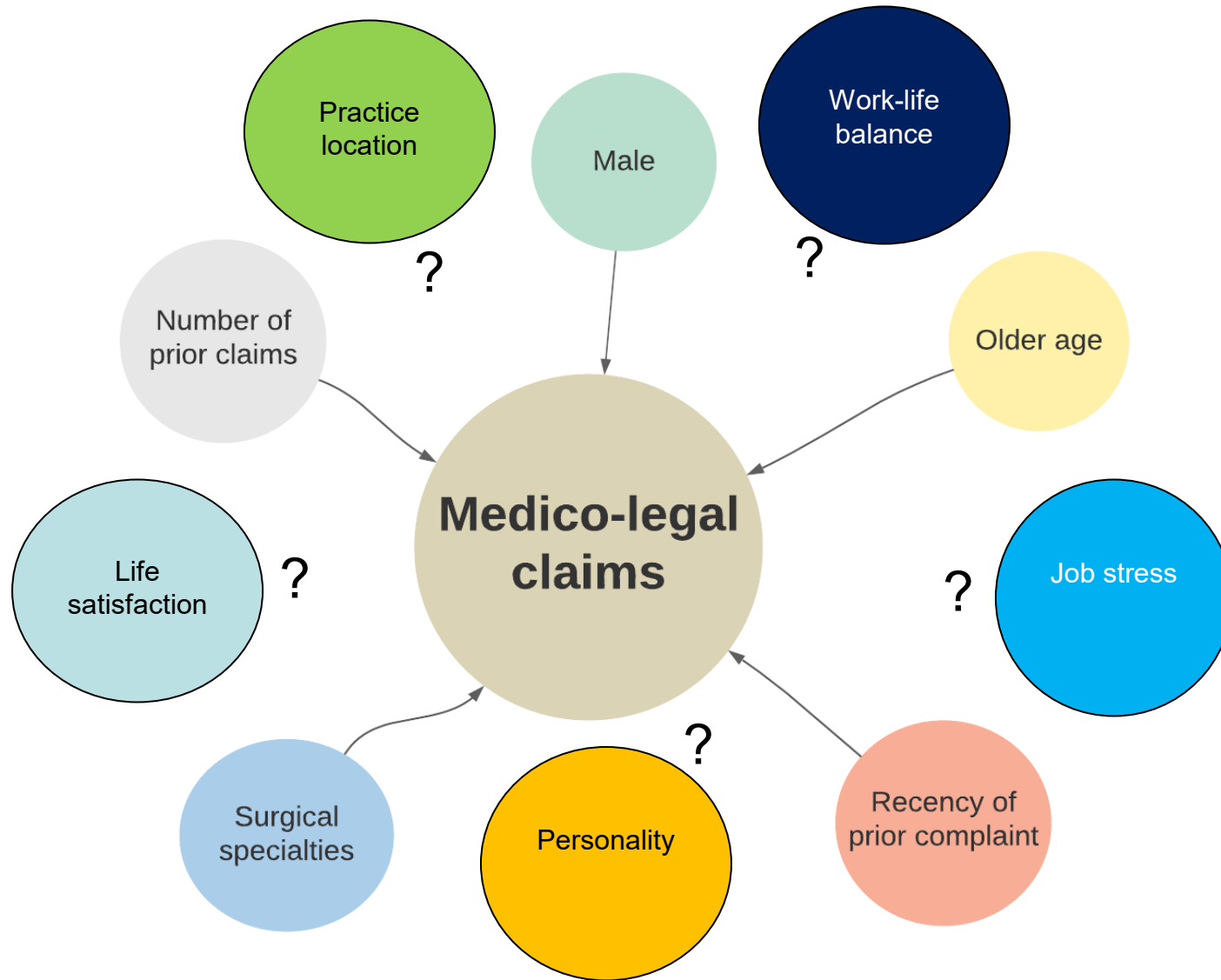
Melbourne School of Population and Global Health
The University of Melbourne



**My PhD
Research**

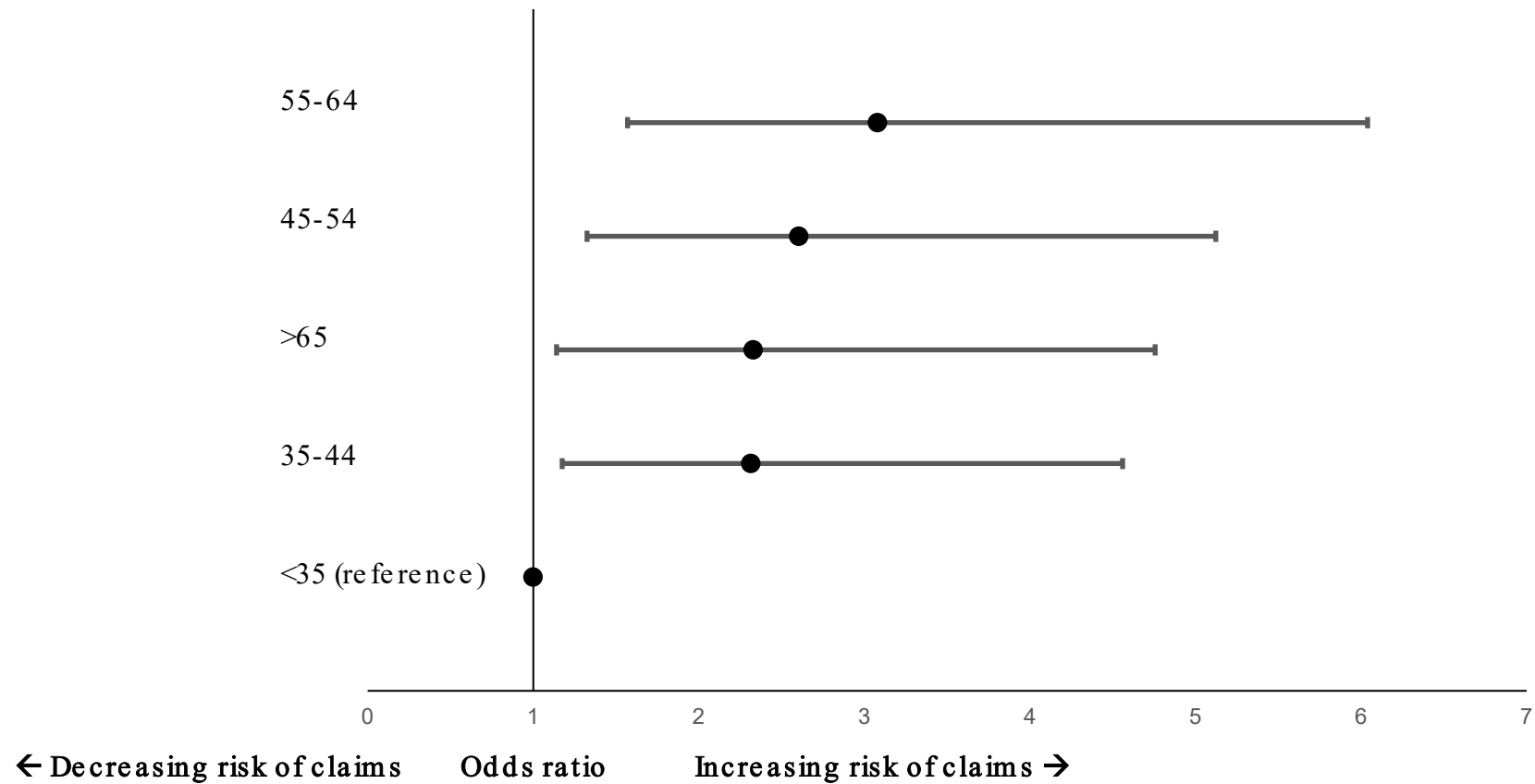
Predictors of claims and complaints against doctors





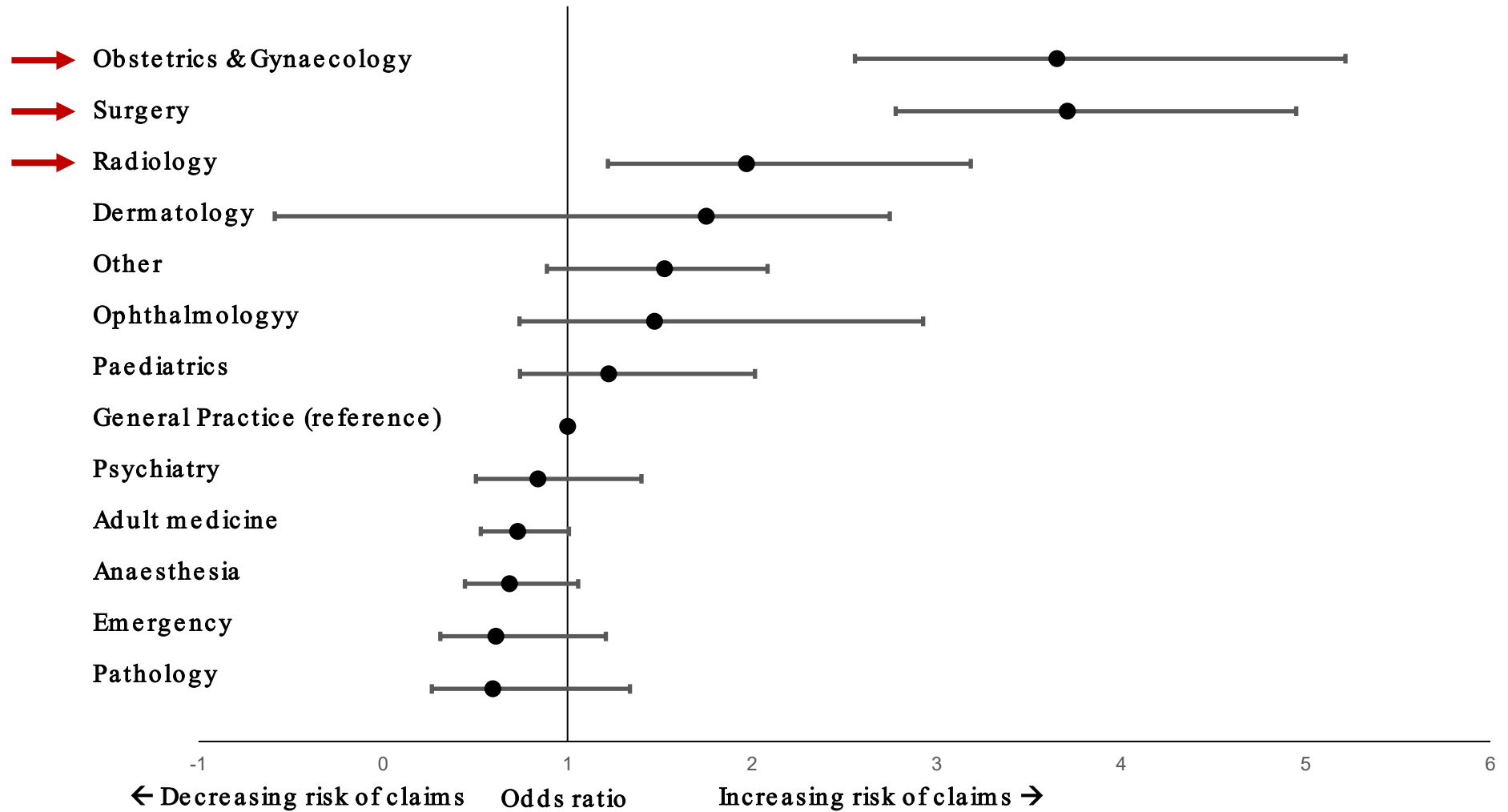
Results

Impact of age (years) on risk of medical negligence claims



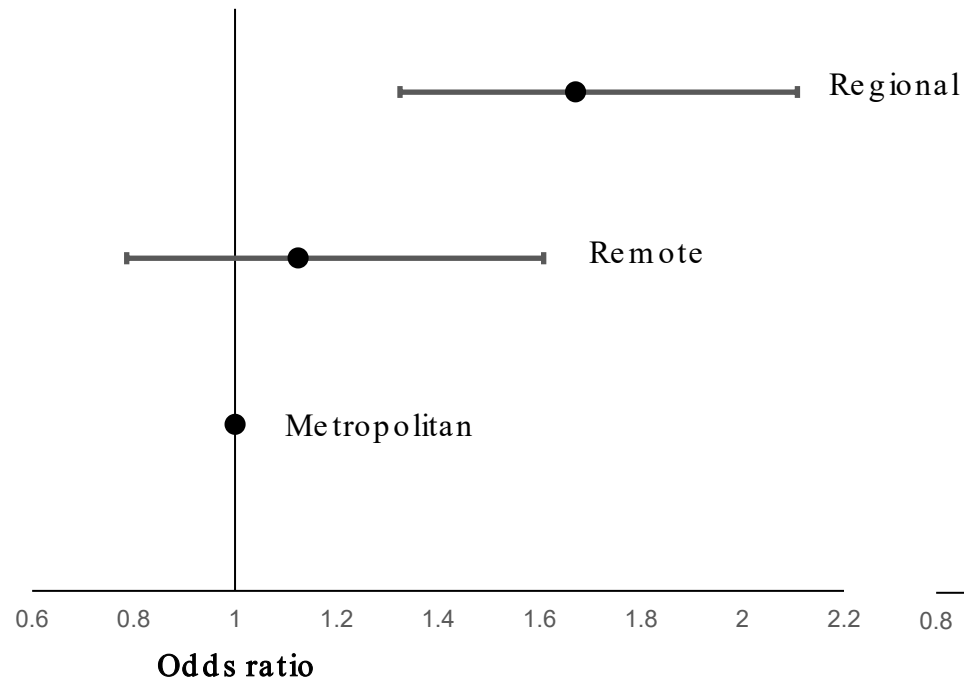
Results

Impact of specialty on risk of medical negligence claims

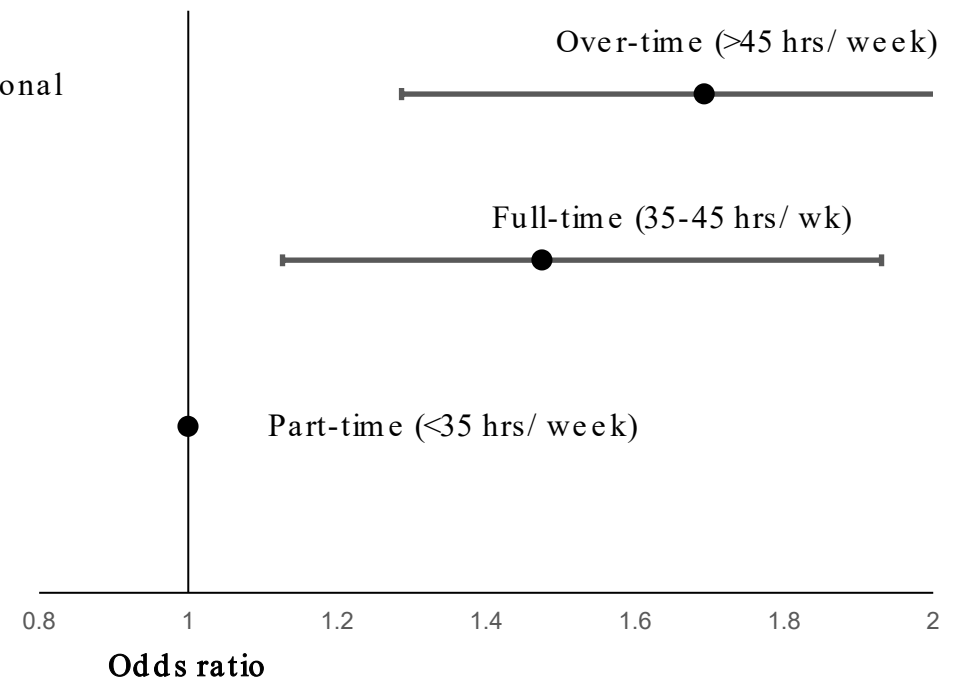


Results

Geographical location of workplace

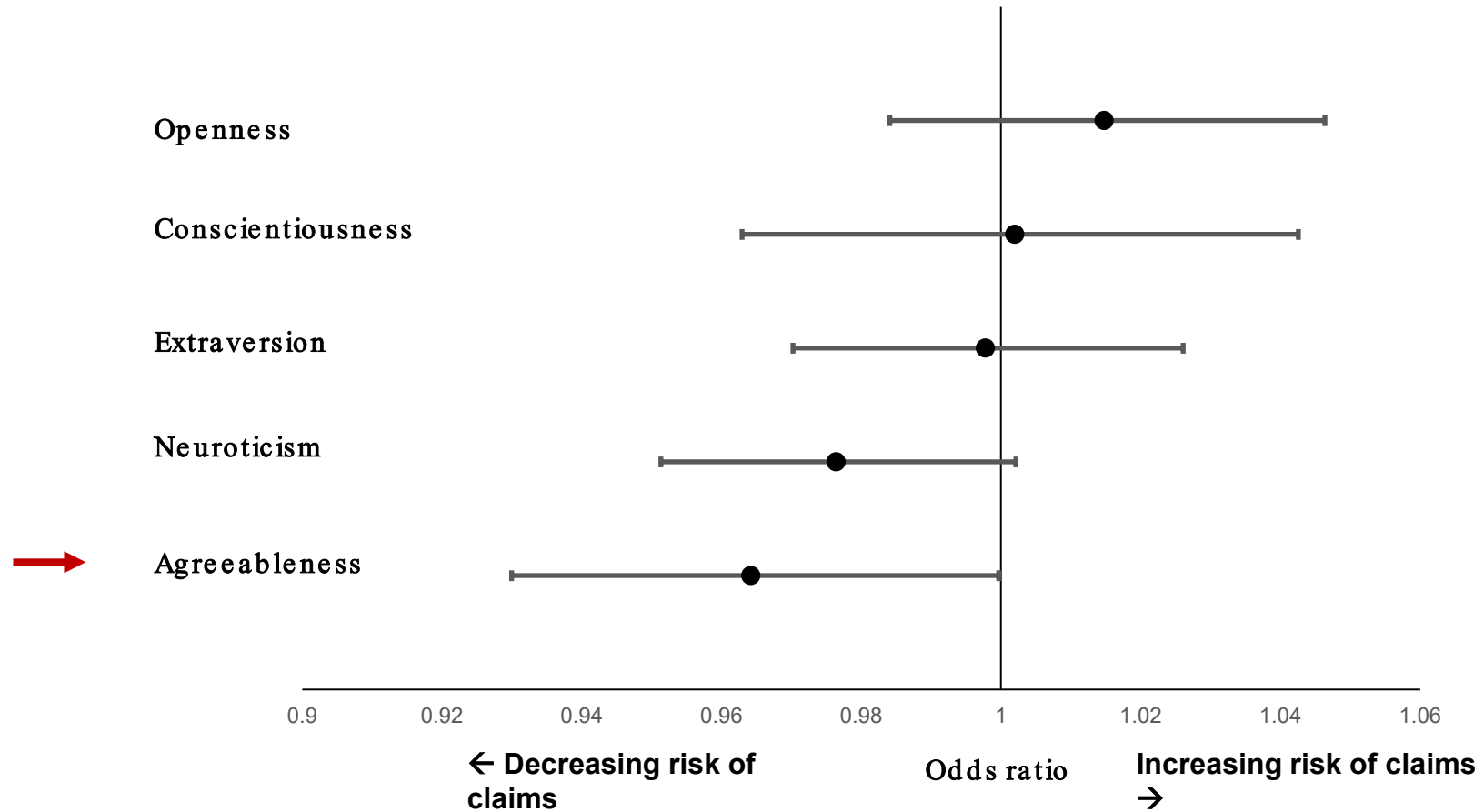


Hours/ week worked



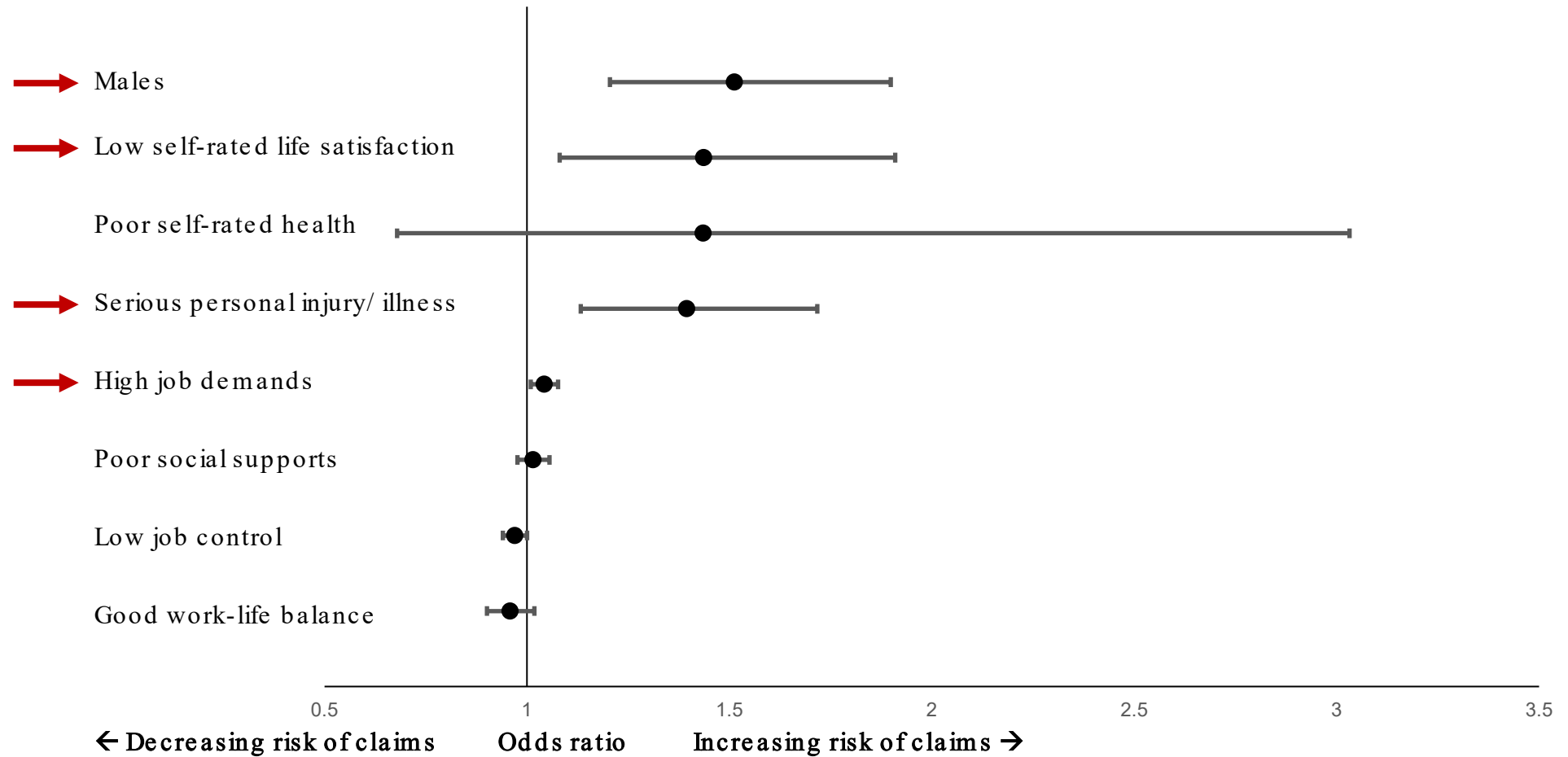
Results

Impact of personality type on risk of medical negligence claims

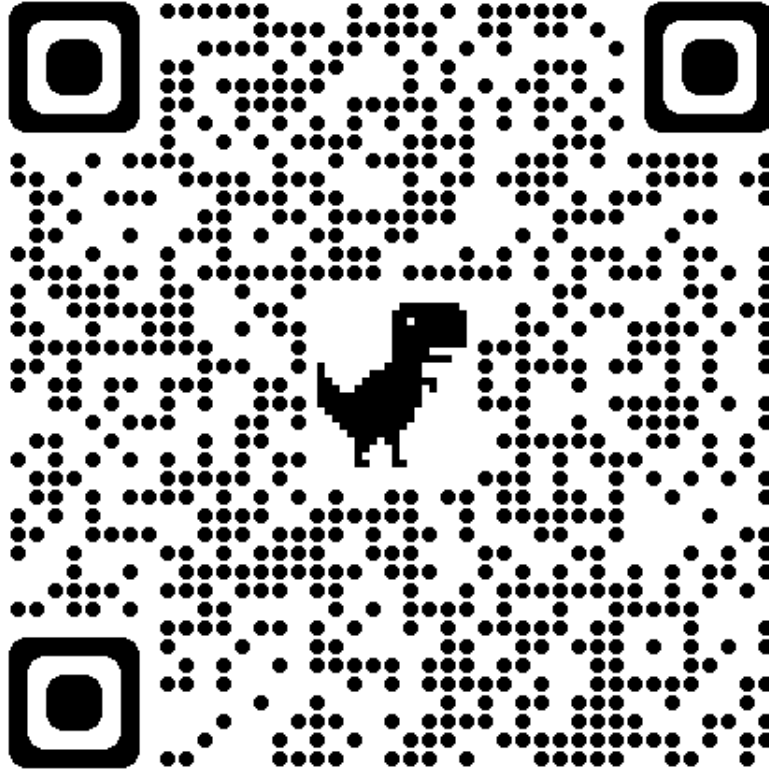


Results

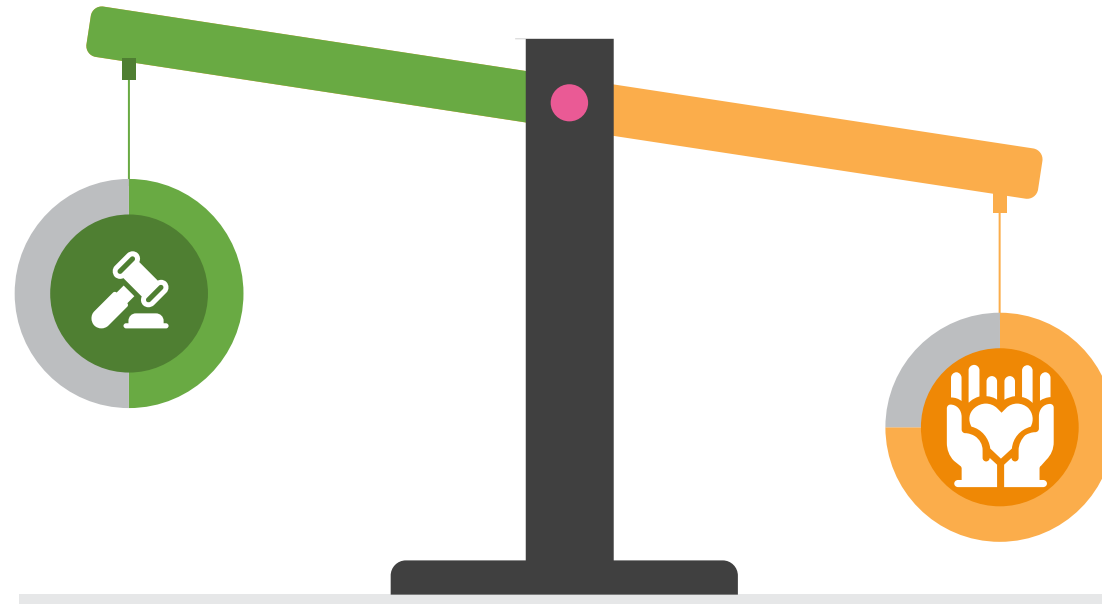
Impact of individual & work variables on risk of medical negligence claims



Impact of regulatory notifications on doctors' health



Regulatory equipoise



Public protection

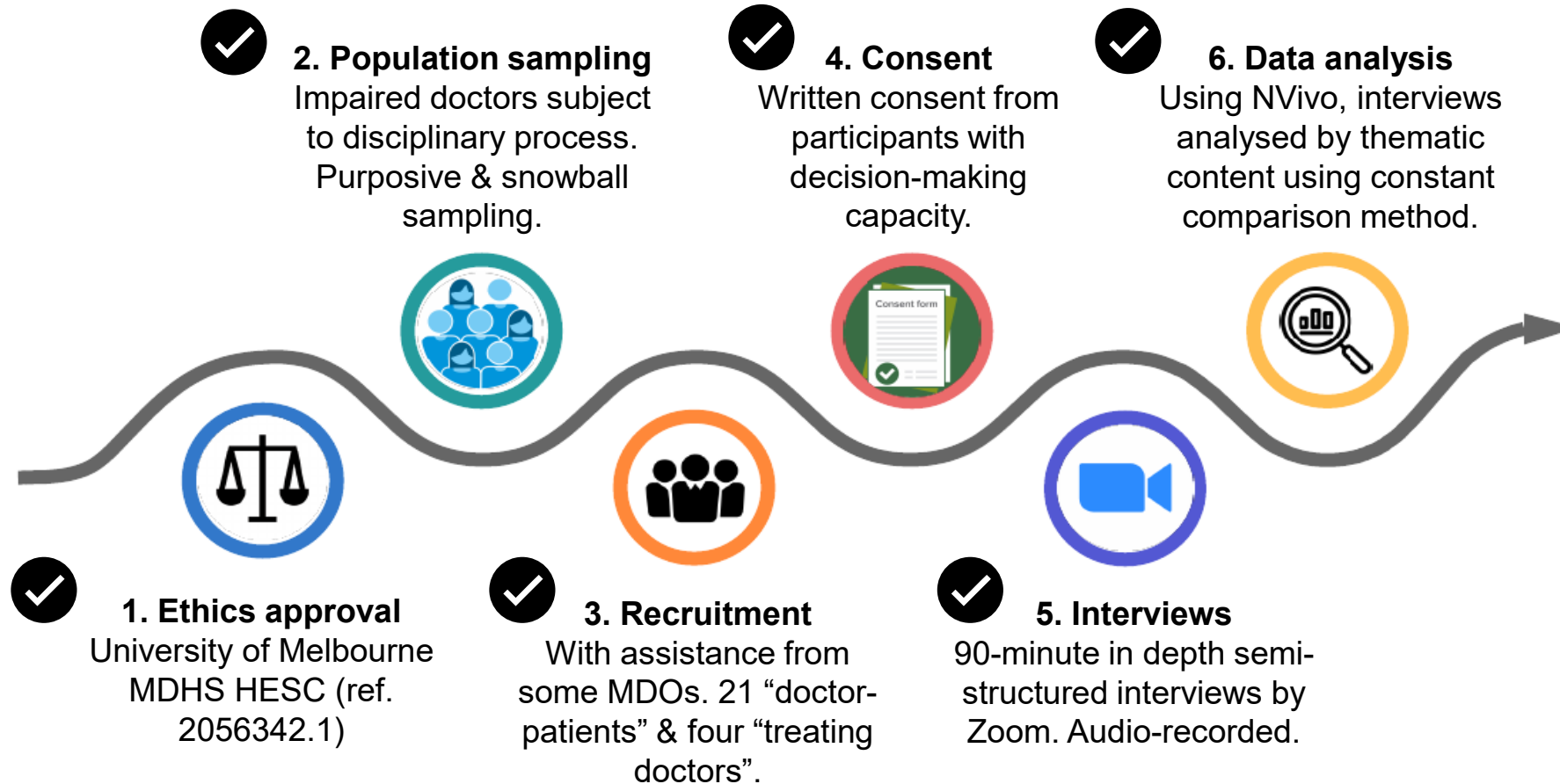
Paramount duty of medical regulator is to protect the public

Doctor's health

However, if the health of the doctor is not supported, this may subvert efforts to protect the public



Methodology



How unwell were doctors when they were notified?

Psychosis

I was found wandering the streets covered in blood...I was admitted under the Mental Health Act and Ahpra was notified

Substance use disorder

I accidentally overdosed and passed out while driving. The police reported me to Ahpra. I am now on Suboxone

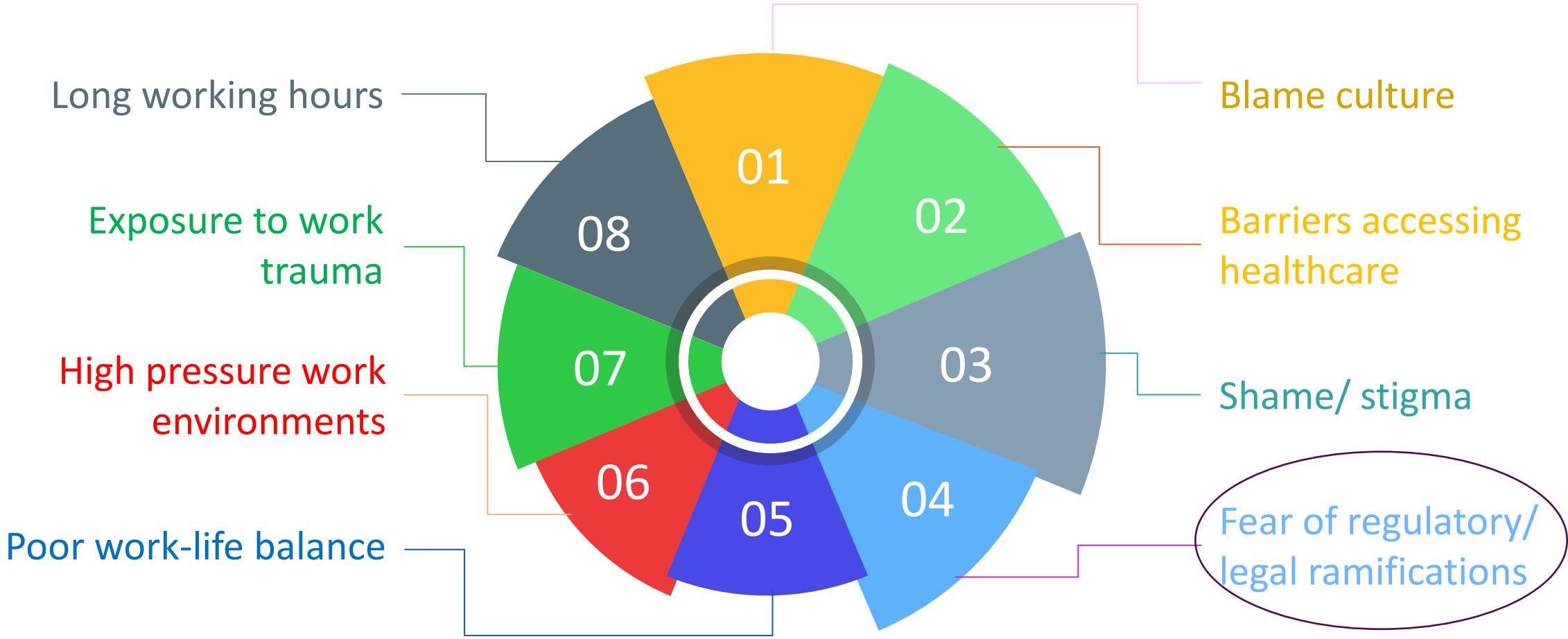
Mood disorder

I got severely depressed and ended up was admitted to a mental hospital for two months and had 18 ECTs

Alcohol dependency

I'm an alcoholic. I drank for 30 years, but the problem got worse and I started drinking at work...My colleagues reported me to the Medical Board

Reasons for poor doctor health



Summary of findings

Doctors delayed or avoided accessing health care

This was due to fear of regulatory processes

As a result, doctors experienced worse health

Regulatory processes had positive and negative impacts

Despite the positive impacts, doctors would avoid seeking help in the future

Summary of findings

Some doctors credited regulatory sanctions and enforcement for keeping them well/ abstinent from drugs

Other doctors who relapsed felt like their relapse was treated as a professional misconduct issue rather than a health issue

Many doctors did not trust their treating doctor, the regulator, or regulatory processes

Many doctors felt that regulators did not understand the implications of the conditions they impose

Recommendations – regulatory reforms

Reduce delays

Improve communication channels

Staff trained in mental health and substance use disorders

“Therapeutic jurisprudence”

Better fund and integrate doctors’ health services in regulatory pathways



2013 Beyond Blue Survey – results

Higher rates of psychological distress in doctors (3.4%) compared to the general population (2.4%) or other professional groups (0.7%)

Higher rates of psychological distress in doctors under 30 (5.9%) compared to the general population under 30 (2.5%) or other professionals under 30 (0.5%).

21% of respondents had a past history of a diagnosed mental illness, while 6% had a current diagnosis.

Higher rates of depression, anxiety and substance abuse compared to the general population.

Higher rates of suicidal ideation in the preceding 12 months (24% of doctors), compared to the general population (13.3%) or other professions (12.8%).

2013 Beyond Blue Survey – results

Younger doctors and female doctors reported higher levels of psychological and work stress, suicidal ideation and burnout.

Female students and Indigenous students were more likely to experience mental health challenges.

Reasons include stressful and demanding work experiences and environments

Other reasons include long working hours and poor work-life balance

“Stigmatising attitudes regarding the competence of doctors with mental health conditions, and their opportunities for career progression, persist”

2013 Beyond Blue Survey – recommendations

Better education and support for doctors and students, particularly when transitioning from study to work.

Addressing stigmatising attitudes, particularly in medical students early in their career, could not only remove a potential barrier to doctors seeking appropriate treatment for their own mental health issues, but also improve their ability to provide high standard care for patients with mental illness, and to

Current Trends: Wellbeing in the Legal Profession

Beaton Consulting / Beyond Blue Survey 2006

National Survey of Health and Wellbeing 2007

Brain & Mind Research Institute Report 2009

National Report on Attrition and Re-engagement 2013

Victorian Bar Quality of Working Life Survey 2018

Meritas Australia and New Zealand Wellness Survey 2019

VLSB+C Wellbeing Project 2020

IBA Wellbeing in the Legal Profession Survey 2021

National Survey of Health and Wellbeing 2007 (AUS)

- Covers the wider adult population aged 16 to 65 years
- Almost half of adult Australians have had a mental illness at some point in their life.
- About 20% have experienced mental illness each year.
- Survey data collected for Beyond Blue indicated that about 1 in 5 Australians (21%) had taken time off work in the previous year because they felt stressed, anxious, depressed or mentally unhealthy.

Beaton Consulting / Beyond Blue Survey 2006 (AUS)

- Survey of 7,500 professionals
- Professionals had higher than average depression scores than the general population
- 15.2% lawyers with moderate to severe symptoms of depression compared with 10.5% in other profession.
- Of professionals those working in law firms had the highest rates of depressive symptoms

Brain & Mind Research Institute Report 2009 (AUS)

- 33% of lawyers and 20% of barristers suffer disability and distress due to depression; they do not seek help and self medicate with alcohol.
- Alcohol abuse in legal profession is extremely concerning
- High rate of suicide and suicidal ideation among lawyers
- Law students and young lawyers most vulnerable
- 80% of disciplinary matters involving lawyers have an underlying mental health issue

National Report on Attrition and Re-engagement 2013 (AUS)

- The Law Council of Australia investigated why women leave the legal profession.
- A key finding was that “long working hours and poor work-life balance impact both male and female practitioners.
- Most frequent and important reasons that people leave the legal profession are better work life balance, reduced stress and pressure and more flexibility to balance work and personal responsibilities.

Victorian Bar Quality of Working Life Survey 2018 (AUS)

- Levels of stress reported at the Victorian Bar were significantly higher than that reported in the benchmark sample.
- Approximately 68% of respondents agreed or strongly agreed that they experienced high levels of stress and pressure at work.
- The average agreement can be compared with 45% agreement found in the Quality of Work Life benchmark sample

Meritas Australia & New Zealand Wellness Survey 2019 (AUS)

- 63% have experienced or have someone close to them in the workplace experience depression
- 85% have experienced or had someone close to them in the workplace experience anxiety
- The greatest barriers to help seeking for depression or anxiety were that respondents felt they preferred to manage the condition themselves or they were worried about asking for help and what others might think of them.
- 49% said that if their firm offered more dialogue, resource or training around wellbeing in the law that they would be likely to use them

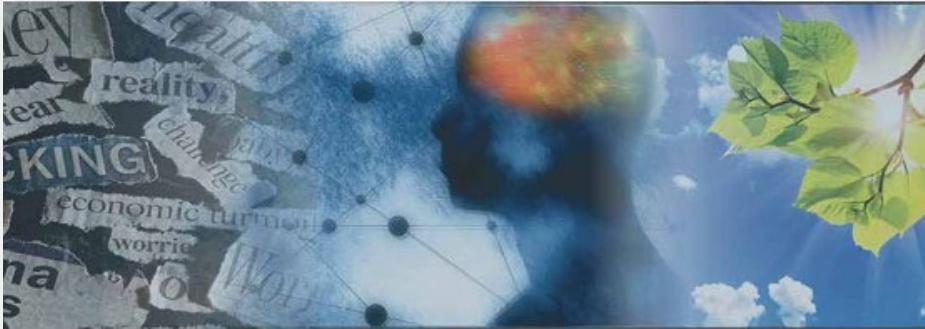
VLSB+ C Lawyer Wellbeing Project 2020 (AUS)

1. Acculturation early in career making it difficult for to achieve wellbeing.
2. Cultural and institutional factors making it hard to improve wellbeing of legal professionals.
3. Positivity about the direction of change in recent years.
4. Suggestions for improving wellbeing within the legal profession.



the global voice of the legal profession

Mental Wellbeing in the Legal Profession: A Global Study



A report prepared by the IBA Presidential Task Force on mental wellbeing in the legal profession

www.ibanet.org/mental-wellbeing-in-the-legal-profession



Main findings from surveys



Impact of stigma:

41 per cent would not discuss mental wellbeing concerns with their employer for fear it may have a negative impact on their career.



1 in 3 say their work has a negative, or extremely negative impact on their wellbeing

Lack of training:

82 per cent of institutions say they take mental wellbeing seriously – only 16 per cent provide training for senior management.



WHO-5 Mental Wellbeing Index Scores:

This World Health Organization scale allows comparisons across groups, regions, and with previous studies. For an individual, a score below 52 per cent is an indicator for a health professional to screen for depression, and suggests a more formal assessment of mental wellbeing problems is warranted. The average overall score of respondents to the IBA Survey of Individuals was 51 per cent.

Reasons why people don't speak out:



32.1%
Fear of being treated differently as a result



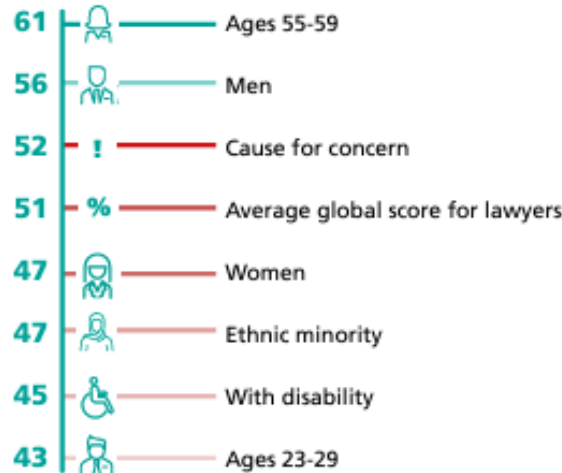
24.1%
Employer does not sufficiently recognise mental wellbeing issues



17.2%
Fear of not being believed/taken seriously

Discrepancy in Wellbeing Index scores:

scores:



28% want to see improved workplace culture:

to create a culture of mutual respect and address poor behaviour.

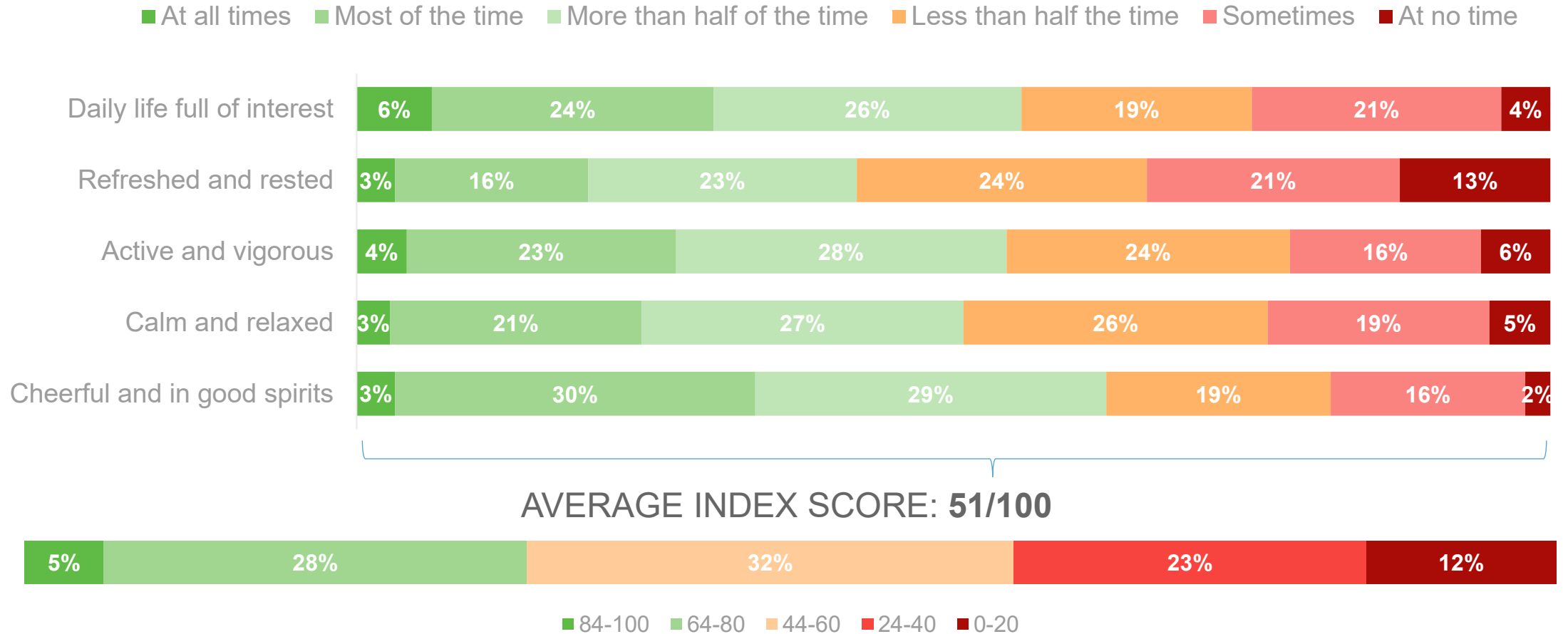
IBA Mental Wellbeing Principles for the Legal Profession

- 1 Mental wellbeing matters:** The IBA Presidential Task Force on Mental Wellbeing in the Legal Profession surveys have laid bare the realities of a global crisis in lawyer mental wellbeing. No one jurisdiction or section of the profession is unaffected.
- 2 Mental wellbeing is not weakness:** The notion that someone who is experiencing a mental health difficulty and/or poor levels of mental wellbeing is personally 'weak' or in some way unsuitable for legal practice must be refuted.
- 3 Raising awareness is fundamental:** Many lawyers feel unable to speak about their mental wellbeing because of stigma attached to the subject, and fears for the impact on their career or professional standing. This needs to change.
- 4 A commitment to change, and regular continuing assessment, is needed:** Having acknowledged the importance of protecting and promoting mental wellbeing for the profession, the next step is to make changes to tackle the current crisis.
- 5 Policies matter:** A simple first step for all sections of the profession in achieving change is the adoption of a mental wellbeing policy.
- 6 Maintain an open dialogue and communication:** Once a mental wellbeing policy has been implemented, it is vital that it is backed up by the fostering of an open dialogue and communication around mental wellbeing, and the approaches that are being taken to tackle the underlying issues.
- 7 Address systemic problems:** The focus needs to be on the structural and cultural working practices within law which are problematic for mental wellbeing, and not on enhancing the 'resilience' of individual legal professionals.
- 8 Recognise intersectionalities:** Issues of equality, diversity and inclusion have an effect on, and are arguably at the heart of, the mental wellbeing of the legal profession. The nature and cause of difficulties experienced by specific groups, including younger, female, ethnic minority and legal professionals with disabilities must be understood, acknowledged and tackled.
- 9 Share good practices:** Good practices must be shared between individuals, institutions, sectors, jurisdictions and regional fora, in order to ensure that appropriate and healthy ways of working within the post-pandemic legal profession are disseminated and perpetuated. Worldwide and local gatherings of stakeholders is also vital.
- 10 Learn from others:** The IBA Presidential Task Force on Mental Wellbeing in the Legal Profession is not the first group to focus on these issues. It is vital that the work and wisdom of other bodies working in this sphere are, and continue to be, shared and discussed.



Feelings over the last 2 weeks

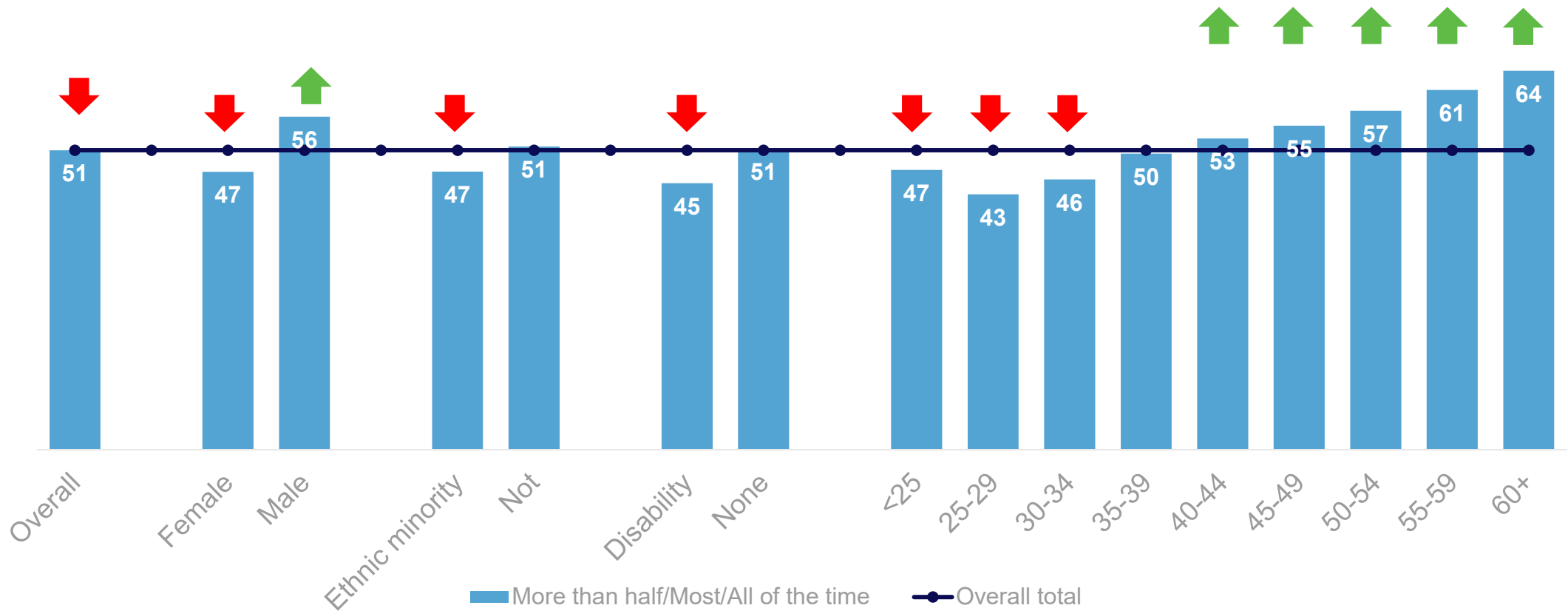
Refreshed and rested, calm and relaxed, lowest scoring





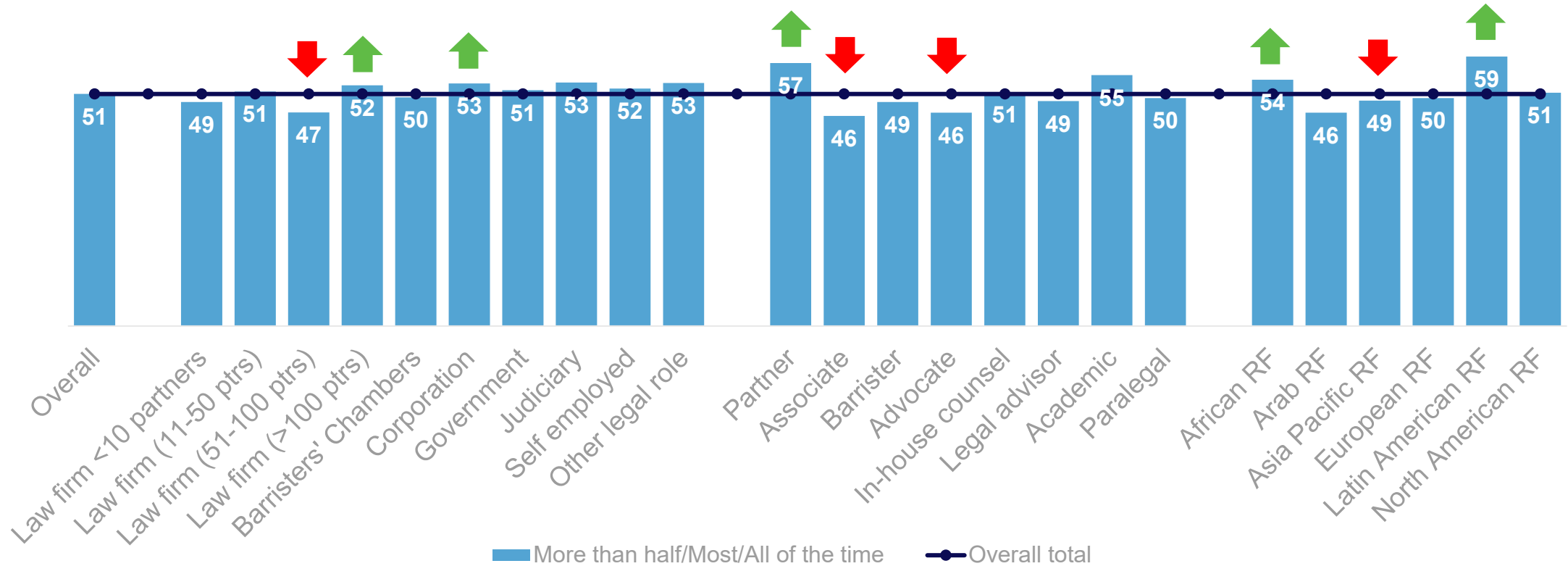
Overall Wellbeing index score

Clear split between younger and older ages





Overall Wellbeing index score

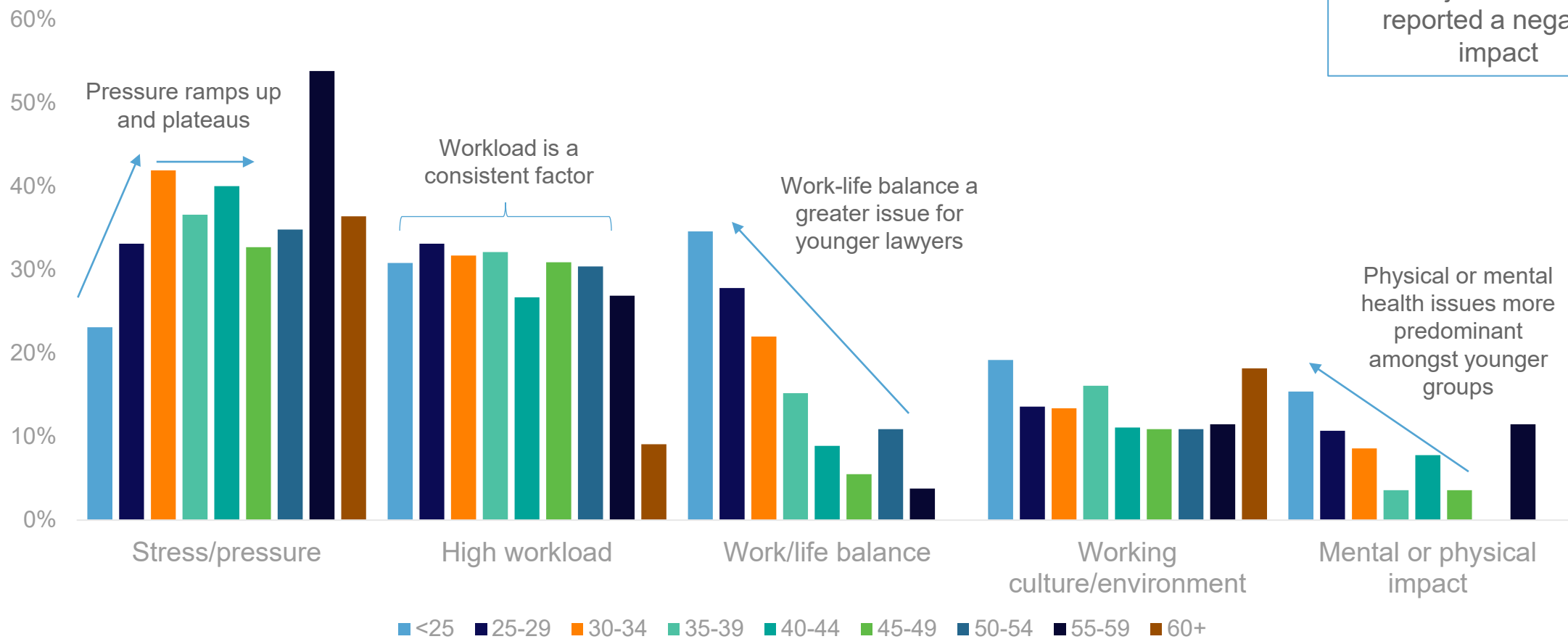




The most commonly cited reasons

Key factors why work has a negative impact on wellbeing

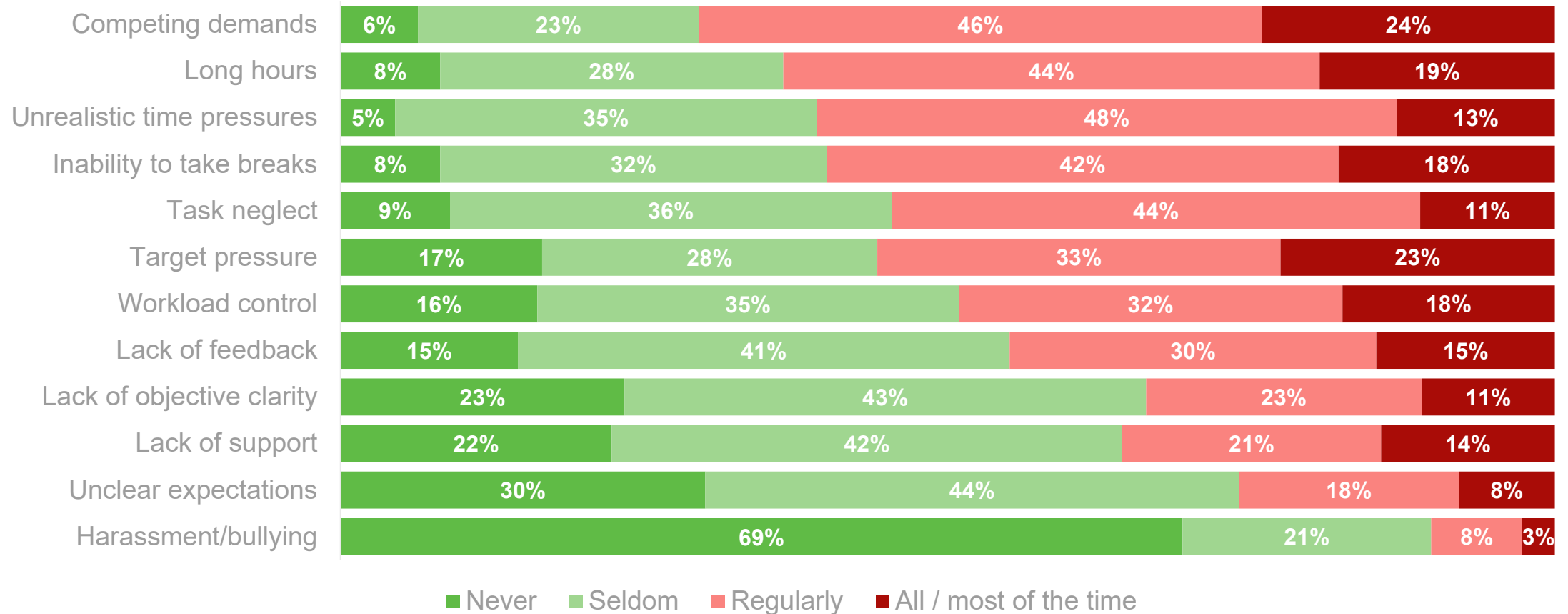
NB – just those who reported a negative impact





Which of the following have you experienced?

Having to work in own time most common issue experienced in past 12 months

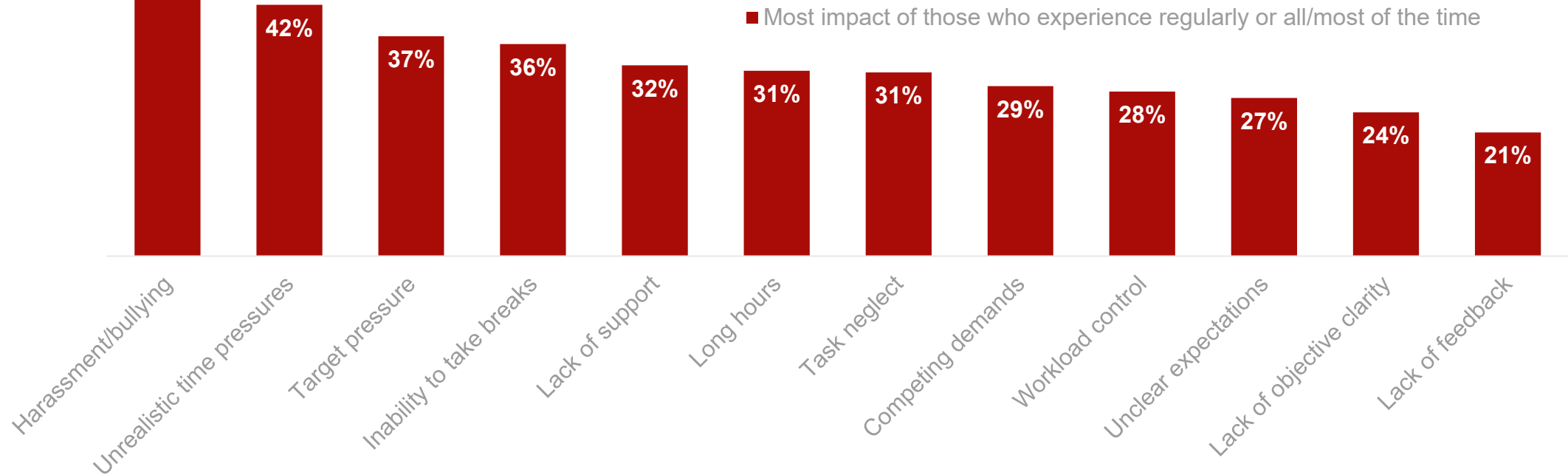


Base: Time pressures [3199]; Neglecting tasks [3195]; Breaks [3201]; Long hours [3192]; Feedback [2971]; Support [2745]; Expectations [2915]; Demands [3149]; Objectives [3036]; Control [3088]; Harassment [2899]; Targets [2976].



Which have the greatest impact, when experienced? Regularly or All/most of the time

Bullying/harassment is experienced by fewer than one in ten respondents, but when it is experienced, it is commonly the most impactful factor on wellbeing

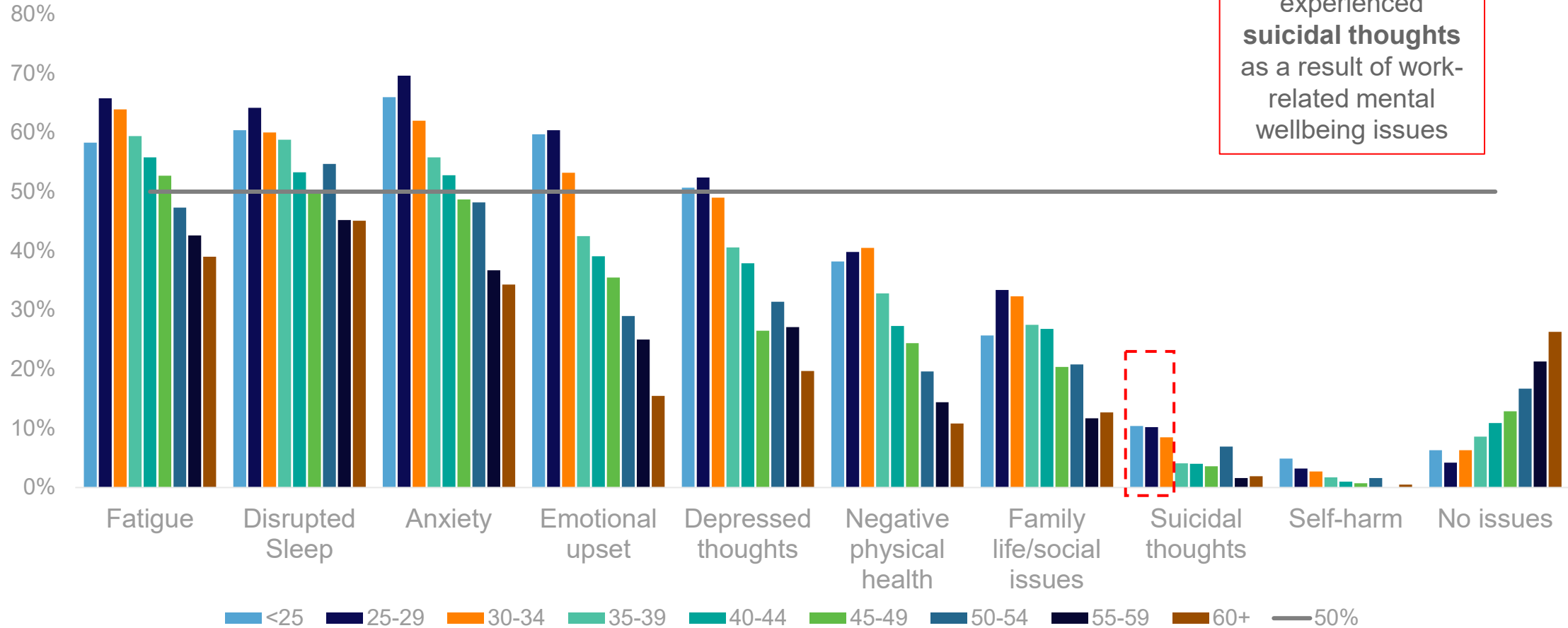


Base: Harassment [290]; Time pressures [1914]; Targets [1636]; Breaks [1895]; Lack of support [963]; Hours [1995]; Task neglect [1724]; Competing demands [2183]; Workload [1502]; Unclear expectations [749]; Objectives [1003] Feedback [1309].



Issues experienced more commonly by 25-34 yr olds

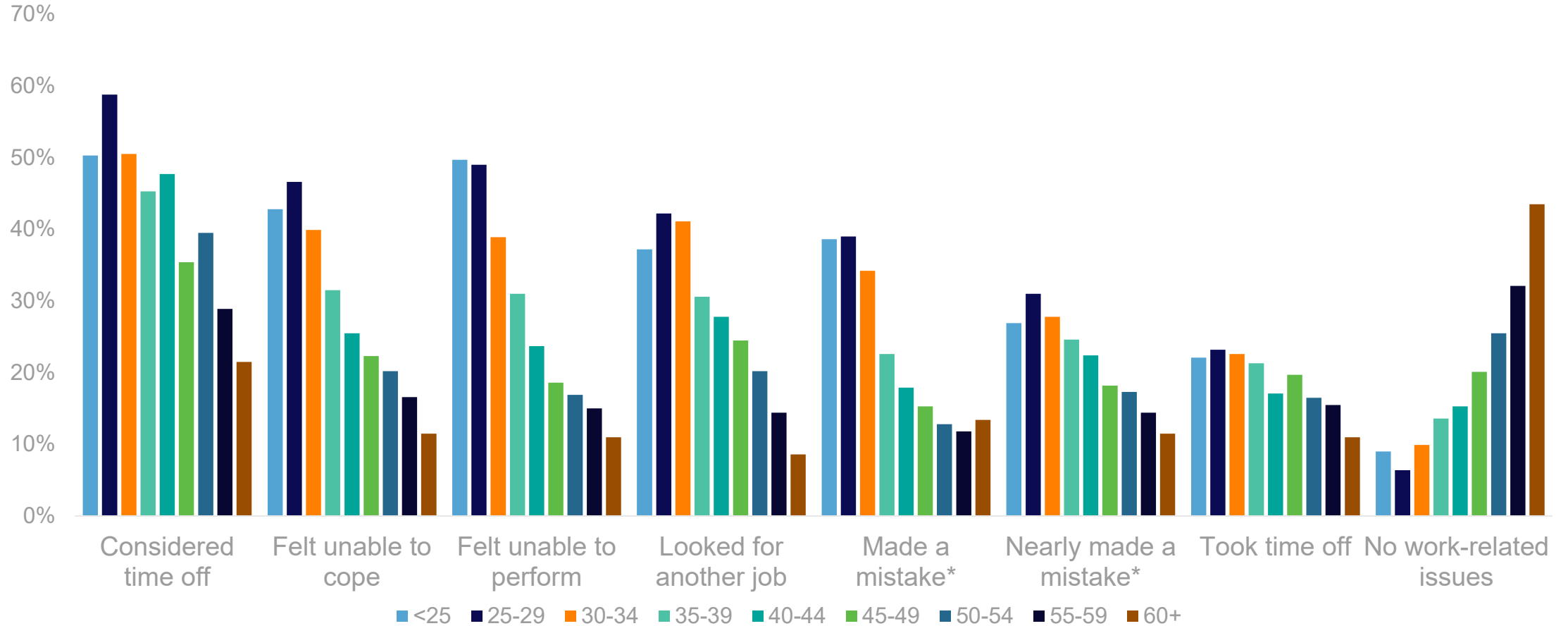
Generally decreasing with age





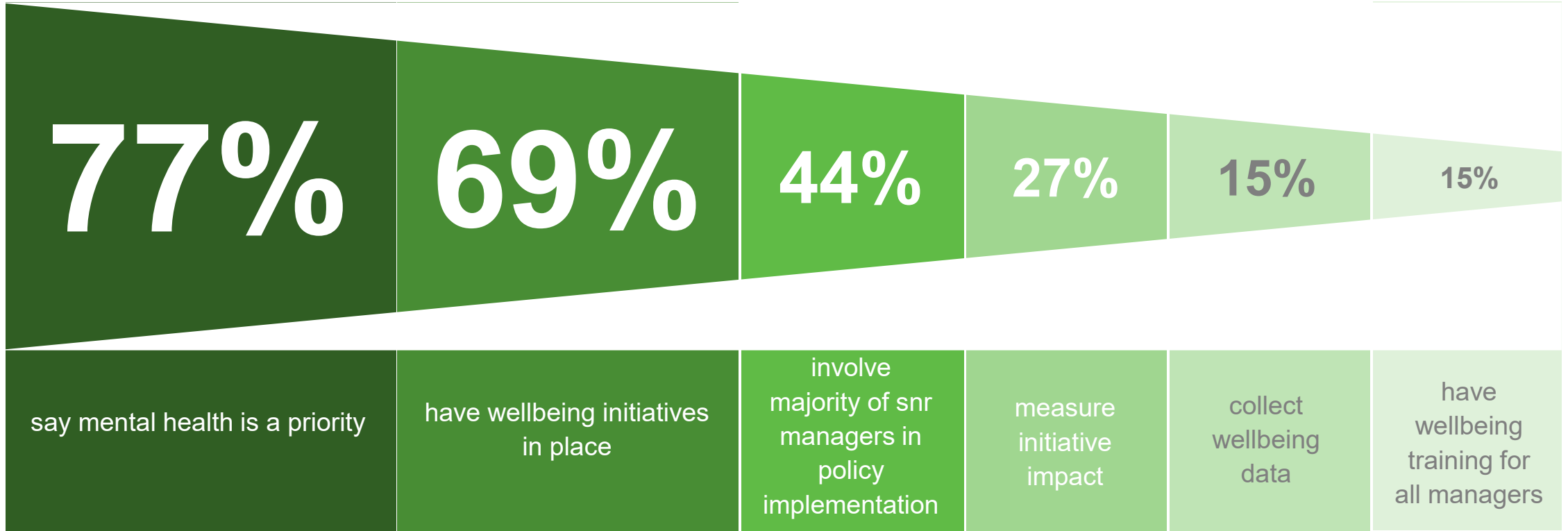
Issues experienced more commonly by 25-34 yr olds

Most tend to decline with age



APAC Institutions summary

48 responses, nearly all law firms



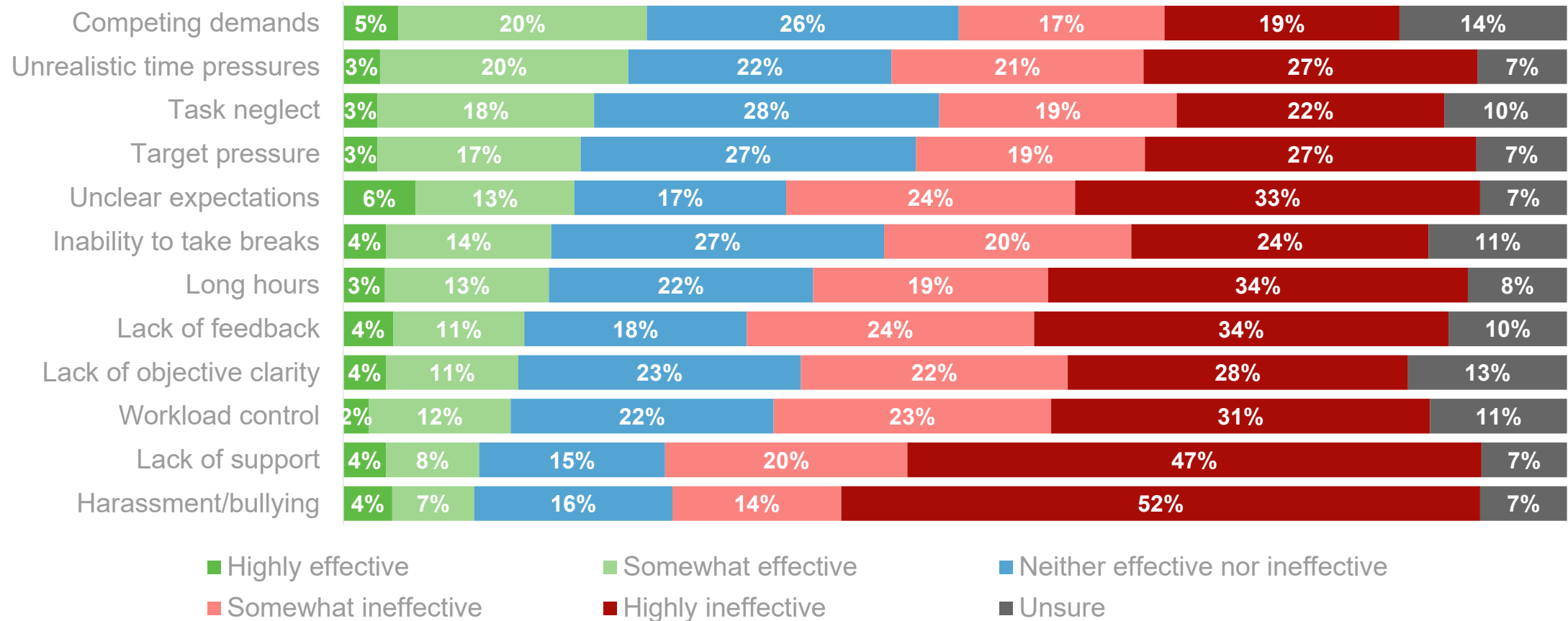
42% Promote internal or external wellbeing activities

31% Provide external wellbeing funding



How has your employer response been to these?

“Highly ineffective” is the most common response in 7/12 areas



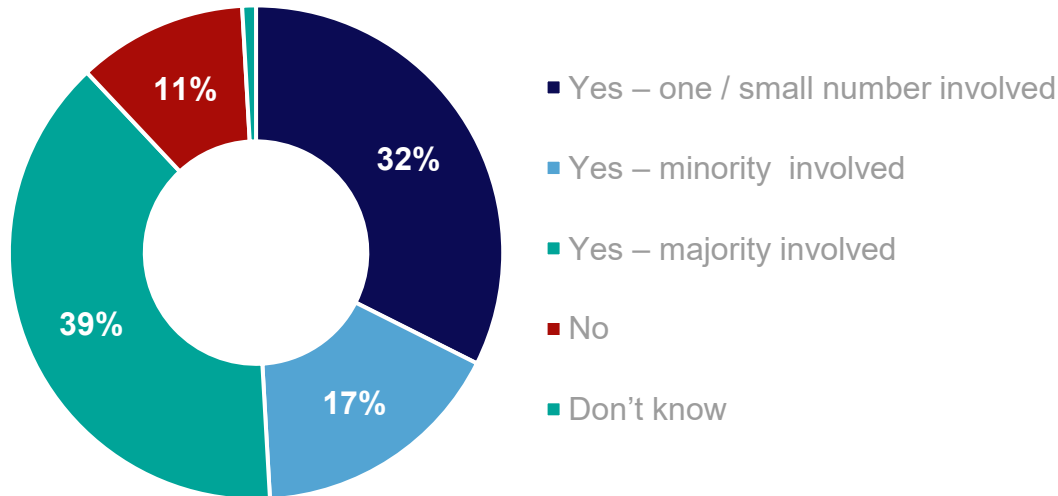
Base: Time pressures [934]; Neglecting tasks [639]; Breaks [762]; Long hours [677]; Feedback [319]; Support [369]; Expectations [254]; Demands [709]; Objectives [316]; Control [484]; Harassment [253]; Targets [675].



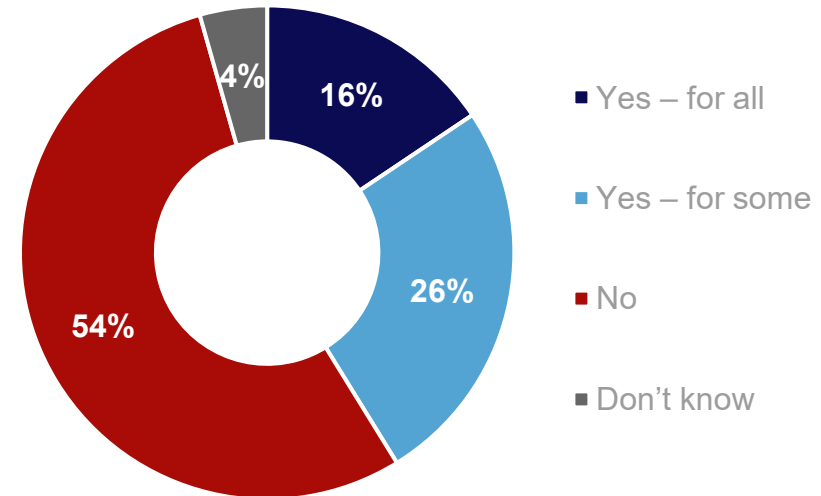
Seniors usually involved, but not trained themselves

For law firms and in-house staff

Are partners/senior managers involved in implementing policies?



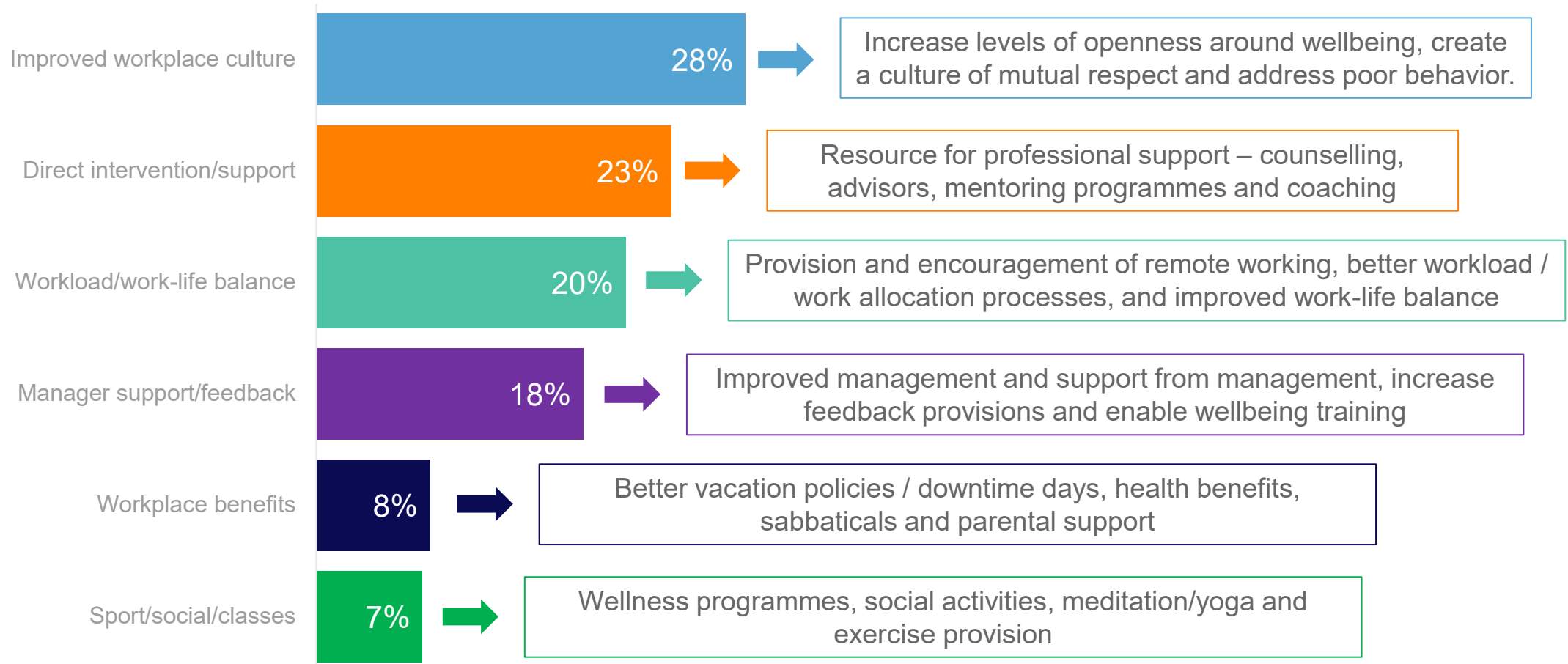
Are partners/senior managers had specific mental wellbeing training?





What more should employers do?

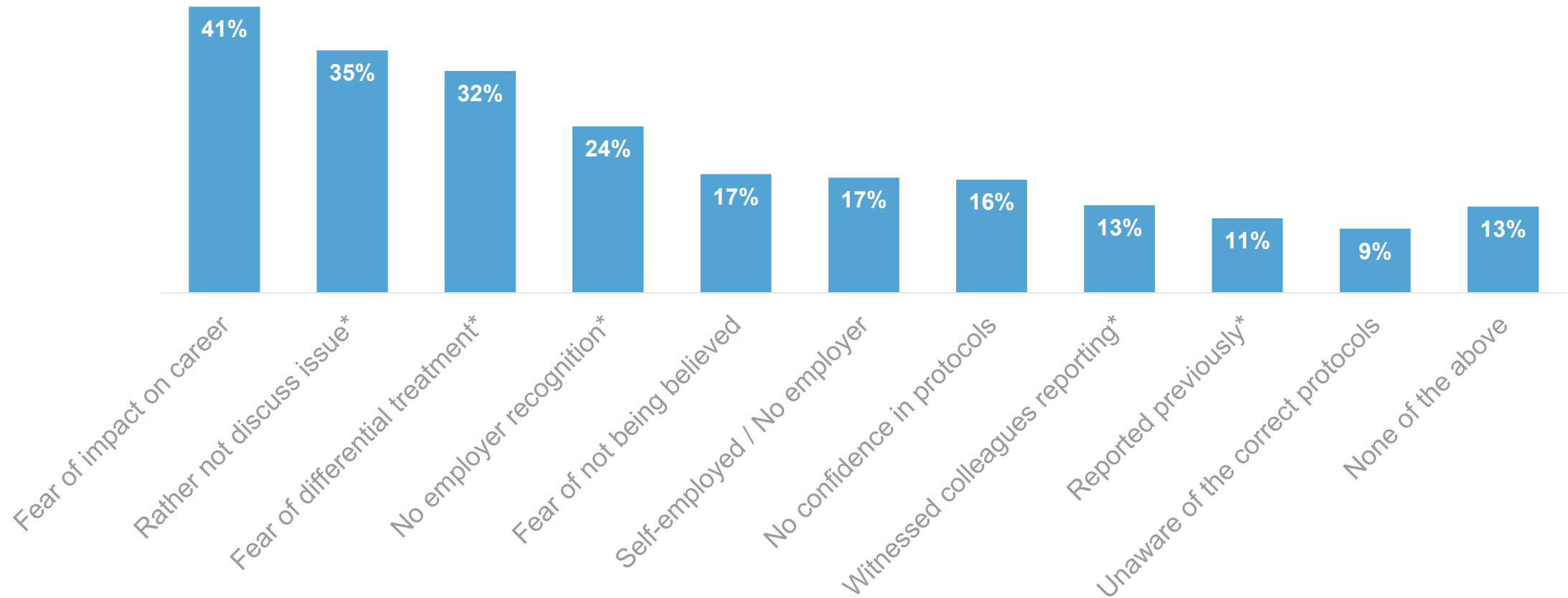
Desired improvements largely focus on cultural change and intervention, better workload provision and increased support from management





What stops you talking with your employer?

Nearly half fear negative repercussions on their career for speaking up



“This is a wicked problem because of the structural reality of legal work as an industry. It demands high workload and long hours just to be profitable. This means hiring young lawyers to take on unsustainable workloads and they will burn out or move on or quit. It's a conveyor belt of young people who do not see an improvement in their situation until they quit/can't take it anymore. Therefore, it works for a very small number of people who are more resilient and possibly who have some inexplicable coping mechanism that is not available/characteristic of most. You will continue doing these surveys into the next decade because there is no practicable solution to this problem that does not diminish the business model.”

Australia: Male, Age 30-34, Law firm, Solicitor (11-50 Partners)

“Actually listen and act. They have a lot of initiatives in place but, whenever I or my colleagues have reported feeling overwhelmed by workload or conflicting critical timeframes such that we consider there to be a potential professional risk, we are simply told that we just need to get it done. It seems as though the wellbeing support is provided to promote the firm externally rather than to truly support the lawyers and administrators in managing their professional responsibilities while maintaining a healthy level of work/life balance.”

Australia: Female, Age 40-44, Law firm, Senior Associate (11-50 Partners)

Questions?

Thank you

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