

Justice not Profit

Debrief containing findings from quantitative research prepared by BritainThinks

August 2015

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Methodology

BritainThinks surveyed 1,261 members of the public in England and Wales* between 31st July and 4th August 2015 using an online survey methodology

Data were weighted to be representative of the population of England and Wales by:

- *Gender*
- *Age*
- *Region*
- *Socioeconomic grade*

This presentation deck sets out the main findings from the survey for the population of overall, as well as by sub-group

- *All sub-group differences are statistically significant at the 95% confidence level*

*The survey focuses on the population of England and Wales (rather than Great Britain or the United Kingdom) because of significant differences between the legal system in Scotland and Northern Ireland compared to England and Wales.

Key take-outs

1 The public is starting with the baseline perception that there is a **growing ‘compensation culture’** in England and Wales, to the detriment of the justice system. These views are particularly strongly held by older people, those from higher socioeconomic grades, and those who are right-leaning

2 **Initial reactions** to the practice of third party litigation funding are **overwhelmingly negative**, especially among those who already hold the view that the system is moving in the ‘wrong direction’

3 The **arguments *against* TPLF** are much more effective than those ***for*** the practice, particularly those relating to the **kinds of cases** that will be funded (i.e. that these will be selected with opportunism and profit rather than justice in mind)

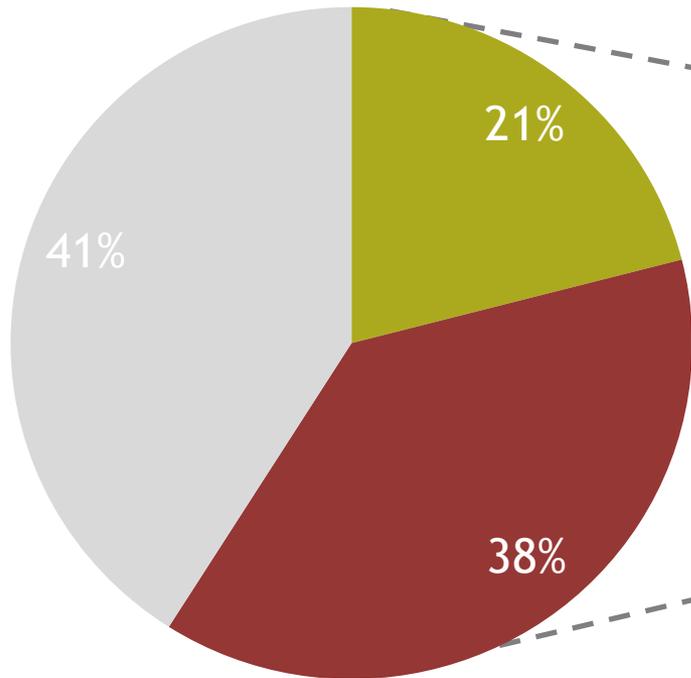
4 There is overwhelming support among the public for **independent regulation of TPLF practices**. The public’s preferred modes of control include a mandatory code of conduct with significant penalties for any breaches, and caps on fees and the proportion that funders can claim



Background views of the civil litigation system

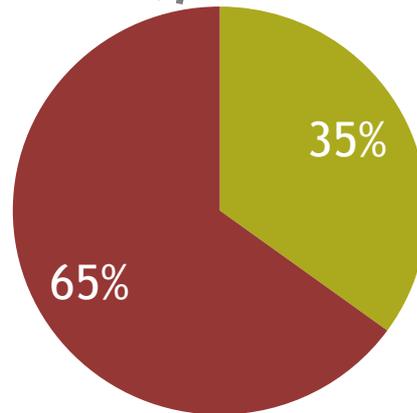
The public in England and Wales are twice as likely to see the civil litigation system as moving in the wrong direction than the right direction

The population overall:



- Moving in the right direction
- Moving in the wrong direction
- Don't know

Those who express an opinion only:

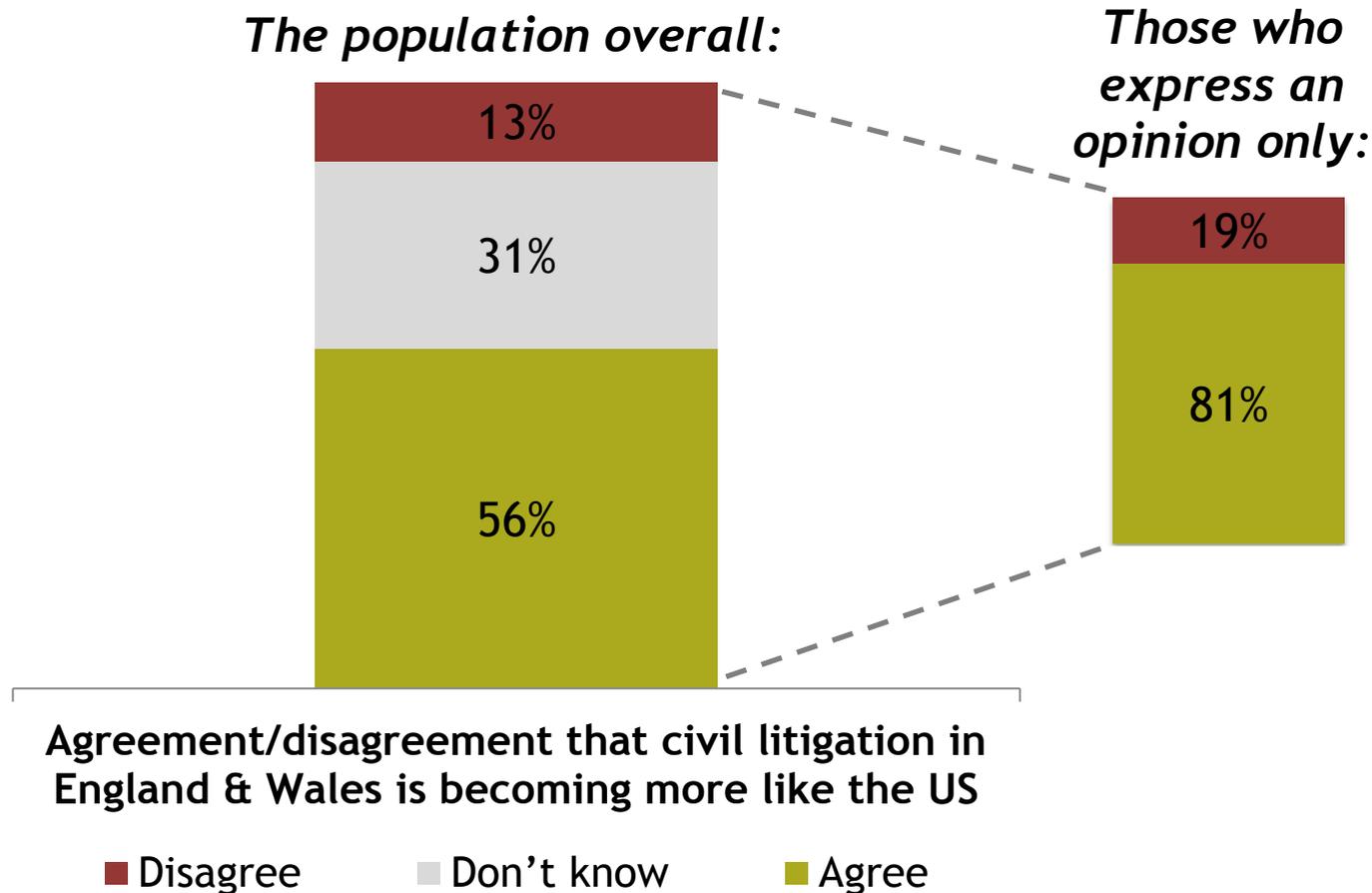


Men (45%) are more likely than women (32%) to say that civil litigation is moving in the wrong direction

Perceptions that civil litigation is moving in the wrong direction tend to increase with age: 45% among over-45s compared to 30% of under-45s

Those who have been involved in a civil case in the past 10 years are much more likely than average to say that the system is moving in the wrong direction (52%)

The majority of the public sees our civil litigation system as becoming increasingly Americanised

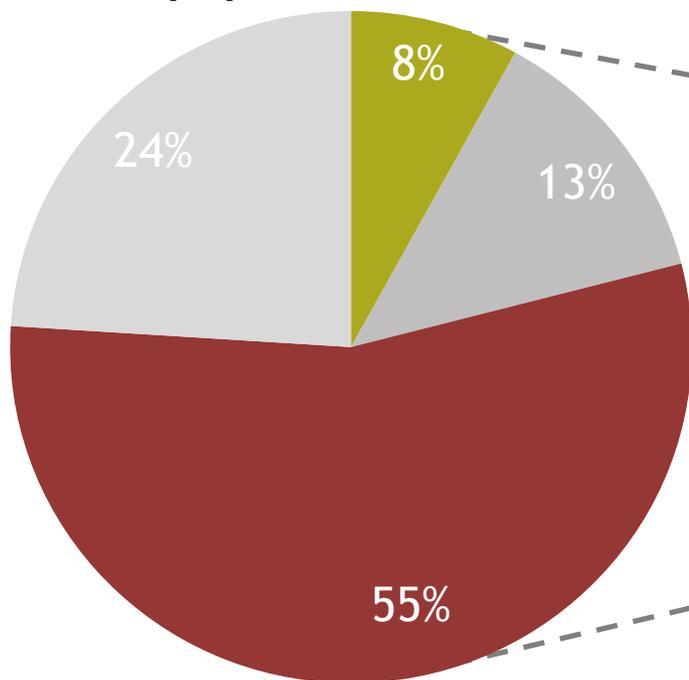


Q3. To what extent, if at all, would you agree or disagree with the following statement? "Civil litigation in England and Wales is becoming more like the United States."

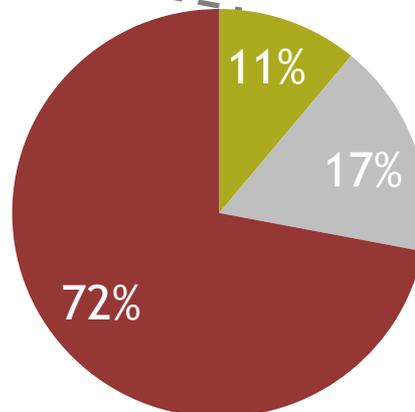
Base: All respondents (n=1,261)

...and more than half view this trajectory negatively

The population overall:



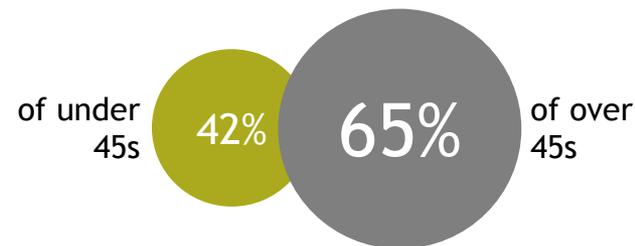
Those who express an opinion only:



- Better if civil litigation more like US
- No difference if civil litigation more like the US
- Worse if civil litigation more like the US
- Don't know



Those from higher socioeconomic grades are more likely to view this negatively than those from lower grades

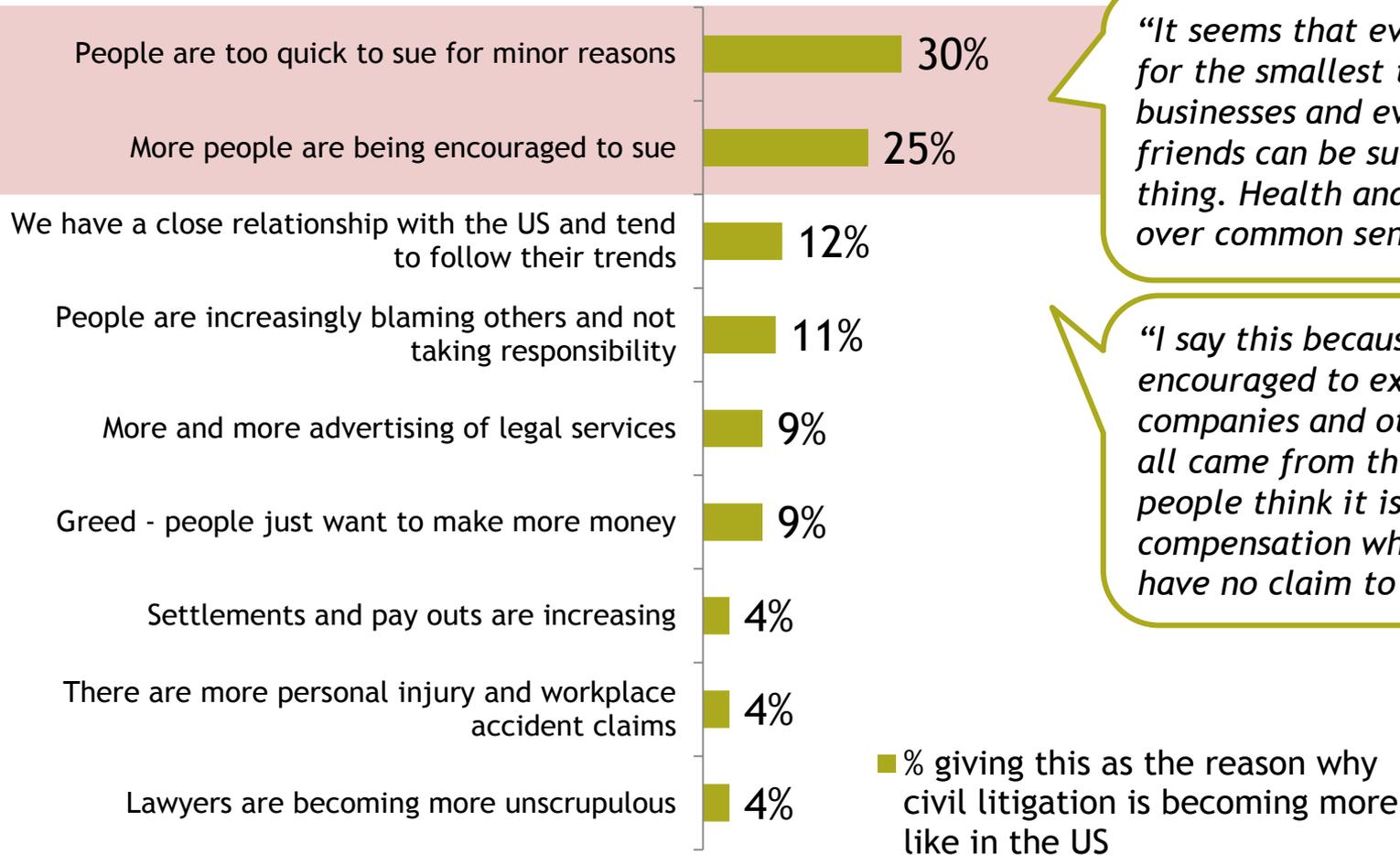


Again, perceptions that this development is negative tend to increase with age

Q2. From what you know, do you think it would be better or worse if civil litigation in England and Wales were more like that in the United States?

Base: All respondents (n=1,261)

Drivers of this view tend to relate to perceptions of a growing ‘compensation culture’ - and related industry - in England and Wales



“It seems that everyone is claiming for the smallest thing. Employers, businesses and even family and friends can be sued over the silliest thing. Health and safety has taken over common sense.”

“I say this because people are being encouraged to extract money from companies and other people.... this all came from the USA and some people think it is an easy touch for compensation when really they have no claim to anything.”

Q4. Why do you say that? Showing top nine most coded verbatim responses.

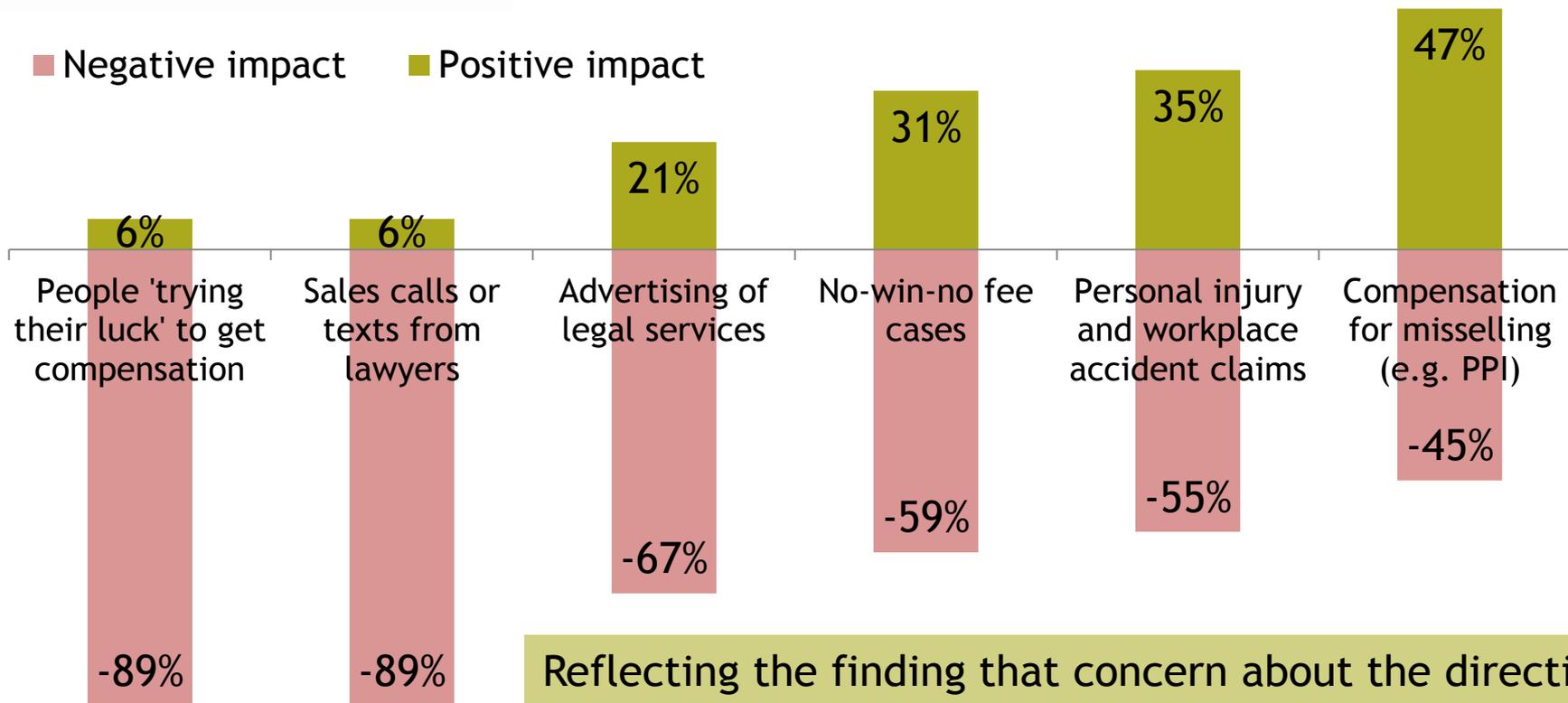
Base: All respondents who agree that the civil litigation system in England and Wales is becoming more like that in the United States (n=718)

The majority of the public describe an increase in the advertising of compensation and legal services in the past three years

	More frequently	About the same	Less frequently
Compensation for misselling of products (e.g. PPI)	79%	11%	1%
No-win-no fee cases	73%	15%	2%
Advertising of legal services	71%	16%	3%
People 'trying their luck' to get compensation	71%	15%	2%
Personal injury and workplace accident claims	70%	17%	2%
Sales calls or texts from lawyers	50%	21%	5%

Q5. Thinking about the past three years in the UK, based on what you have experienced, seen or heard, do you feel that the following things happen more frequently than they used to, less frequently than they used to, or about the same as they used to? Base: All respondents (n=1,261)

And most of these developments are viewed as negative for the justice system in England and Wales - some overwhelmingly so

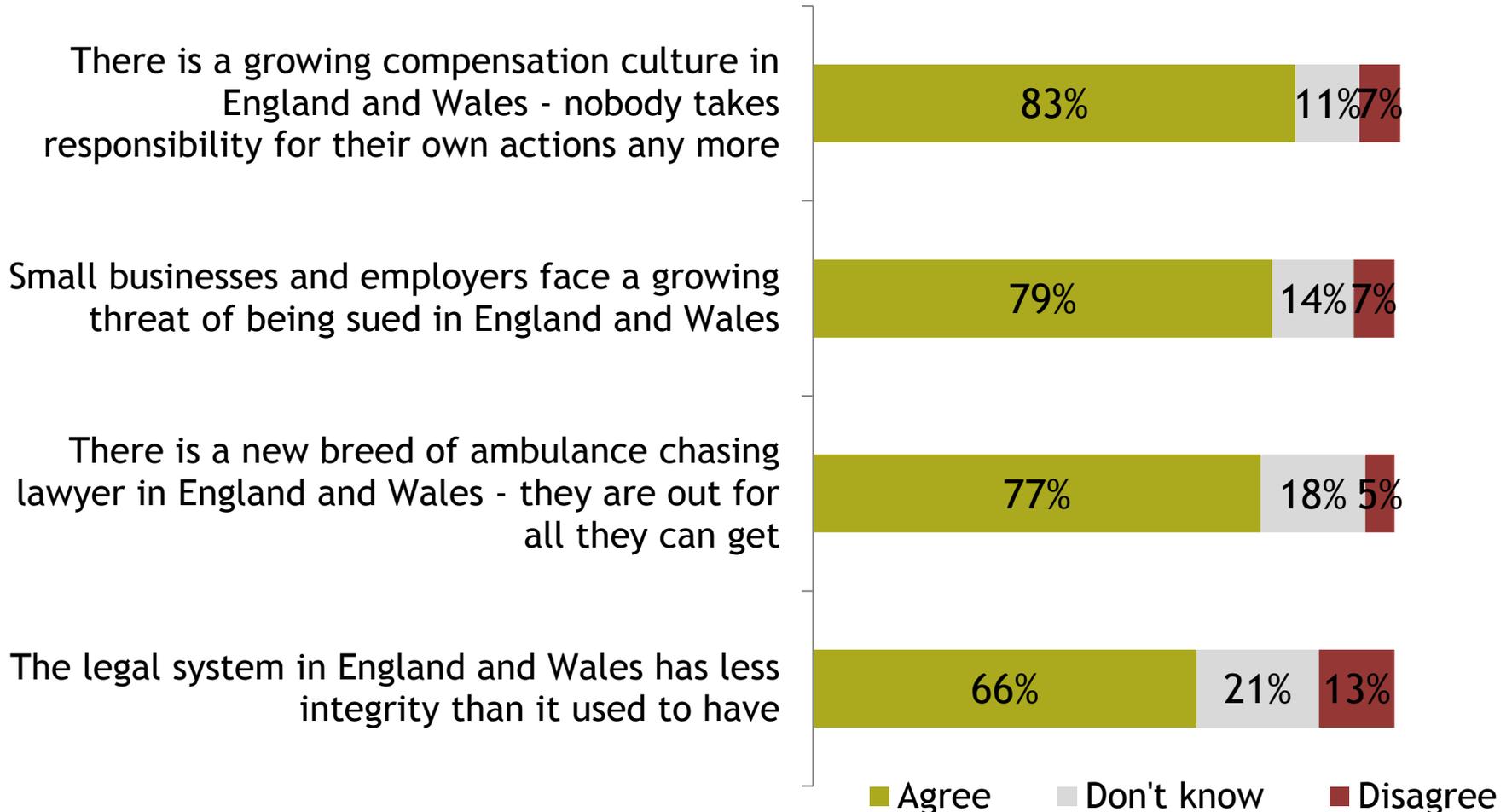


Reflecting the finding that concern about the direction of the legal system in England and Wales tends to increase with age, over-55s are much more likely to report each of these developments as negative

Q6. You said that the following things happen more often than they used to. For each, do you think this has been positive or negative for the justice system in England and Wales?

Base: All respondents who consider each to happen more than it used to (n=629-1,002)

In sum, the public is starting from a baseline perception that there's a growing compensation culture, to the detriment of the justice system



Q8. To what extent do you agree or disagree with the following statements?
Base: All respondents (n=1,261)

These views are consistent across most sociodemographic groups, but especially strongly held by older people

Agreement that 'there is a growing compensation culture in England and Wales' is highest among...

Older compared to younger people

94%

of over-55s

72%

of under-35s

Right compared to liberal/left-leaning voters

89%

of Conservative / UKIP voters

80%

of those who voted for others

Those who believe our system is becoming more like the US's

92%

of those who agree

71%

of those who disagree



Initial views of third party litigation funding

The public's initial responses to third party litigation funding are overwhelmingly negative

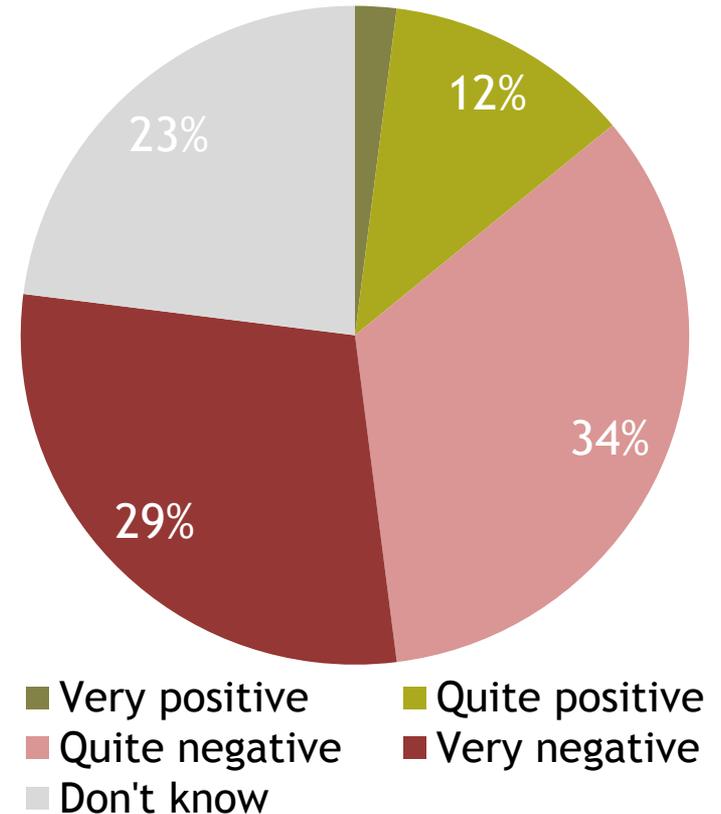
Respondents were shown a short passage explaining TPLF:

Third party litigation funding is where financial firms (for example, hedge funds and private investment firms) that have no direct connection to a legal dispute invest in the case. These firms identify cases where there is likely to be a large settlement and pay the associated legal and administrative fees on behalf of the claimants. The third party litigation industry in the UK is growing.

If the case is successful, the financial firm funding the case claims a significant share of the financial settlement awarded to the claimants (generally 30%-40% of the settlement). If the case is unsuccessful, the funder and the claimants get nothing.



Then asked to rate how positive or negative they felt about TPLF:



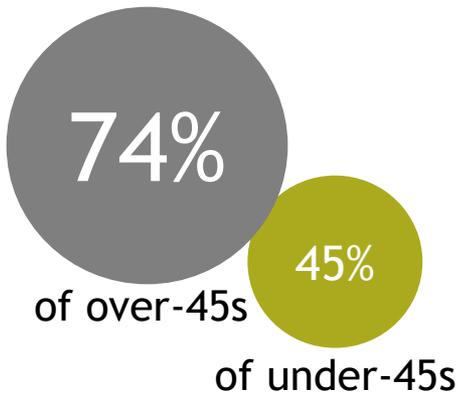
Q13. How positive or negative do you feel about the increase of third party litigation funding in England and Wales?

Base: All respondents (n=1,261)

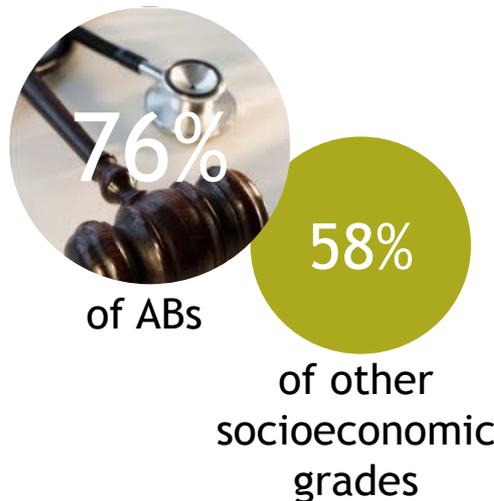
Initial responses to TLPF are most negative among many of the same groups who are most concerned about the legal system in general

Negativity about the increase of third party litigation funding in England and Wales is highest among..

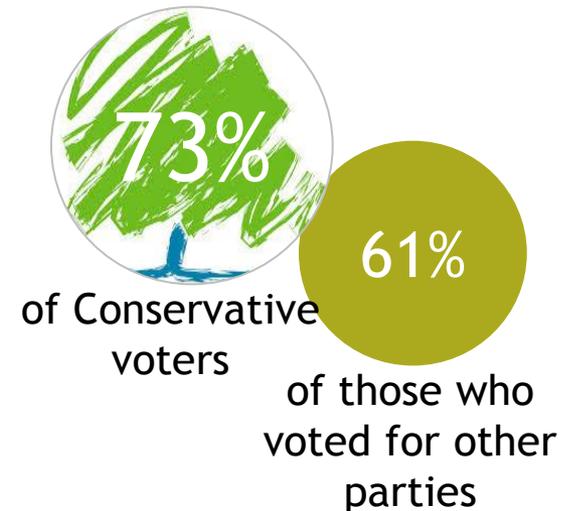
Older compared to younger people



Higher compared to lower socioeconomic grades



Right compared to liberal/left-leaning voters



Q13. How positive or negative do you feel about the increase of third party litigation funding in England and Wales?

Base: Varies for each sub-group

Information relating to the proportion of the settlement that funders can claim is particularly likely to provoke a negative reaction

18%
highlight as
negative

Third party litigation funding is where financial firms (for example, hedge funds and private investment firms) that have **no direct connection** to a legal dispute invest in the case. These firms identify cases where there is likely to be a **large settlement** and pay the associated legal and administrative fees on behalf of the claimants. The third party litigation industry in the UK is **growing**

18%

17%

28%

If the case is successful, the financial firm funding the case claims **a significant share** of the financial settlement awarded to the claimants (generally **30%-40%** of the settlement). If the case is unsuccessful, the funder and the claimants get nothing.

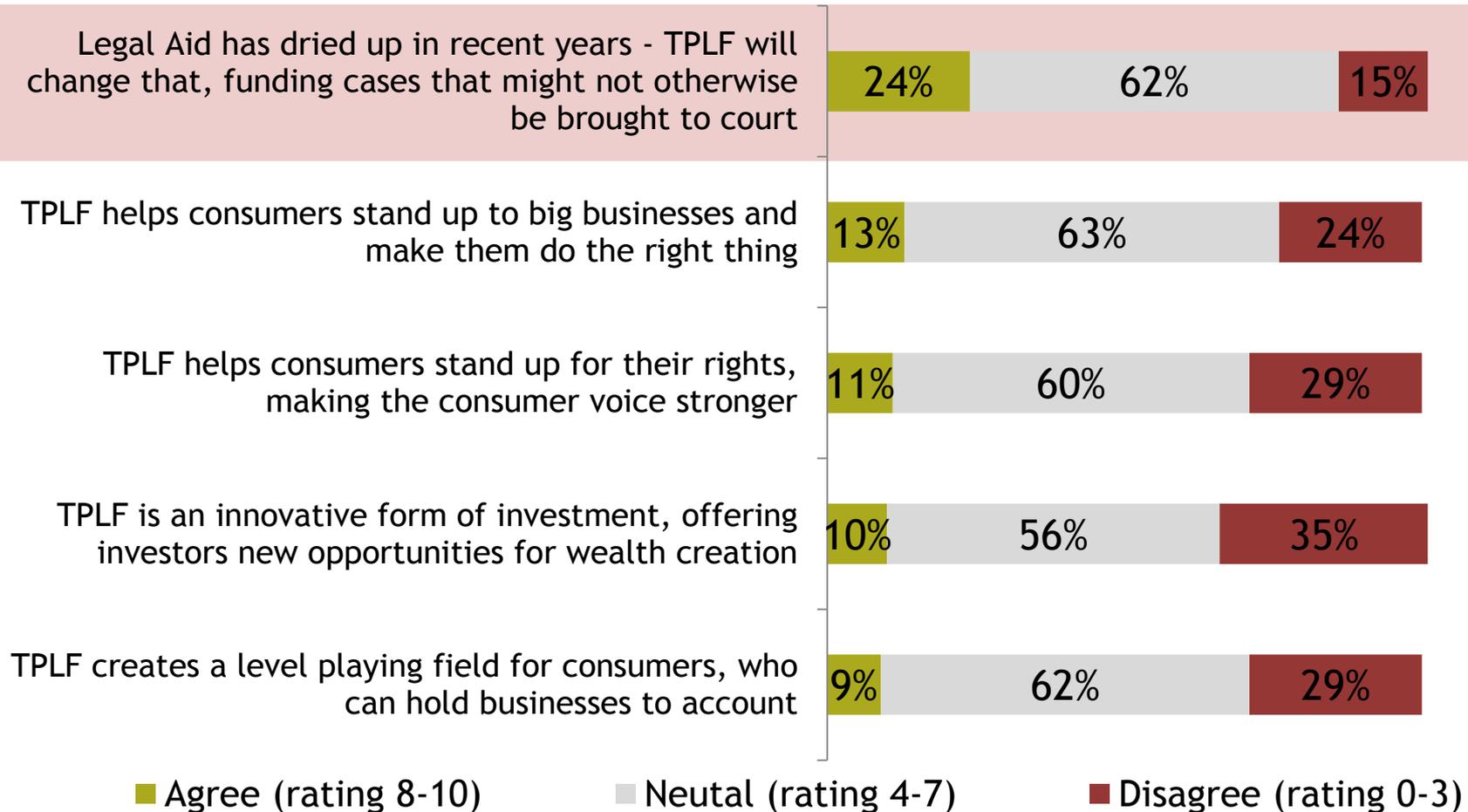
25%

Q12. In the following passage, highlight all the things that make you feel positive / negative. Showing all words/phrases highlighted by 15% or more of respondents. Base: All respondents (n=1,261)



Arguments for and against third party litigation funding

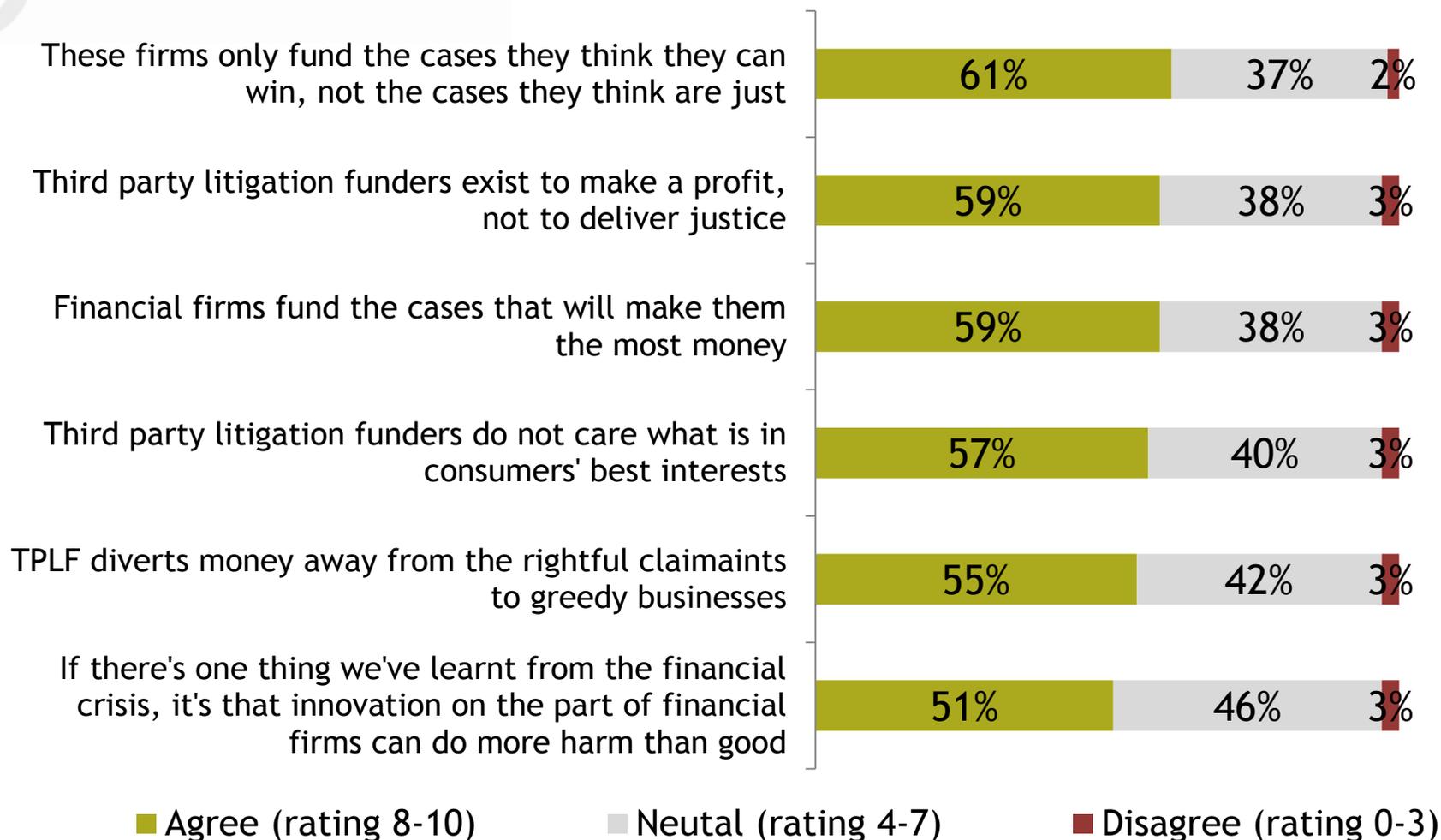
While none of the arguments in favour of TPLF are met with high levels of agreement, the most effective tend to relate to access to justice



Q14. You will now see some of the arguments that people have made in favour of third party litigation funding. Please state the extent to which you agree or disagree with each argument.

Base: All respondents (n=1,261)

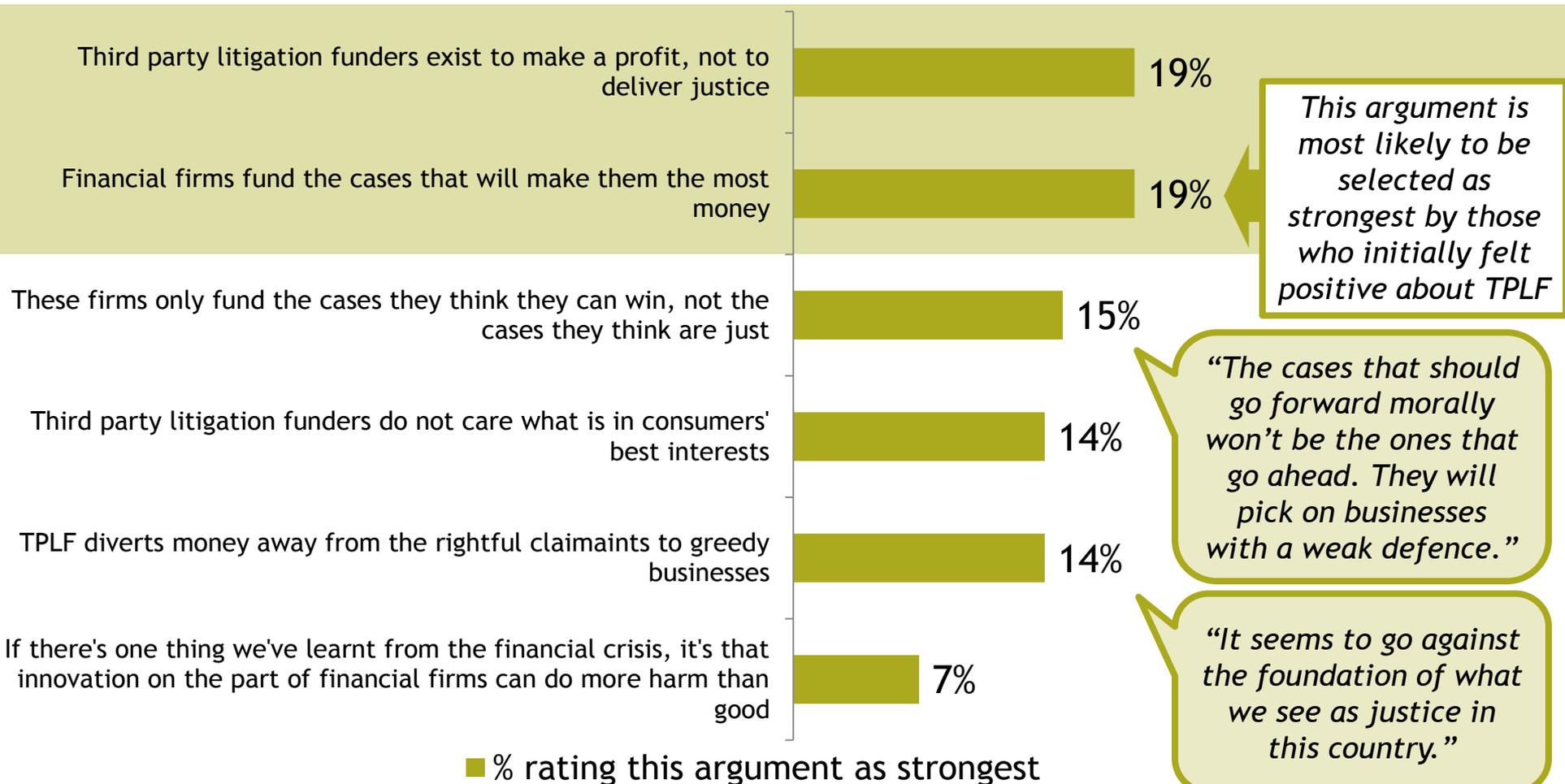
By comparison, all of the arguments *against* TPLF are perceived to be much more effective



Q15. You will now see some of the arguments that people have made against third party litigation funding. Please state the extent to which you agree or disagree with each argument.

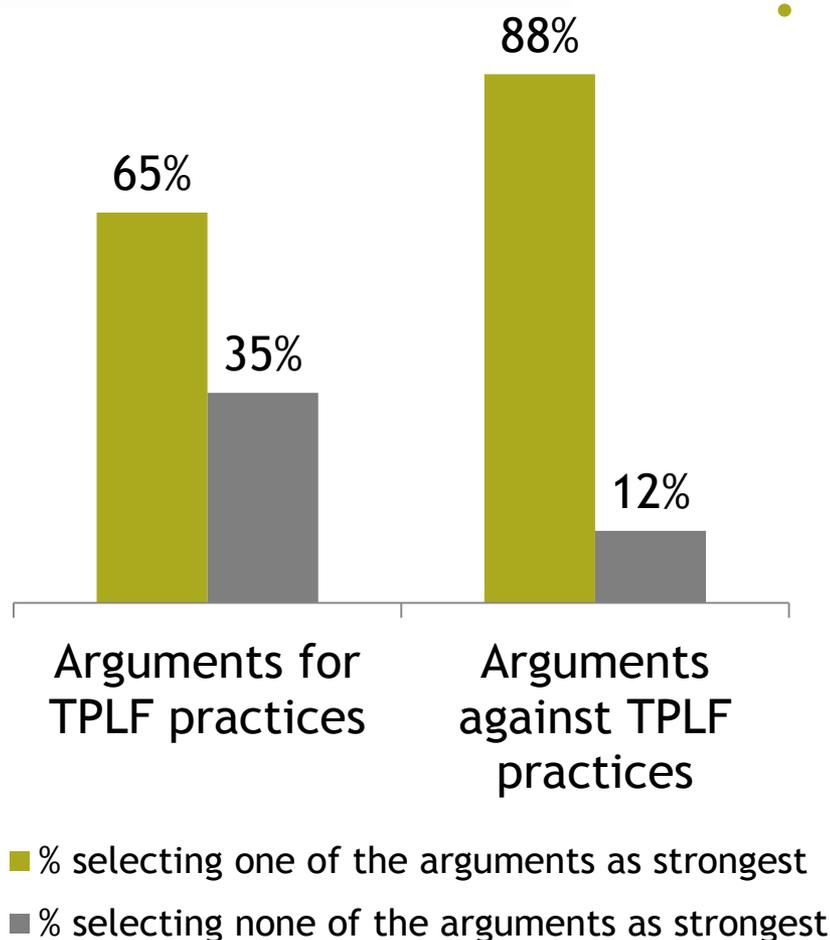
Base: All respondents (n=1,261)

While all of the tested arguments against TPLF are perceived to be strong, the most effective relate to the kinds of cases that will be funded



Q15a. Which of these arguments against third party litigation funding do you think is strongest?
Base: All respondents (n=1,261)

Overall, the arguments tested *against* TPLF fare much better than those *for* the practice



- Respondents are three times more likely to say that none of the arguments *for* TPLF are strong (35%) than they are to say that none of the arguments *against* TPLF are strong (12%)
- Importantly, the majority of those who initially felt positive about TPLF were able to pick one of the arguments *against* TPLF as strong: just 11% say that none are strong
- ...while those who are initially negative about TPLF are much more likely to be unconvinced by the arguments *for* TPLF: two in five say that none of the arguments are strong (38%)



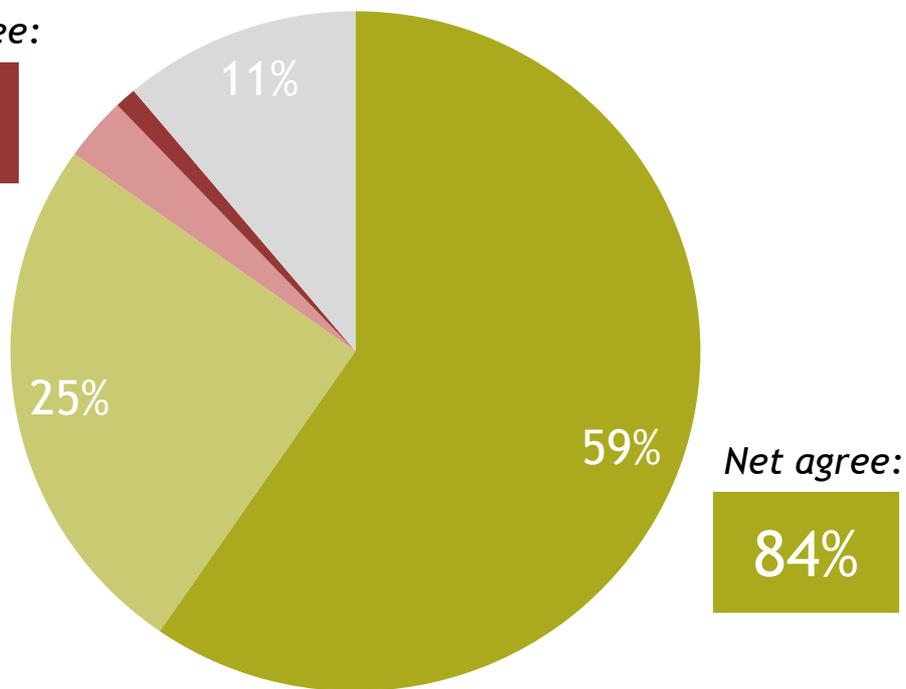
Views of regulation of third party litigation funding

There is overwhelming public support for independent regulation of TPLF practices

Agreement/disagreement that 'It is essential that the third party litigation industry is independently regulated'

Net disagree:

4%



Net agree:

84%

■ Agree strongly ■ Agree ■ Disagree ■ Disagree strongly ■ Don't know

This is consistent across all sociodemographic groups, including age, gender and socioeconomic grade

Those who initially felt positive about TPLF are as likely to agree with this statement (92%) as the public overall

Q16. To what extent, if at all, do you agree or disagree with the following statement? 'It is essential that the third party litigation industry is independently regulated?'

Base: All respondents (n=1,261)

And current controls of TPLF are more likely to provoke a negative than positive reaction



Q18. In the following passage, highlight all the things that make you feel positive / negative. Showing all words/phrases highlighted by 20% or more of respondents. Base: All respondents (n=1,261)

The public's preferred modes of regulation include a mandatory code of conduct with meaningful penalties, and a cap on fees

	Agree	Don't know	Disagree	% selecting as No. 1
A mandatory code of conduct with meaningful penalties	84%	13%	3%	33%
A cap on the fees funders can charge and proportion of settlement they can claim	81%	15%	4%	25%
Government licensing of all third party litigation funders	77%	18%	5%	18%
Ban the practice of TPLF altogether	41%	33%	26%	21%
Keeping the voluntary code of conduct for TPLF with no other regulation	22%	21%	57%	4%

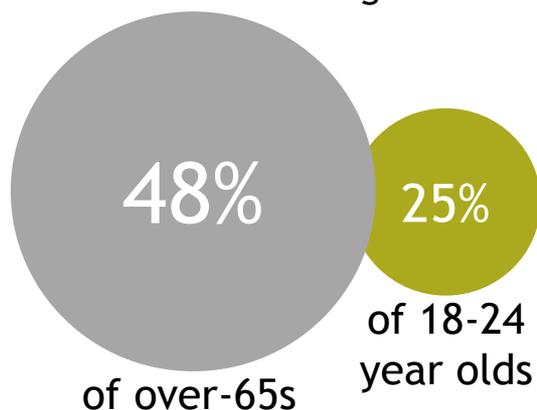
Q19. To what extent, if at all, do you agree or disagree with each of the following options to manage third party litigation funding? & Q20. And if you had to choose one, what would you do to manage third party litigation funding? Base: All respondents (n=1,261)

This finding is very consistent across the population of England and Wales

There is very little variation in perceptions of the need for independent regulation of the TPLF industry across England and Wales, and in support for mandatory codes of conduct, penalties and caps on fees

The only differences of any note reflect the patterns relating to age and socioeconomic grade found in the rest of the survey:

Older people are much more likely than younger people to agree that the practice of TPLF should be banned altogether



Those from higher socioeconomic grades are more likely to support mandatory codes of conduct than those from lower grades

