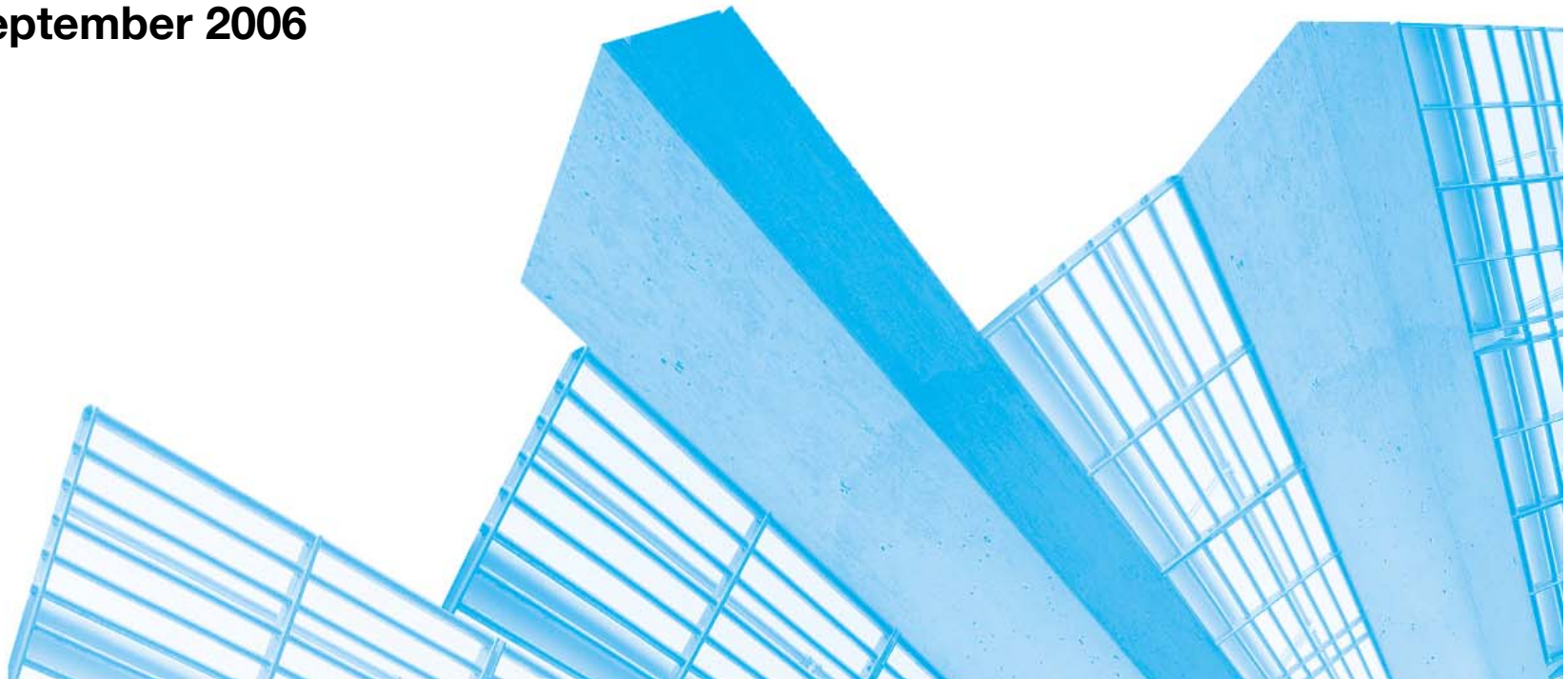


Professional Liability

Nelson Ogunshakin

FIDIC, Budapest

23 September 2006



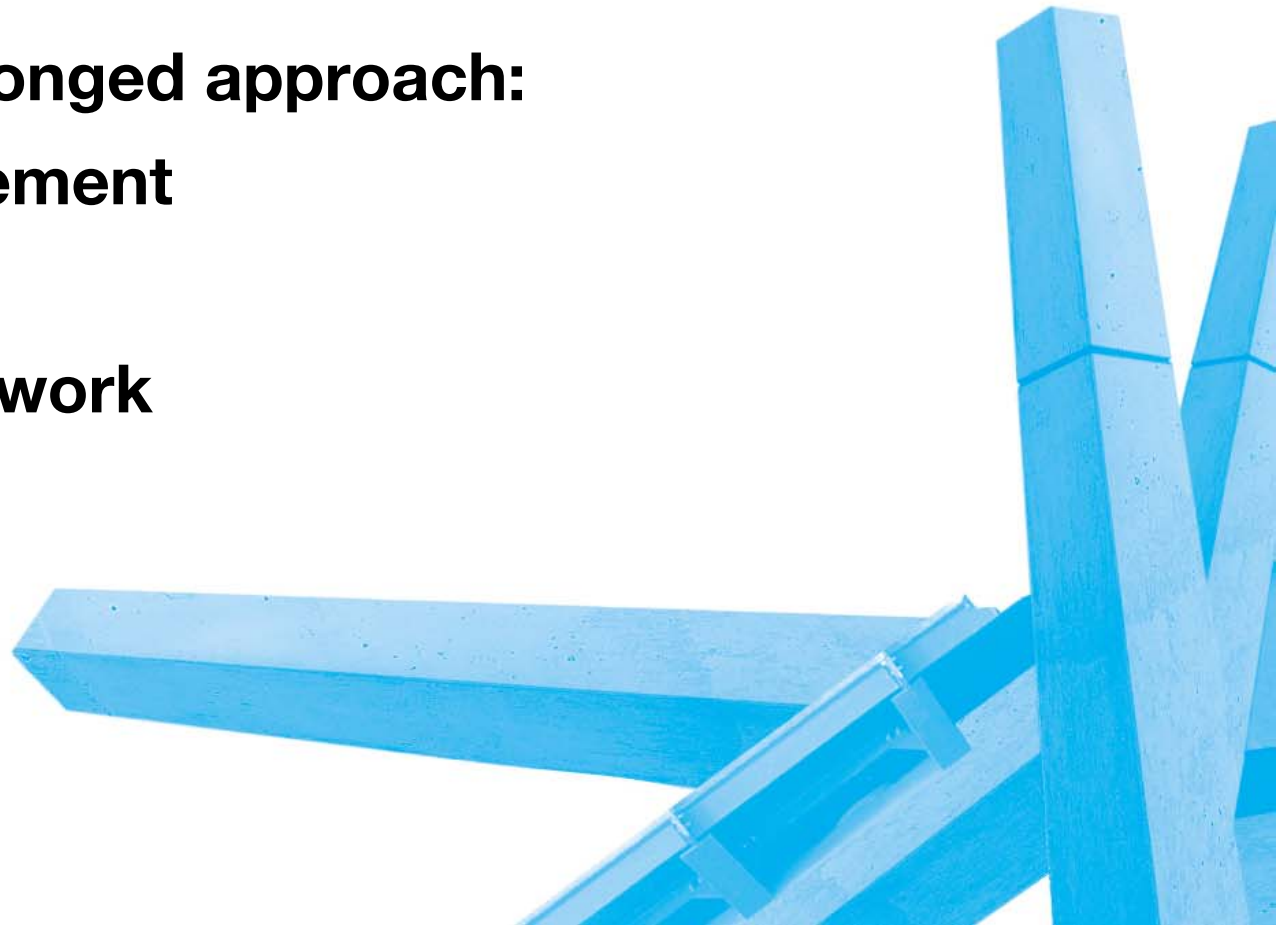
2006 State of Business Survey

% of firms	Total	0-<1m	1-<10m	10m+
Internal resourcing/recruitment/skills shortages	65%	50%	92%	88%
Delays in payments by private clients	65%	68%	67%	50%
Low fee levels	53%	57%	42%	50%
Poor profit margins on projects	47%	46%	42%	50%
Excessive PI insurance premiums	45%	50%	42%	25%
Unlimited liability on projects	37%	29%	33%	63%
Poor public procurement practices	29%	18%	33%	63%
Frameworks squeezing out small practices	29%	32%	33%	13%
Delays in payments by public clients	29%	32%	25%	25%
A lack of public spending	27%	25%	33%	25%
The number of government and EU regulations	20%	25%	8%	25%
Employment law & health & safety regulations	18%	25%	17%	0%
Industry consolidation (acquisitions/mergers)	14%	14%	17%	13%
Other	6%	4%	8%	13%
Outsourcing/Activities moving offshore	4%	4%	0%	13%

Professional Liability Issues

ACE's Three Pronged approach:

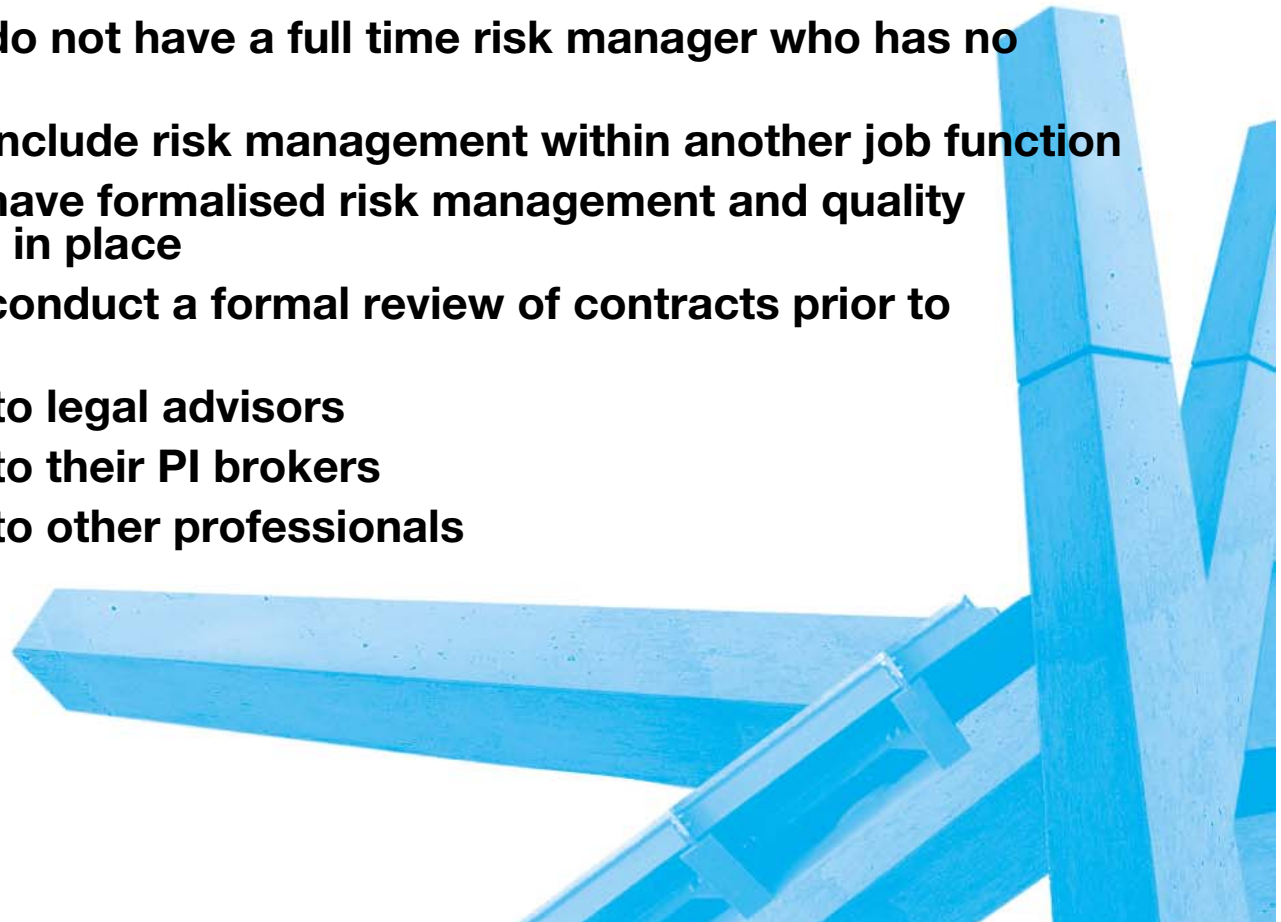
- (1) Risk Management**
- (2) Insurance**
- (3) Legal Framework**



(1) Risk management

Results of 2005 PI and Insurance Survey:

- **92% of responders do not have a full time risk manager who has no other job function**
- **84% of responders include risk management within another job function**
- **46% of responders have formalised risk management and quality assurances systems in place**
- **81% of responders conduct a formal review of contracts prior to signature. Of these**
 - **21% refer them to legal advisors**
 - **88% refer them to their PI brokers**
 - **10% refer them to other professionals**



Managing risks through:

- **ACE Agreements – benchmark reasonableness**
- **Dispute Resolution Forum – promotion of ADR**
- **Risk Tracking System – to track project risk online**
- **Briefing Notes – limiting liability, net contribution clauses, etc**
- **Seminars – getting paid, getting your contracts right**

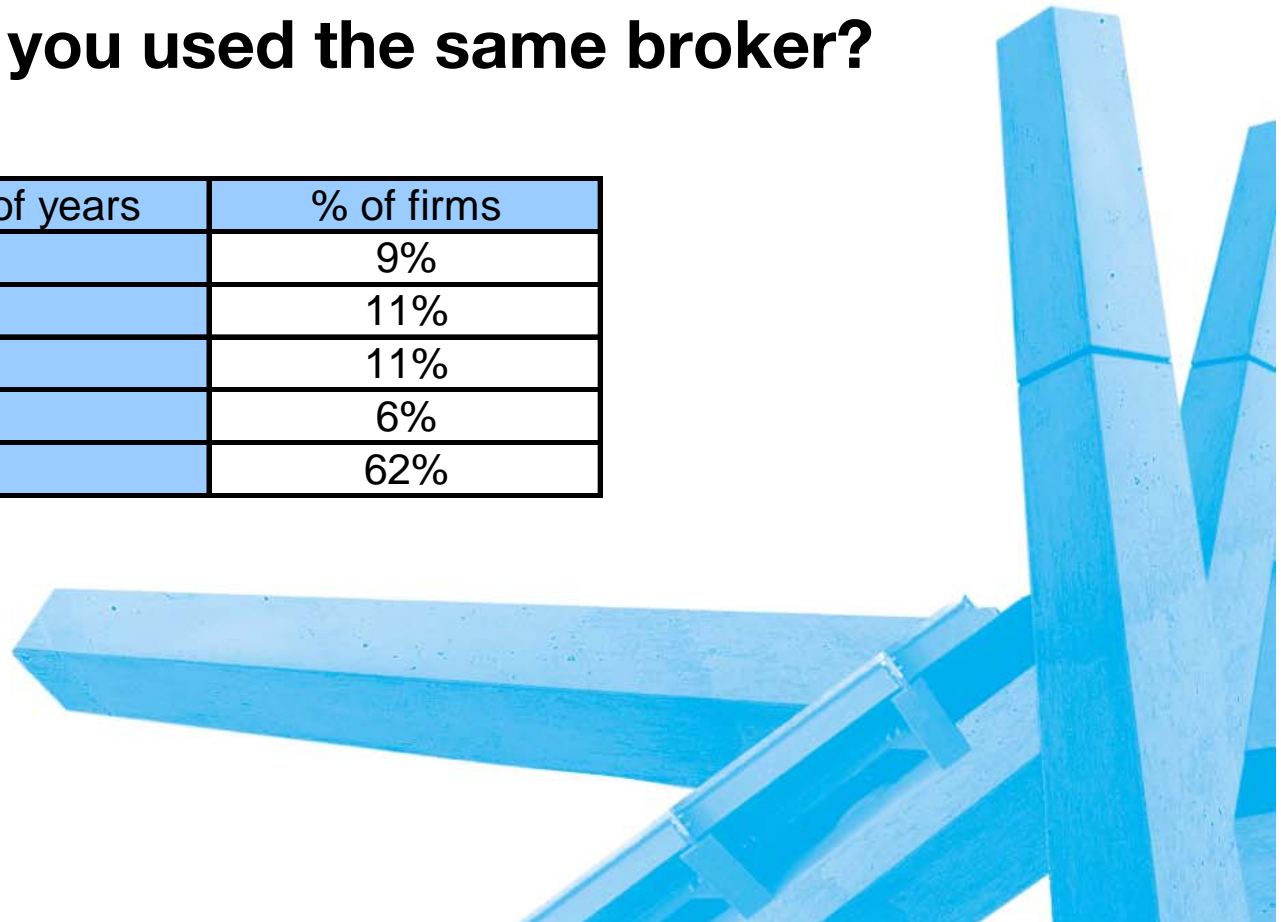


(2) Insurance

2005 PI and Risk Survey:

How long have you used the same broker?

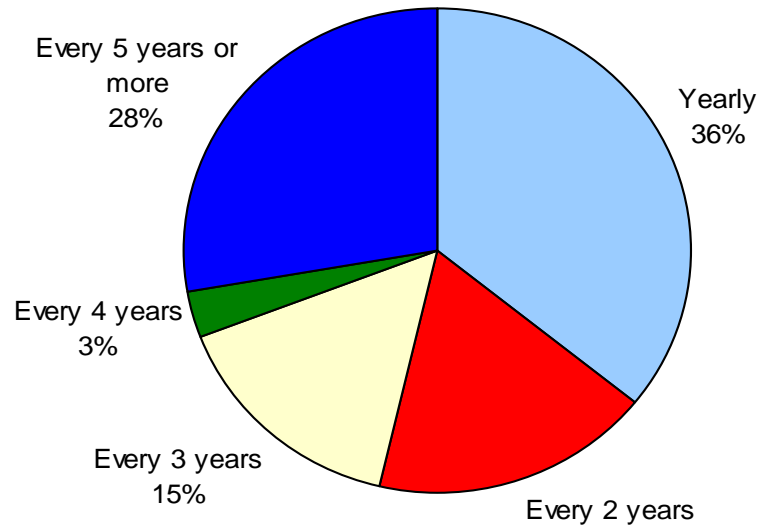
Number of years	% of firms
1 year	9%
2 years	11%
3 years	11%
4 years	6%
5+ years	62%



Insurance – cont'd:



How often do you obtain alternative quotations

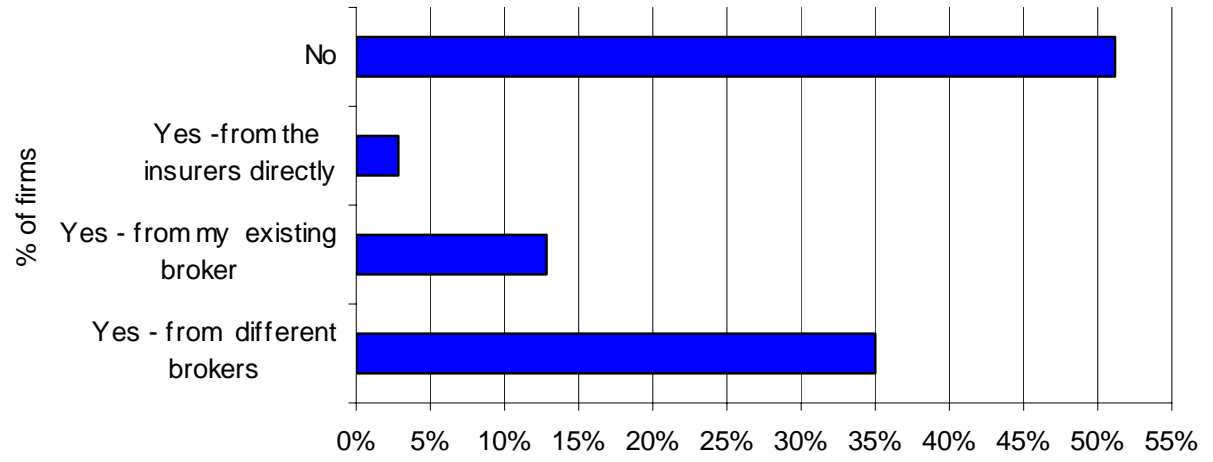


Half of responders found comparing quotes easy

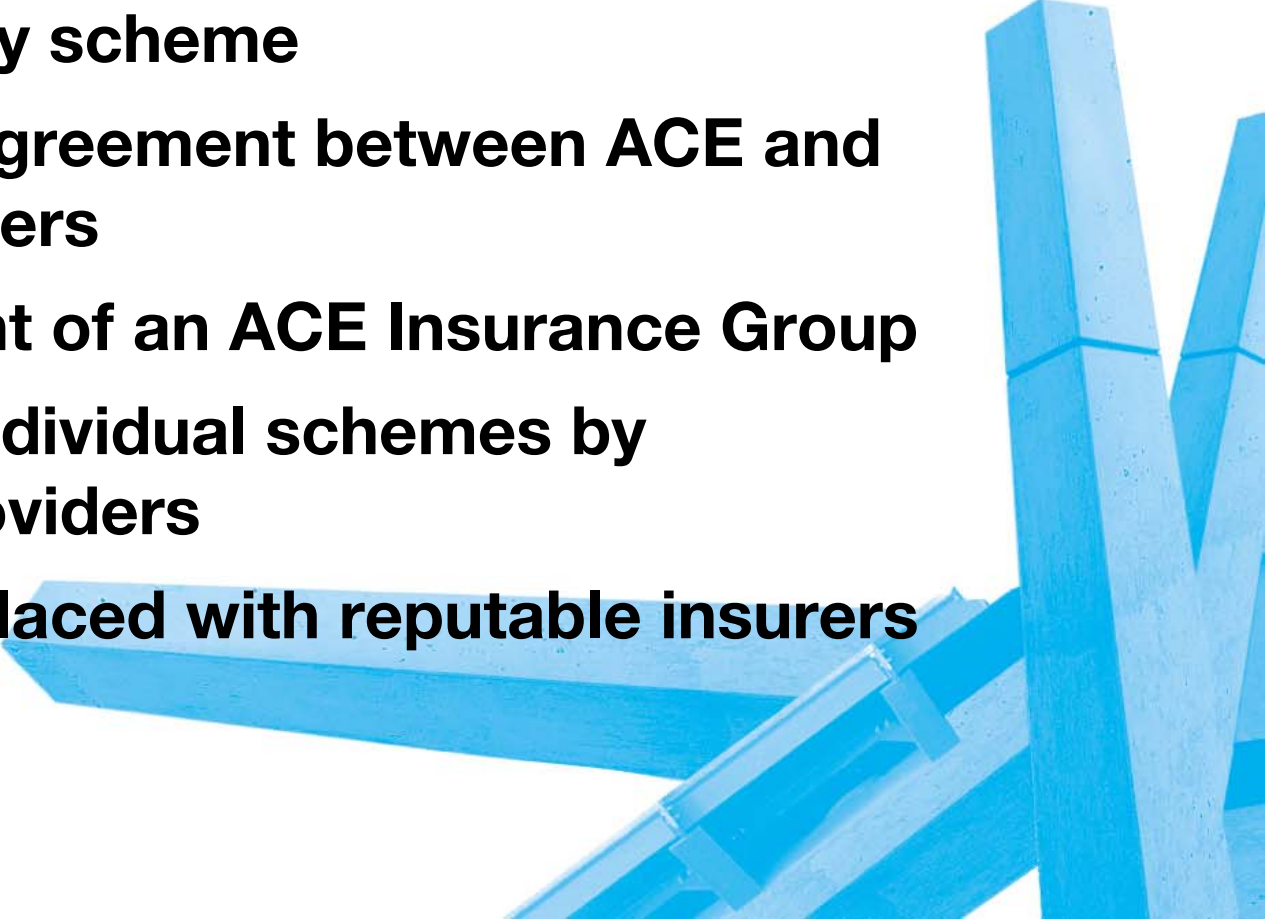
A third could compare quotes with some difficulty

One in ten could not compare quotes

Did you obtain alternative quotes at the time of your last renewal

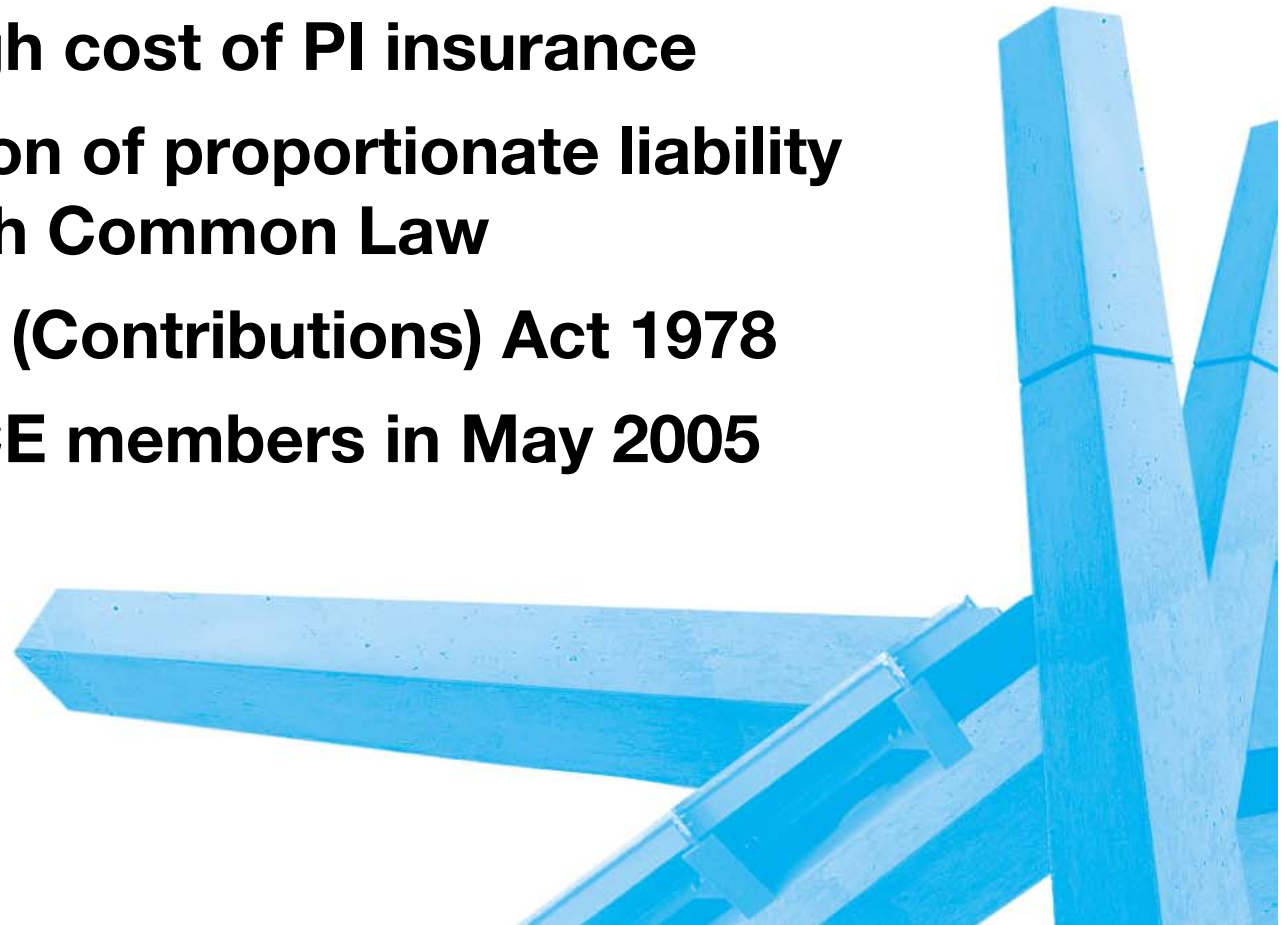


New ACE PI Insurance Scheme

- **Members only scheme**
 - **Formalised agreement between ACE and panel of brokers**
 - **Establishment of an ACE Insurance Group**
 - **Running of individual schemes by individual providers**
 - **Risks to be placed with reputable insurers**
- 

(3) ACE campaign - proportionate liability

- **Linked to high cost of PI insurance**
- **No recognition of proportionate liability under English Common Law**
- **Civil Liability (Contributions) Act 1978**
- **Survey of ACE members in May 2005**



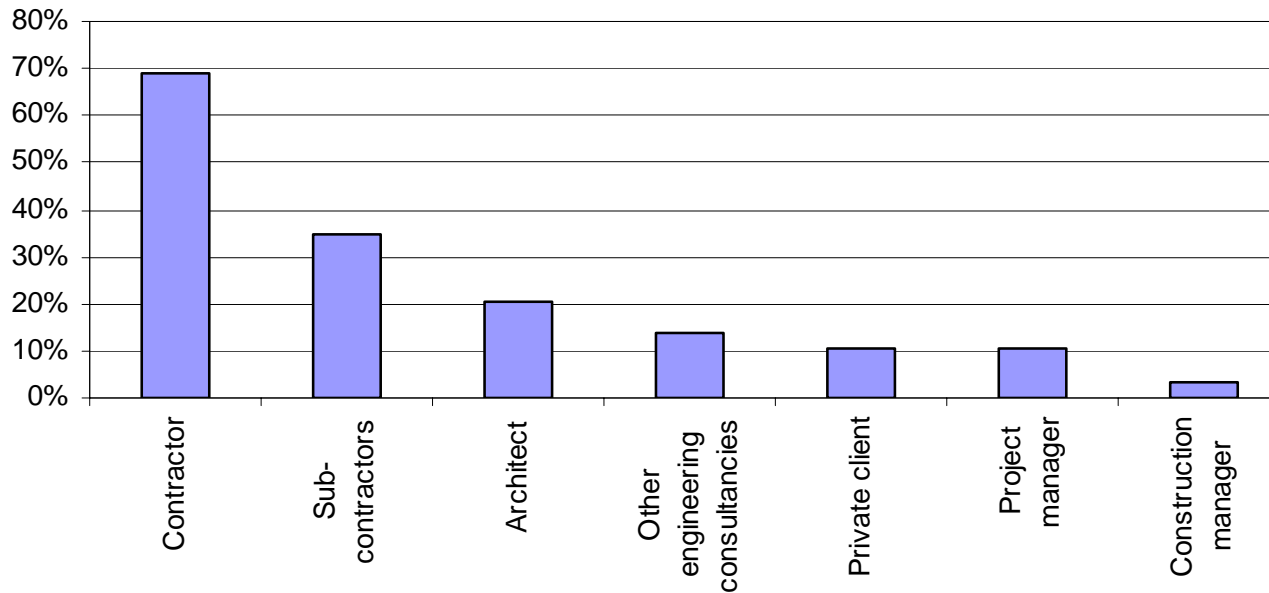
(3) ACE campaign - proportionate liability (cont'd)



Issues of joint and several liability arise in nearly a quarter

of a

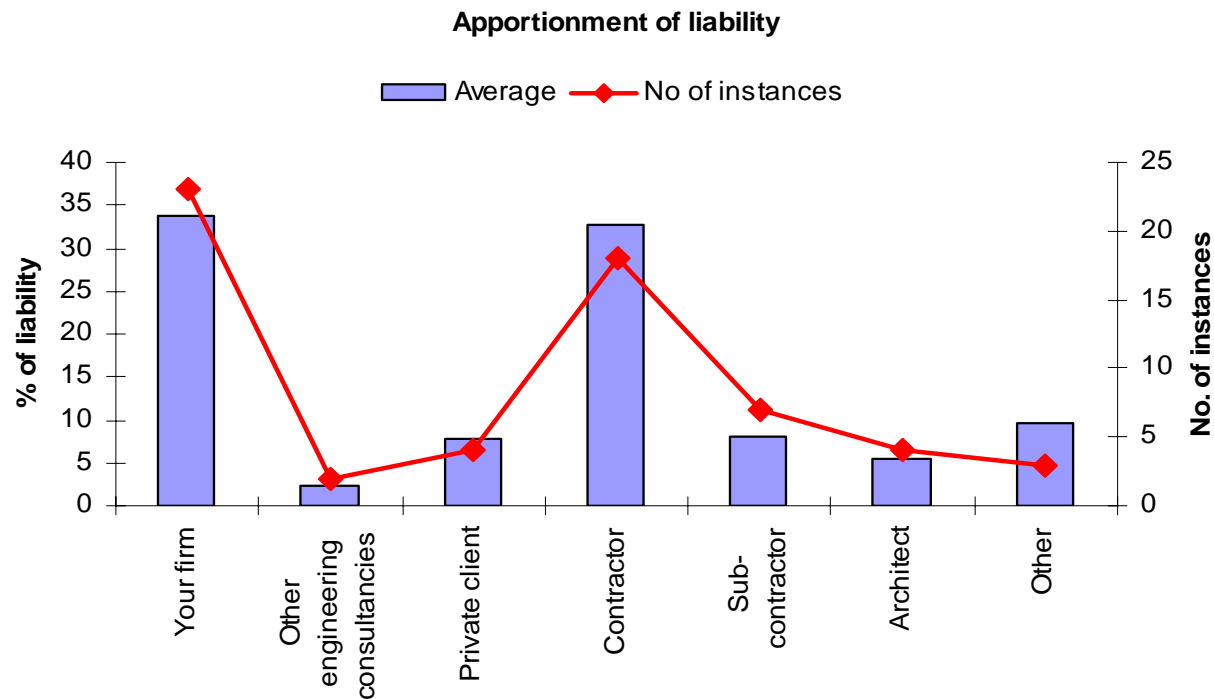
Who were you liable with?



Analysis of 29 claims

(3) ACE campaign - proportionate liability (cont'd)

- On average, final liability is apportioned equally between contractors and consultants, however consultants are subject to liability being apportioned against them more frequently than any other party
- In a third of cases, consultants believe that their PII has been adversely affected by the claim against them, through increased premiums and excesses



The End.

Thank you!

