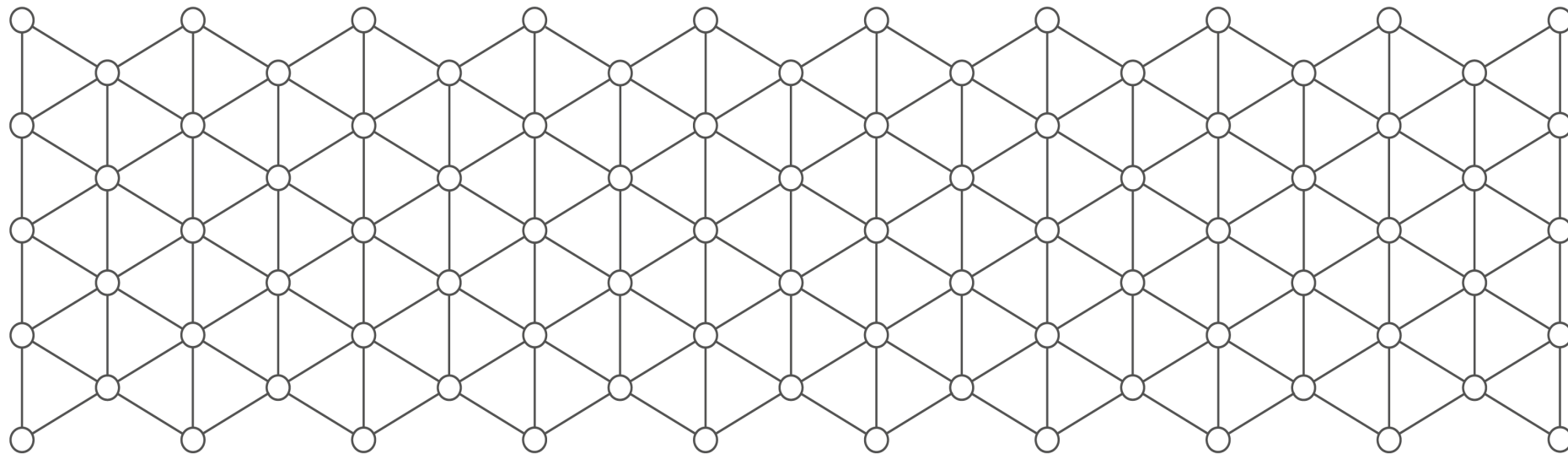
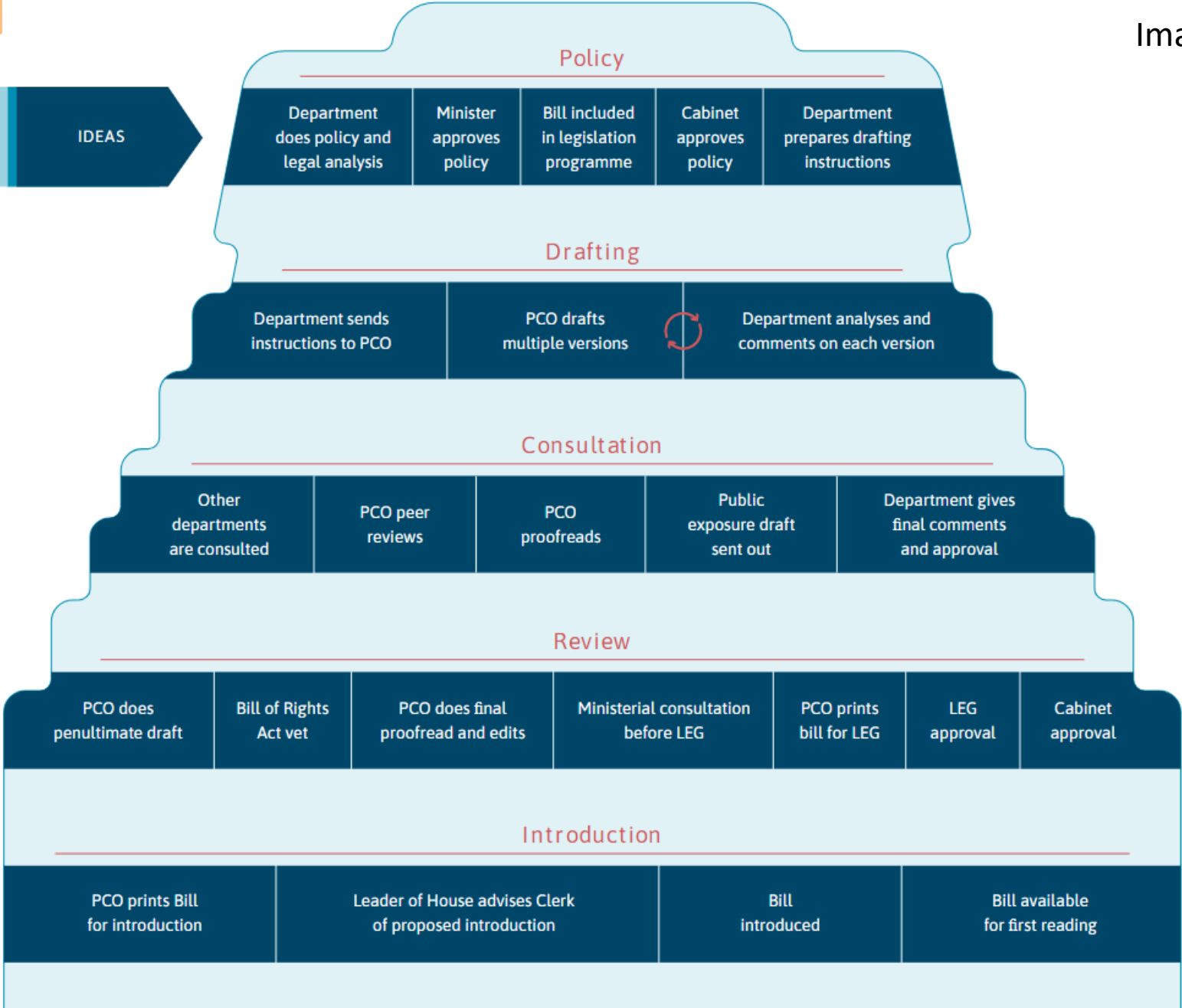


# Lifting the quality of policy advice on issues involving law reform

## Webinar – Eliza Prestidge-Oldfield





FIRST READING

## Law reform should:

- give best effect to the policy intent
- uphold legal and constitutional principles ('the integrity of the statute book')
- be resilient for future needs.

# Key focus – policy analysis

- The Policy Quality Framework outlines steps for quality policy advice.
- Good analysis leads to good advice on **whether** to change the law, and if so, **how** to change the law.
- Your legal teams can help you work through the detail.



# Is law change the best tool to hand?

“Give a small boy a hammer and it will turn out that everything he encounters needs pounding.”

– Abraham Kaplan



# Types of government intervention

Softer forms  
of influence

**Education, information and public outreach**

**Behavioural nudges to shape choices towards desired outcomes**

**Providing or commissioning public services, including decisions about operational practice**

**Economic tools: taxes, levies, subsidies and funding**

**Regulations and other legislative instruments**

Formal  
exercise of  
government  
power

**Acts of Parliament**

# How big is your reform project?



# Things to consider for different types of reform

	<b>Matter of significant public interest, contentious</b>	<b>Technical or uncontroversial subject matter</b>
<b>Major reform</b>	<ul style="list-style-type: none"><li>• Resolve the details well, so public debate can focus on the big picture.</li><li>• Incorporate effective community engagement processes as part of policy development to:<ol style="list-style-type: none"><li>a) identify issues of concern to communities, and possible solutions</li><li>b) improve the quality of public information</li><li>c) build public buy-in to the process of reform.</li></ol></li></ul>	<ul style="list-style-type: none"><li>• Create realistic timeframes for the work programme, recognising it will likely be deprioritised for more urgent work.</li><li>• Consider how the work programme could be delivered in stages of reform, to sustain momentum and avoid wasted work.</li></ul>
<b>Minor reform</b>	<ul style="list-style-type: none"><li>• Be clear on the parameters of change and the reason why it's needed.</li><li>• Allocate resources commensurate with the public interest, including for public engagement (as above).</li></ul>	<ul style="list-style-type: none"><li>• Create systems to identify these issues and address them before they become more major or more contentious.</li><li>• Explore vehicles such as Regulatory Systems Bills to bundle together small changes and make good use of house time.</li></ul>



# Questions for policy teams to ask (#1)

- Does changing the law create desired outcomes or opportunities that could not be otherwise achieved?
  - To what extent is the current law a barrier to achieving the outcome sought?
  - Is the law change a standalone policy option, or part of a package that also involves operational changes or funding for new initiatives?

## Questions for policy teams to ask (#2)

- What impact could the proposed legislative change have on the rights and obligations of different individuals, entities and groups?
  - Have the law reform proposals been developed with enough detail to identify the trade-offs and costs?
  - Are there unintended consequences that need to be addressed?

# Spotlight: implementation

- Consider implementation issues at the outset – not just at the end of the process.
- This includes operational implications, enforcement, and any education or outreach required to inform people of the change in law.
- Even a narrow law change can present complex implementation issues.



THE LAW IS ON THE BOOKS,  
BUT IT WOULD TAKE ALL  
THEIR RESOURCES TO  
ENFORCE IT.



# OK, we're ready to change the law!

- Talk to your legal teams before putting law reform options up to ministers.
- Make sure your advice includes realistic timeframes. Law reform is complex.
- Work through the detail of legislative design as well as the big picture reform options.

# Where to go for further support

- **Legislation Design Advisory Committee** – support on legislative design issues.
- **Treasury** – regulatory management system, including regulatory stewardship.
- **Parliamentary Counsel Office** – comprehensive resources on turning policy into law.
- **Crown Law** – legal advice, including when legislative reform options are being considered.
- **Ministry of Justice** – Bill of Rights Act compliance, and vetting offences and penalties.