



**Office of the Victorian
Information Commissioner**

Privacy complaints at OVIC

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Privacy complaints

- There is a low threshold to be a valid complaint.

An individual in respect of whom personal information is, or has at any time been, held by an organisation may complain to the Information Commissioner, in writing, about an act or practice that may be an interference with the privacy of the individual. (s 57 of the PDP Act)

- Individuals should complain to the organisation first and organisation should attempt to resolve directly.



What is OVIC's role?

If [OVIC] considers it reasonably possible that a complaint may be conciliated successfully, [OVIC] must make all reasonable endeavours to conciliate the complaint. (s 67 of the PDP Act)

What is OVIC's role

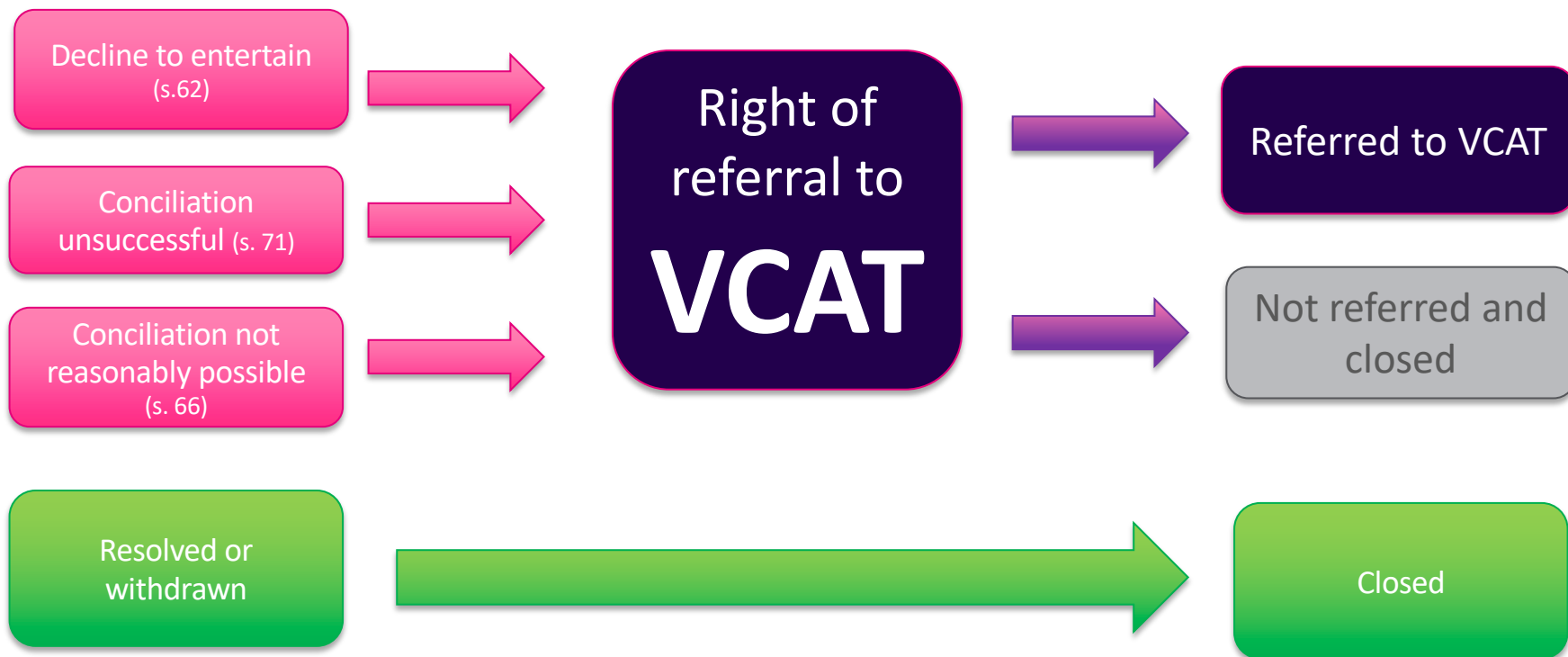
- Expert conciliators – decide on process.
- Conciliation is not just a meeting – direct or indirect.
- OVIC cannot make determinations – but we can provide our views.
- We aim to resolve without need to resort to VCAT.
- Changes have resulted in reduction - historically **≈50% to 25%** in 19/20.

How can a complaint conclude?

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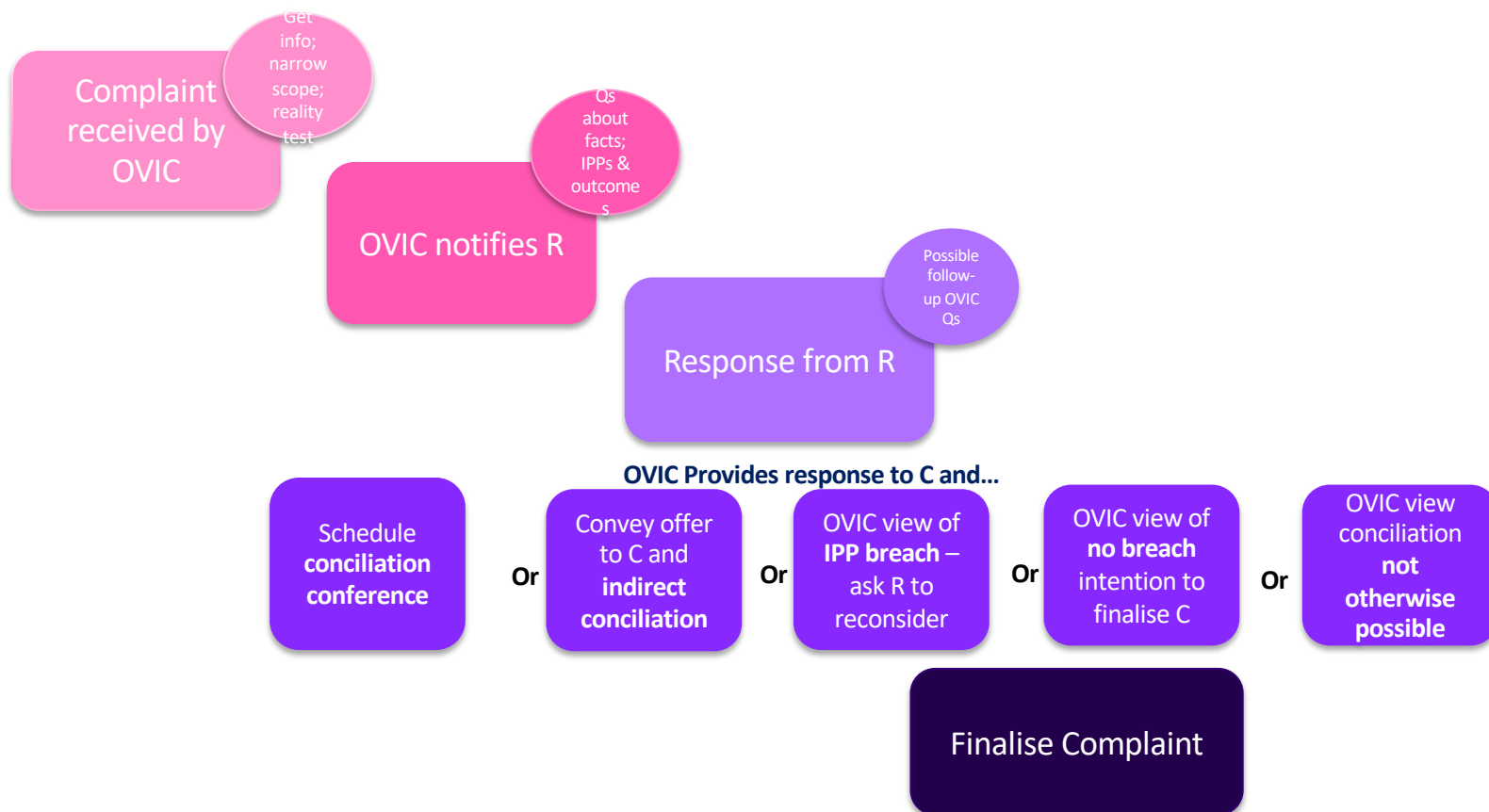


The process – what can you expect?

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Case study 1 [no breach scenario]

- C makes a complaint to Regulator A about the conduct of Professional B.
- Regulator A discloses information to professional B.
- C makes a privacy complaint alleging that the disclosure constitutes a breach of IPP 2.1.

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- Response directly addresses questions.
- Explains C had filled in a complaint form and ticked box consenting to information being disclosed to person about whom complaint relates. Provides copy to OVIC.
- OVIC forms view that no breach.
- OVIC provides Organisation response to C and intention to decline to entertain based on OVIC reasoning that no breach of IPPs.
- C states that they accept the view and withdraw the complaint



- Response limited: “C would be well aware that we disclose information of this type. We have already responded to C before about this”.
- OVIC requests further information.
- Organisation says it does not wish to make further comment.
- OVIC unable to form view.
- OVIC provides Organisation response to C and Intention to finalise (s 66).
- Finalised - conciliation not reasonably possible.
- C refers matter to VCAT.

Case study 2 [breach scenario]

- C formerly worked at VPS Organisation A and now works at private entity B.
- Entity B asks organisation for C's personnel file as they "suspect conduct issues".
- C makes a privacy complaint alleging that the disclosure constitutes a breach of IPP 2.1.

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- Response directly addresses questions.
- Provides letter of request from Entity B. Explains it thought C would have wanted personnel file to be disclosed as no disciplinary findings against C. Open to engaging on C's outcomes.
- OVIC forms view that there may have been breach of IPP 2.1. Explains to R and proposes conciliation conference.
- OVIC provides Organisation response to C and proposes conciliation conference.
- Parties reach agreement at conciliation conference. Successful.



- Response limited: "we provided a small amount of PI in good faith in response to legitimate request".
- OVIC requests further information and asks that organisation addresses IPP 2 questions.
- Organisation repeats position and says it will not provide outcomes C has asked for.
- OVIC unable to form view.
- OVIC provides Organisation response to C and Intention to finalise (s 66).
- Finalised - conciliation not possible
- C refers matter to VCAT.

