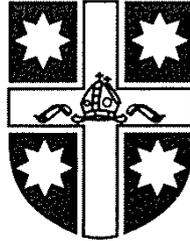


**Anglican Church of Australia**



**Diocese of Brisbane**

**PROTOCOL**

for use when complaints of  
Sexual Abuse are made against  
Church Officials

Published with the authority of Archbishop in Council  
September 1995

---

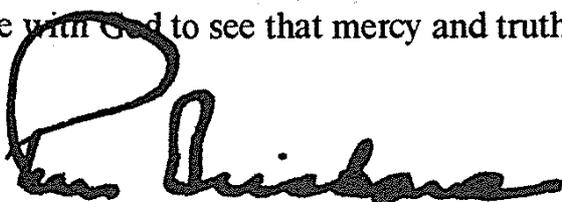
**Foreword**

This protocol has been prepared in order to enable the Anglican Church in the Diocese of Brisbane to deal carefully and justly with what is a difficult and often traumatic aspect of human community and inter-personal relationships.

Sexual abuse in any form is not acceptable in the life of the church. Where it has occurred it has been a serious breach of pastoral responsibility and can have been the cause of deep and long term hurt in the life of victims. Where an unfounded complaint is made, it too may be the cause of deep hurt. It is important that the church has in place clear and public procedures for dealing with allegations of such unacceptable behaviour. The committee which has prepared this protocol has worked with two guiding principles: one, to see justice done for all concerned, and two, to make pastoral care available to all concerned.

The document has been adopted on a trial basis and may be re-worked in the light of experience.

I am grateful to the members of the committee listed below, for their careful work, and pray that the Protocol will assist the church and the wider community to cooperate with God to see that mercy and truth meet each other.

+ 

The Most Reverend Peter Hollingworth  
ANGLICAN ARCHBISHOP OF BRISBANE

---

*The Committee*

Bishop Ron Williams.....	Chair & Bishop of the Southern Region
Mr Bill Anderssen.....	Legal Practitioner
Ms Alana Bolger.....	Counsellor and Teacher
The Honourable Mr Paul de Jersey.....	Supreme Court Judge
Mr Tony Graham.....	Senior Community Correctional Officer
Ms Janice Jordin.....	Legal Practitioner
The Reverend Dr Mervyn Lander.....	Paediatric Surgeon
The Reverend Josephine Pyecroft.....	Hospital Chaplain
Mrs Marilyn Redlich.....	Counsellor
The Reverend Alan Sandaver.....	University Chaplain

---

## 1. *Preface*

The development of the following protocol has been prompted by this Church's deep concern about the suggested incidence within the church generally of sexual abuse of parishioners by members of the clergy and other church officials. The problem has been extensively publicised in recent times. The protocol is this church's genuine attempt to confront what is a complex problem, by devising and setting down clear procedures. The church is attempting, through the protocol, to ensure that justice is done to both complainant and respondent and that pastoral care is offered to those affected.

The Introduction below sets out the goals of the protocol more comprehensively. The protocol is based in the end on an acknowledgment of the possibly drastic implications of such abuse - violation of the pastoral relationship, carrying with it serious breach of trust, injury to the victim, and betrayal of the wider church. The church notes that victims have sometimes been unwilling to complain because of misconceptions and an apprehension that they may not be believed. Obviously enough, the behaviour of church officials influences the way people understand the God whom the church proclaims, and misbehaviour imperils the church's mission. The church must therefore ensure that these matters are dealt with honestly, compassionately and expeditiously.

---

## 2. *Introduction*

- (a) The Church regards seriously any allegation of sexual abuse, whether against a member of the clergy, or against a member of the laity holding office in the Church. The Archbishop-in-Council has adopted this protocol in order to ensure:
- (i) that an allegation, once made, is communicated to the Church in an appropriate way;
  - (ii) that allegations are then expeditiously investigated;
  - (iii) that a person who has suffered such abuse is encouraged to make the relevant allegation against the offender;
  - (iv) that the persons involved are offered pastoral care throughout; and
  - (v) that if the alleged abuse is found to have been committed, the perpetrator is appropriately dealt with.
- (b) The Protocol should be read so as to facilitate the resolution of complaints.

---

### **3. *Application of the Protocol***

*The protocol applies where the complaint alleges that:*

---

- (a) sexual abuse has occurred; and
- (b) the alleged perpetrator (called "the respondent") is:
  - (i) a person Licensed by the Archbishop, or
  - (ii) a person elected or appointed to any office within the Church under the canons, or
  - (iii) a person elected or appointed to any office within the Church by a council, board, chapter, commission, committee, parish priest or churchwarden, or
  - (iv) otherwise a voluntary worker of the Church in this Diocese; and
- (c) the alleged victim (called "the complainant") is:
  - (i) a person with whom the respondent had, at the time of the alleged conduct, a pastoral relationship, involving an obligation in the respondent to attend to the complainant's spiritual welfare, or
  - (ii) a person with whom the respondent has not had a pastoral relationship but over whom the respondent has used his or her office to gain advantage, or
  - (iii) a member of the clergy, or a member of the laity holding office in the church, notwithstanding the absence of a pastoral relationship.

A. The term "**sexual abuse**", is used in a broad sense, and includes what may be called "sexual harassment". It covers all instances of unwanted, sexually oriented behaviour, from non-consensual sexual intercourse at the one extreme, to sexual innuendo at the other, and whether manifested orally or by conduct.

It may or may not involve contravention of the criminal law. It may also include consensual activity, where the consent emerges from a situation where the victim is emotionally vulnerable.

B. A "**pastoral relationship**", carries with it ethical obligations. There will often be inequality of power between the parties, and one must not exploit that to the disadvantage of the other. Any sexual relationship or activity by a church official with such other person is therefore generally unethical - subject to some possible and obvious exceptions, as where the parties are husband and wife - because the features of power, trust and dependency will often limit the prospect of fully informed and true consent. The responsibility will ordinarily lie primarily with the church official to guard against the possibility of such conduct.

---

#### ***4. Relation to criminal and civil judicial proceedings***

- (a) If criminal court proceedings are commenced in respect of the allegations, then any proceedings under this Protocol should ordinarily be suspended for the duration of the court proceedings. Should civil court or tribunal proceedings be commenced in respect of the allegations, then any proceedings under this Protocol should likewise be suspended, unless the parties consent in writing to their being continued.
- (b) Complaints using this Protocol could sometimes lead to criminal or civil proceedings in a court of law or tribunal, and resort to this Protocol does not derogate from a respondent's ordinary right of silence. Accordingly in the initial communication with the respondent, the Chairperson of the Committee for Complaints of Sexual Abuse ("CCSA") or the Chairperson's delegate will advise the respondent:
- (i) that because complaints of sexual abuse may sometimes found criminal or civil proceedings in a court of law, the respondent should be aware that he or she has the right to remain silent - that is, to make no answer to the complaint or questions asked in respect of it; and that if any response or answer is made, it may be used in evidence against the respondent in such court proceedings, should they be instituted;
  - (ii) that should any participant in proceedings under the Protocol be asked questions in a court of law about those proceedings, he or she will not be excused by any privilege from answering under oath or affirmation;
  - (iii) that the respondent should carefully consider the desirability of seeking advice from a solicitor before proceeding further in the matter.

## STRUCTURES

---

### **5. *The Committee for Complaints of Sexual Abuse ("CCSA")***

- (a) There should be a CCSA comprised of at least nine persons including:
- (i) a chairperson and at least four other persons appointed by the Archbishop; and
  - (ii) four persons appointed by the Archbishop-in-Council
- for three year terms, provided that no member may serve more than nine years consecutively.
- (b) The majority of members of the CCSA must be members of the Anglican Church of Australia.
- (c) The CCSA should if possible include:
- (i) at least one member with expertise in sexual abuse issues,
  - (ii) at least one member with legal expertise,
  - (iii) members skilled in the techniques of mediation and conciliation, generally knowledgeable about sexual abuse issues, and aware of the dynamics of the pastoral relationship and related ethical considerations.
- (d) The role of the CCSA is:
- (i) to investigate a complaint of sexual abuse;
  - (ii) to seek a mutually acceptable resolution where possible, utilising the techniques of mediation, conciliation and the like;
  - (iii) otherwise to make its determination on the complaint, recommending any appropriate action to the Archbishop.

---

**6. *Contact Persons***

- (a) There should be a panel of at least thirteen contact persons comprising:
- (i) the Archbishop and the Regional Bishops; and
  - (ii) three persons from each region comprising a male and female member of the laity and a member of the clergy.
- (b) The role of a contact person is:
- (i) to receive a complaint and, if desired, to assist the complainant to reduce the complaint to writing (endeavouring however to ensure so far as possible that the document represents the complainant's own form of expression);
  - (ii) forthwith to forward the written complaint to the Chairperson of the CCSA.

---

**7. *Advisers***

- (a) There should be a panel of at least six advisers, (including a convenor), appointed by the Archbishop, among whom should be included at least one person with expertise in the area of child sexual abuse and another with expertise in working with male victims.
- (b) A person may be appointed to the panel of advisers even though also appointed as a contact person.
- (c) The role of Advisers is to assist complainants and respondents, and that would ordinarily include:
- (i) informing them of their rights,
  - (ii) providing pastoral care and support,
  - (iii) keeping them up to date with information as to the progress of the complaint,
  - (iv) alerting them to the availability of community support services, and the possible desirability of seeking legal advice, and
  - (v) speaking on their behalf, if requested, at, e.g., meetings convened by the CCSA.
- (d) A person appointed as an adviser should have basic support skills, and so far as possible, the capacity to fulfil the role described in (c).

## PROCEDURE

---

### 8. *Complaint*

- (a) An intending complainant should make the complaint to a contact person. The complaint must be put in writing and signed, identifying the respondent and specifying details of the matters complained of (including the nature of the alleged sexual abuse, particularising what allegedly occurred and dates and places).
- (b) Any member of the clergy or member of the laity holding office in the Church to whom such a complaint is orally communicated by a complainant should refer that person to a contact person who should encourage the complainant to reduce the complaint to writing on the basis that it will be furnished then to the Chairperson.
- (c) On receipt of a complaint in writing, the Chairperson will forthwith notify:
  - (i) the Archbishop
  - (ii) the respondent, and
  - (iii) the Convenor of Advisersand provide the Archbishop and the respondent with a copy of the complaint.
- (d) After the respondent has been notified the Convenor of Advisers will forthwith appoint an Adviser for the complainant and an Adviser for the respondent.
- (e) The Adviser will as soon as possible, and desirably within 24 hours, consult with the person for whom the adviser is appointed to ensure that person is aware of the relevant provisions of this Protocol and to begin to discharge the role described in clause 7(c) above.
- (f) The Chairperson will keep the appointed advisers fully informed of the status of proceedings and of all information that becomes available concerning the complaint.

---

## 9. *CCSA Procedures*

### (a) Investigation

As soon as possible after being satisfied that advisers have made contact, the Chairperson will designate two members of the CCSA to investigate the complaint. Those two members should proceed as follows:

- (i) They should meet with the complainant and respondent separately, and obtain particulars of the complaint and any matters in rebuttal of the complaint, information from any witnesses nominated by either the complainant or the respondent and any other supporting evidence.

If they consider there is substance to the complaint, they should inform the Chairperson whether, in their opinion:

- (a) there should be:
    - (i) mediation with the parties together,
    - (ii) mediation with the parties separate;
  - (b) the matter should without mediation go directly to a hearing of the CCSA;
  - (c) the Archbishop may wish to take further action even if mediation succeeds.
- (iii) If in the opinion of both investigators there is no substance to the complaint the matter should be referred directly to the CCSA.

---

(b) Mediation

- (i) If a case is referred for mediation, the appointed advisers will prior to the mediation inform the complainant and the respondent that the church may not necessarily be satisfied with any resolution reached between them and that the church may independently consider taking further action in the matter.
- (ii) When a case is referred for mediation, the Chairperson will appoint a member of CCSA (not a person who has investigated the complaint) to mediate between the complainant and respondent.
- (iii) The mediator should endeavour to bring about a mutually acceptable resolution of the matter.
- (iv) Unless the complainant and respondent agree in writing to the contrary, after a mutual resolution has been reached, the following will apply. Within 24 hours of a meeting at which an apparently mutually acceptable resolution has been reached the complainant and respondent shall each be sent a written copy of the proposal by registered mail. Each party shall be allowed seven days from receipt of the letter in which to reject the proposal.
- (v) The mediator shall give to the Chairperson a report as to the outcome of the mediation.

E  
X  
P  
L  
A  
N  
A  
T  
O  
R  
Y  
N  
O  
T  
E

An agreement or understanding should be sought, to which both the complainant and the respondent have freely and genuinely agreed, and which they accept as settling the complaint.

Discussion will need to take place to determine whether the action sought by the complainant, the respondent or the committee is acceptable to all parties as a "**mutual resolution**" of the complaint. Pressure must not be placed on the complainant or the respondent to accept a resolution preferred by one party or the committee.

---

(c) Hearing

- (i) If a mutually acceptable resolution is not reached through the process described in (b), or the matter was not referred to mediation, the Chairperson will appoint three members of CCSA (who may include the chairperson) to make a determination on the complaint. (They may not include any mediator or investigator.) They will then conduct a hearing according to the following procedure:
- (a). They should meet with the complainant and the respondent, together if practicable, confirm the subject matter of the complaint and that advisers are fulfilling their intended role.
  - (b). They should then invite the complainant to give particulars of the basis of the complaint, and to call any supporting witnesses; following which they should invite the respondent to respond, also calling any supporting witnesses if desired. The parties may present their material orally or in writing. They may have their advisers present, (or in lieu, a support person approved by the CCSA) but no legal or other representative, save that a child may have his or her parents present.
  - (c). They must observe the principles of natural justice (in summary, giving the complainant an adequate opportunity to present his or her case, and the respondent an adequate opportunity to answer it; taking evidence and receiving submissions only in the presence of both parties (provided that if one party has been given reasonable notice of the hearing and fails to attend without apparent excuse, the hearing may proceed in his or her absence); and determining the matter only on the evidence and submissions presented in that way).

- (d) Those three members may dismiss the complaint, or find the complaint to have been established, in which latter event they may (having taken submissions) and through the Chairperson of the CCSA, make recommendations to the Archbishop as to the course which the Archbishop may choose to follow.
- (ii) Prior to embarking on this process, the Chairperson of the CCSA will seek the written consent of the complainant and the respondent to the process and their agreement in writing to be bound by any determination. Unless that consent and agreement is obtained the process should not be continued.
- (iii) Should that consent and agreement not be forthcoming, the CCSA (through the Chairperson) may nevertheless make recommendations to the Archbishop as to the course the Archbishop may choose to follow, including, for example, as to possible proceedings under the Tribunal Canon, the Benefices Avoidance Canon or the Parishes Regulation Canon.

---

## 10. *The Archbishop*

- (a) Nothing in this Protocol derogates from the dominant pastoral authority of the Archbishop who maintains responsibility throughout any proceedings for the pastoral care of the complainant, the respondent and any other affected group, such as the local parish or family of either the complainant or respondent.
- (b) Subject to (c) this Protocol does not constrain the exercise by the Archbishop of his powers of suspension and dismissal. In particular, the Archbishop may exercise those powers at his discretion, despite the currency of an investigation or hearing under this Protocol. Similarly, the powers of the Archbishop-in-Council with respect to lay persons holding office within the Church remain unaffected.
- (c) A new appointment for a respondent should ordinarily not be made or a resignation of a respondent should ordinarily not be accepted until a complaint under this Protocol has been resolved or determined.

Possible outcomes of a complaint could include but would not be limited to:

- dismissal of the complaint;
- a warning to the respondent;
- a written explanation to the complainant;
- a written explanation to the parishioners by CCSA;
- acknowledgment and acceptance by the respondent of the validity of the complaint;
- a verbal or written apology to the respondent if falsely accused;
- a public apology to the complainant or to the respondent;
- a verbal or written apology to the complainant and parishioners by the respondent;
- a public explanation and apology by the diocese;
- a requirement that the respondent receive supervised counselling by a pastoral counsellor or clinical psychologist;
- the respondent's resignation from licensed ministry.

A number of these possible outcomes together may be considered necessary for the resolution of the complaint.

---

## **11. *General Matters***

**(a) Co-operation**

The effective operation of the Protocol depends upon the co-operation of the complainant and the respondent.

- (i) If the complainant declines to participate in the procedure, then the procedure cannot be utilised.
- (ii) If the respondent declines to co-operate in the procedure, and if that lack of co-operation renders the procedure ineffectual (in the opinion of the Chairperson), the complaint should be referred to the Archbishop for his resolution, pastorally or otherwise, and as appropriate, for consideration of possible proceedings under the Tribunal Canon, the Benefices Avoidance Canon and the Parishes Regulation Canon.

**(b) Expedition**

The proceedings envisaged by the Protocol must be conducted expeditiously. On the other hand, the need for a careful, comprehensive and dispassionate review of the facts must be predominant.

**(c) Privacy**

- (i) Persons involved in the process from within the Church - the contact persons, the advisers, members of the CCSA - are all bound not to disclose details of proceedings, including the existence and subject matter of the complaint and the nature of the proceedings generally, evidence given and other material produced in the course of the proceedings, and any outcome, save as strictly necessary to ensure the effectiveness of the procedure under the Protocol.

- 
- (ii) Those persons should however appreciate that they are not protected by any privilege against disclosure should they be required to make answer under oath to questions asked of them in a court of law.
  - (iii) Nothing in (i) is to be taken, however, as inhibiting the discretion of the Archbishop to make disclosure in relation to a complaint, or the subsequent proceedings under this Protocol, or their outcome, where he considers that pastorally desirable.
  - (iv) All persons involved in the process should also be conscious of the constraints imposed by the law against the publication of defamatory material and in case of doubt should seek advice through the General Manager.

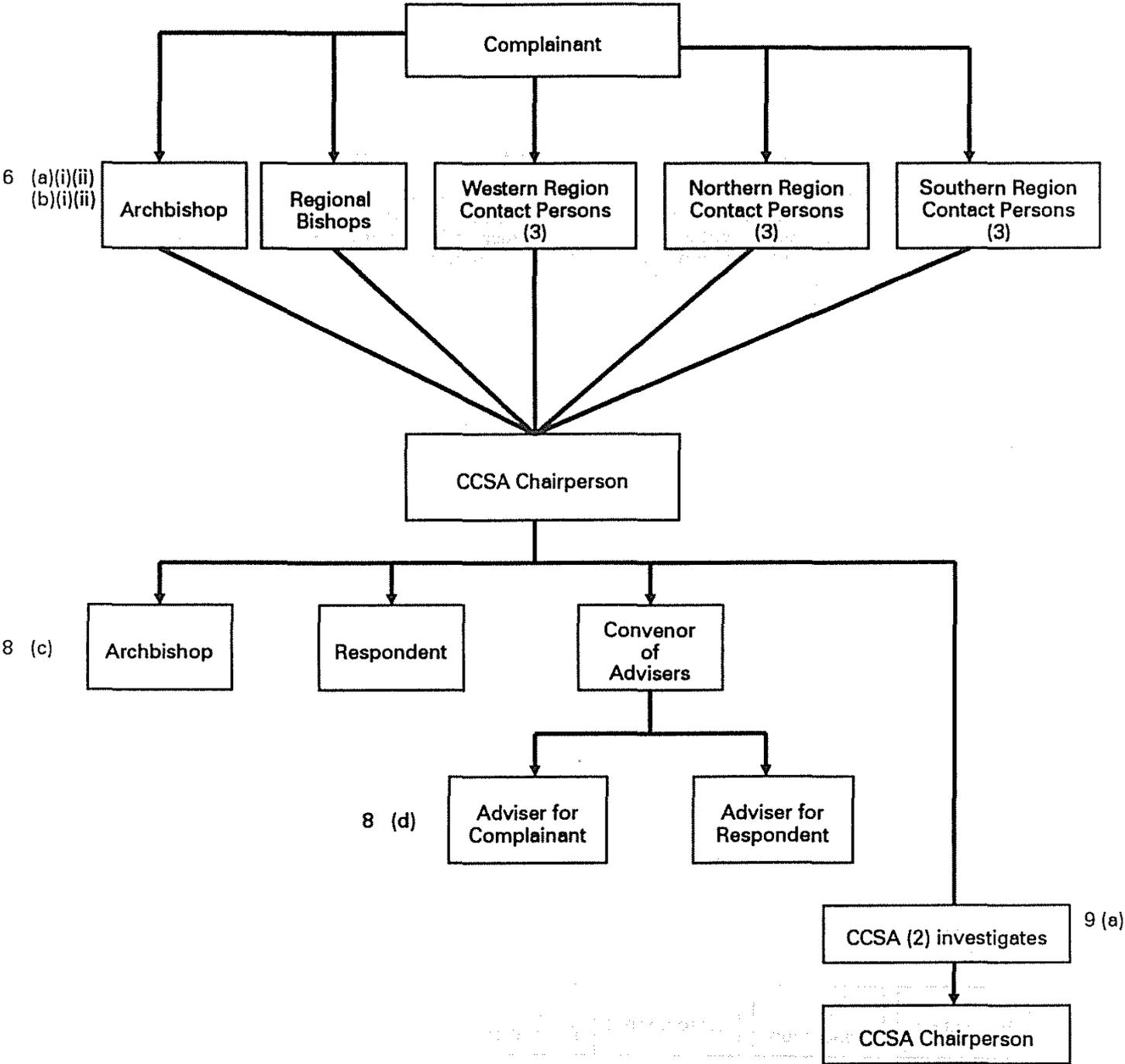
**(d) Avoidance of Bias**

No person should participate in the process, either as adviser or as a member of the CCSA, if through knowledge of the complainant or the respondent, or for any other reason, that person could not act dispassionately, or may not be seen to act dispassionately.

Anglican Church of Australia  
Diocese of Brisbane

Committee for Complaints of Sexual Abuse Procedures

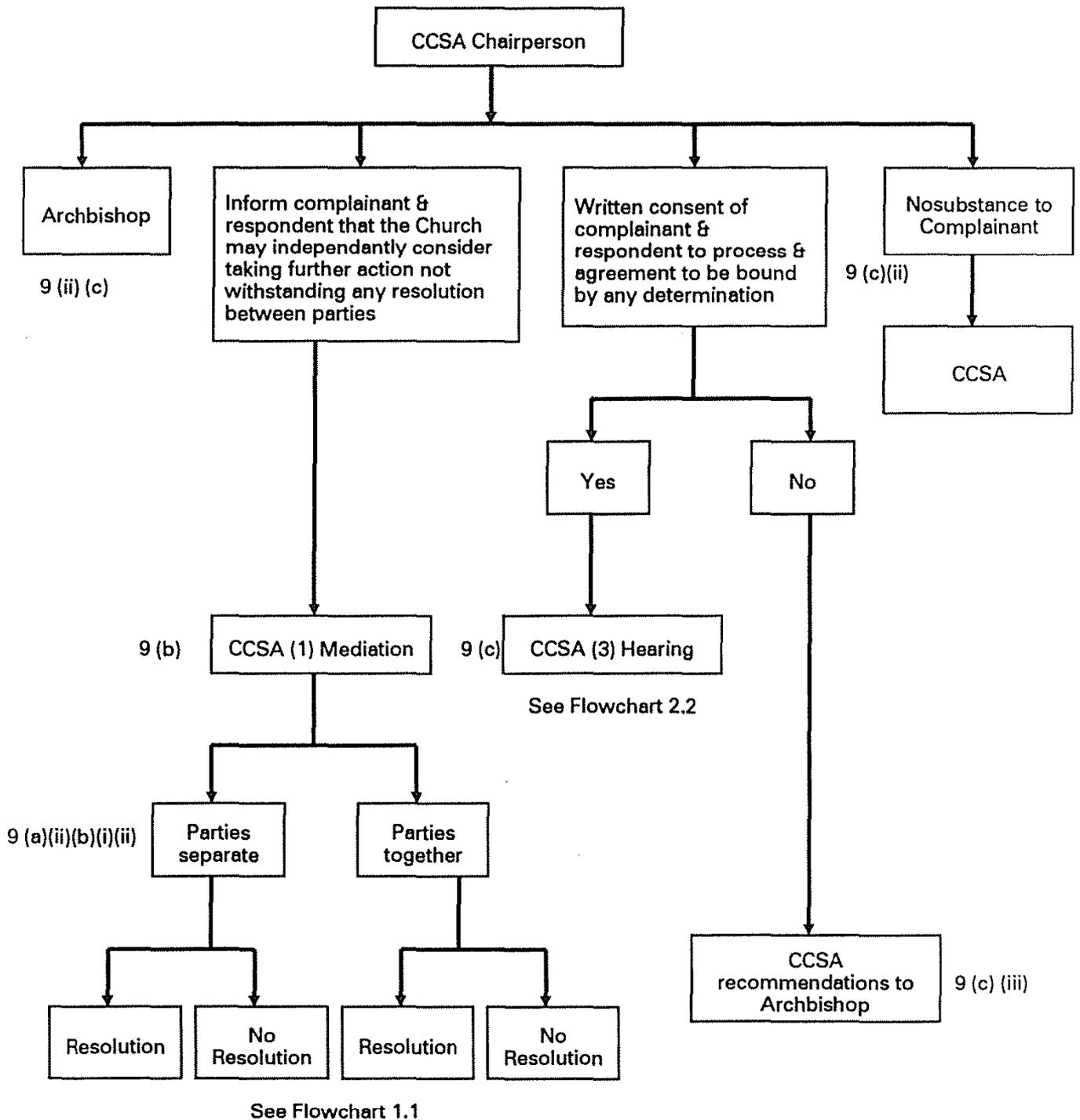
Flowchart 1.0



Anglican Church of Australia  
Diocese of Brisbane

Committee for Complaints of Sexual Abuse Procedures

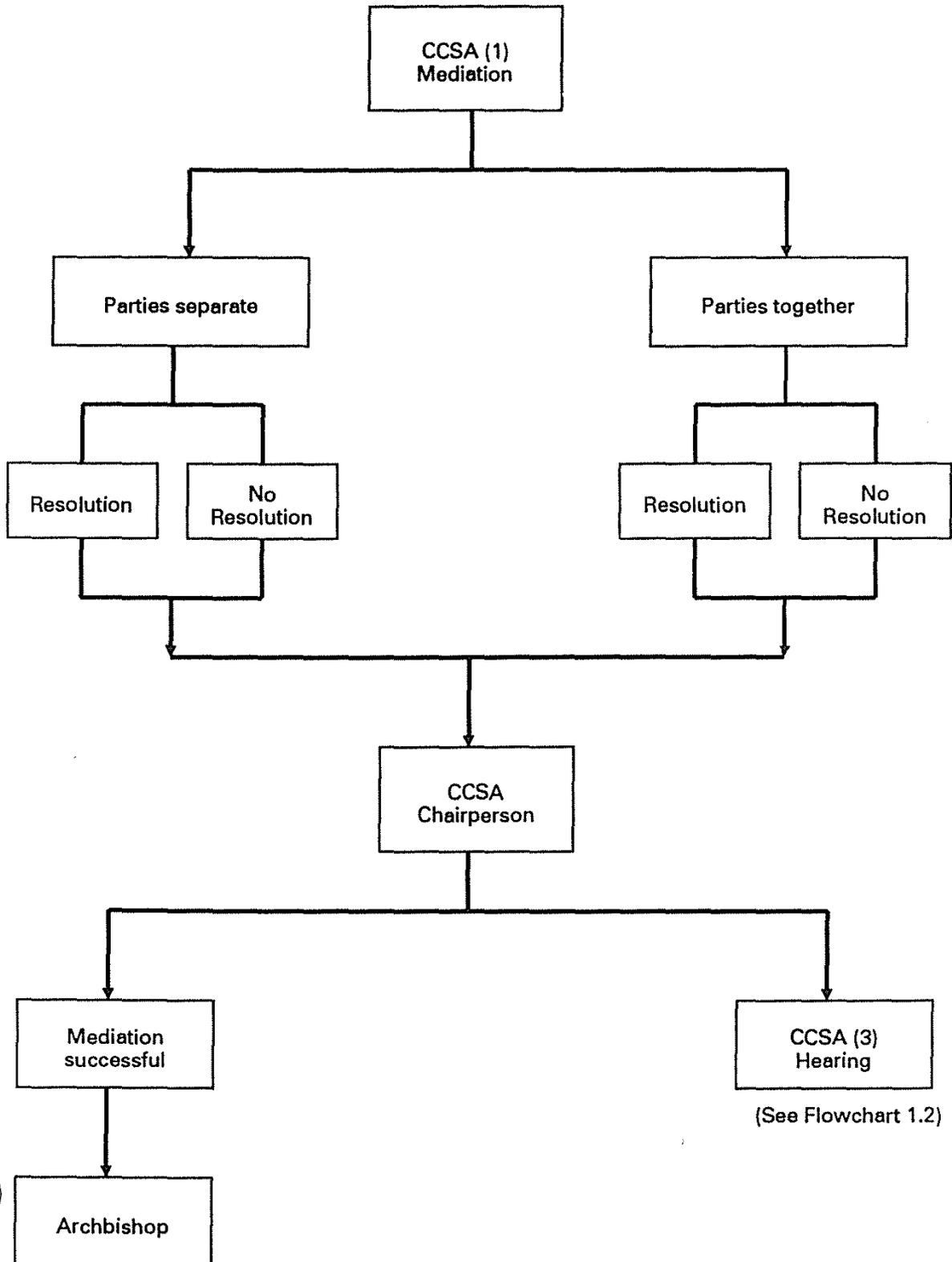
Flowchart 1.0 (cont)



Anglican Church of Australia  
Diocese of Brisbane

Committee for Complaints of Sexual Abuse Procedures

Flowchart 1.1



Anglican Church of Australia  
Diocese of Brisbane

Committee for Complaints of Sexual Abuse Procedures

Flowchart 1.2

