

To make a protection order, the Magistrate must find, on the balance of probabilities, that domestic violence has occurred and it is necessary or desirable to protect an aggrieved or a named person. The Magistrate will make a decision based on the information that has been put before

EMOTIONAL PREPARATION

the court. The hearing process can be quite difficult. At the hearing, you will need to clearly explain to the Magistrate what has been happening. At times, this may be distressing, particularly when you are being cross-examined. It may help to try and be calm and take your time answering the questions that you are asked.

With this in mind, it may be useful to think about preparing yourself emotionally for the day and taking some time out for yourself before the hearing. How you do this will depend on what works for you.

FURTHER INFORMATION

If you would like more information about hearings, you are welcome to contact NQDVRs and speak to one of the court support workers. It is important to note that NQDVRs does not provide legal advice.

A court support worker may be able to arrange a support person for your hearing. Please speak to one of the court support workers about this before your hearing date.

Townsville Magistrates Court
47 618300

Legal Aid
47607507 or 1300 651 188
NQ Women's Legal Service
47 725400 or 1800 244 504

Townsville Community Legal Service
47215511

ATSI Legal Service
1800 074 463 or 47 225111

NQDVRs

- ◆ Information and referral
- ◆ AARDVARC program for children
- ◆ Resources
- ◆ Court Support
- ◆ Choosing Safety Upgrades program
- ◆ Men's Behaviour Change Program
- ◆ SAFE Dads Program
- ◆ Community education & Training

TOWNSVILLE OFFICE

PO Box 6061, Townsville QLD 4810
Phone: 07 4721 2888 Fax: 07 4721 1794
nqdvrs @nqdvrs.org.au

1st Floor, Metway Arcade, 390 Flinders Street, Townsville

MOUNT ISA OFFICE

Po Box 502, Mt Isa QLD 4825
Phone: 07 4743 0946 Fax: 07 4743 7999
minqdvrs@nqdvrs.org.au
The Old Court House Building, Isa Street

<http://www.nqdvrs.org.au>

Against Violence #26



I HAVE TO GO TO A HEARING. WHAT DOES THAT MEAN?



Information about the hearing process

NQDVRs
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Queensland
Government

A hearing, what's that about?

If the respondent does not agree (consent) to the court making the protection order, the Magistrate will set the matter for a hearing. At the hearing, the Magistrate will listen to the evidence presented and make a decision whether or not to make a protection order.

What about legal representation?

If you would like a police prosecutor to represent you at the hearing, you need to ask them to do this in writing. Sometimes, for different reasons, the police are not able to assist with court hearings. It is therefore very important that **you confirm** with the police if they are able to represent you before the hearing date.

Alternatively, you may wish to ask a solicitor to represent you. Depending on your income, you may be eligible for Legal Aid. Their office is located at Level 3, in the Northtown Building, Flinders Street. You will need to complete an application form. To assess your application quickly, Legal Aid will need as much information as possible about why you would like them to represent you. It is useful to include information such as a copy of your statement for your protection order application and a copy of your temporary order if there is one.

If the police have informed you that they are unable to assist you, it is also important to inform Legal Aid of this. The Police can supply you with a letter to say they cannot assist you. If you are able to pay for a solicitor, this is another option that is available to you. If you are unable to be represented by the police or a solicitor, you could represent yourself. To

assist you with this, you may like to seek advice from a Women's Legal Service or a Community Legal Service or the North

Evidence

Queensland Women's Legal Service.

You will be required to provide and file materials with court as evidence for the hearing. This could include:

- ◆ Written affidavits detailing incidents
- ◆ Diary entries
- ◆ Reports made to the police
- ◆ Doctor's reports
- ◆ Letters
- ◆ Other documents
- ◆ Photos of injuries or damage
- ◆ DVD or CD recordings

You will be allowed up to 6 weeks to prepare your evidence. If you are an aggrieved the Police may assist you to prepare your evidence. If they cannot assist you, you can seek help from a Solicitor. If you cannot afford a Solicitor, NQDVRS can provide copies of affidavits and information on how to complete affidavits yourself.

Domestic Violence often occurs when there is no one else around. Sometimes there are no other witnesses or other evidence about the violence you have experienced. If this applies to you then the Magistrate will listen to what you and the respondent say at the hearing and he will refer to your affidavits and any evidence you supply.

Other people may have witnessed or heard some incidents. They can give you written affidavits and they may be expected to give evidence about these incidents at a hearing. Their names will need to be provided when you

file your material.

When you have a hearing date it would be wise to confirm with your witnesses the date and time.

It is important to note that children are not usually allowed to give evidence. You need to apply for special permission in advance for anyone who is under 18 to be called as a witness.

The Court Process

The police or your solicitor can give you more information about what may be needed for court and the different rules that apply.

If you are represented by the police or a solicitor, it is very important that you contact them before the hearing date. Before going into court, your legal representative may try to negotiate with the respondent or their solicitor about the protection order.

You could be at court for most of the day. It

What happens in court

may be useful to bring some food along, a book, or perhaps someone for support. If you have children, you may need to arrange child care for them.

Hearings for protection orders are held in a closed court. As the aggrieved you would usually give evidence first. You may be cross-examined by the respondent's solicitor or the respondent themselves. The Court may order that the respondent cannot cross-examine you if it causes you further harm or distress, but you would need to request this intervention with the Court prior to the hearing. If you