

To make a protection order, the Magistrate must find, on the balance of probabilities, that domestic violence has occurred in the past and is likely to occur again in the future. The Magistrate will then make a decision based on the information that has been put before the court.

Emotional preparation

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 provide support at your hearing and be in court with you. 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

Funded by the Department of Communities

- **Information and Referral**
- **Aardvarc Program for Children**
- **Community Education & Training**
- **Resources**
- **Court Support**
- **MenTER Behaviour Change Program**

TOWNSVILLE OFFICE

Phone: 07 4721 2888 Fax: 07 4721 1794

Email - nqdvrs@nqdvrs.org.au

4th floor, Northtown Tower, Flinders Street Mall.

(Above the City Library)

MOUNT ISA OFFICE

Phone: 07 4743 0946 Fax: 07 4743 7999

Email- minqdvrs@bigpond.net.au

The Old Court House Building, Isa Street

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

Against Violence # 28

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

Information about the
hearing process for
Protection Orders



**North Queensland Domestic
Violence Resource Service**

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 to a hearing. At the hearing, the Magistrate will listen to the evidence that is 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. 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 in Wills Street just behind the Magistrates Court. 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.

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.

Evidence

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
- ❖ Tape recordings

Domestic Violence often occurs when there is no one else around. Sometimes there are no 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.

Other people may have witnessed or heard some incidents. You could ask them to come to court to give evidence about these incidents. Any witnesses will need to provide a written affidavit and be available to come in to court on the hearing date. Their names will need to be provided when you file your material. The police or your solicitor will assist with preparing your and your witnesses written affidavits.

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

The court process

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 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.

What happens in court?

Hearings for protection orders are held in a closed court. As the aggrieved you would usually give evidence first. After giving your evidence, you will be cross-examined by the respondent's solicitor or the respondent themselves. If you have any witnesses, they will give their evidence and then also be cross-examined. Following this, it is the respondent's turn to give their evidence and call any witnesses and then be cross-examined.