

The court process will normally be in the following sequence:

For a mention only -

- The magistrate will nominate that this is a Domestic Violence matter and nominate who is the aggrieved and who is the respondent. The Clerk of the Court will commence taping the proceedings. This is just to ascertain the respondent's response to the application.

Should the matter go to a hearing in addition to the above -

- You (the aggrieved/ applicant) will be called to give evidence as outlined in your statement. The police prosecutor or your solicitor may question you regarding your statement. Following this the magistrate may ask you questions to clarify information.
- The respondent's legal representative may then cross-examine you regarding your statement.
- The respondent may then be called to give evidence and may be questioned by their legal representative.
- Your legal representative may then proceed to cross-examine the respondent.
- If there are any witnesses involved, they may be called in separately to give evidence and may be questioned by both parties.
- Both parties' legal representatives will conclude by summing up their argument.
- The magistrate will then make their decision based on the evidence presented to the court.

Telephone Numbers

Domestic Violence Resource Service (Mackay & Region) Inc. (DVRS)

.....(07) 4957 3888

Monday to Friday 8.30am- 4.30pm

We offer information, counselling, confidentiality, support including court support and referral to women and children experiencing domestic violence.

DV CONNECT1800 811 811

They offer 24 hour free, confidential, Queensland wide, crisis counselling, emergency referral and information.

Police000

Mackay Police Station(07) 4968 3444

CENTRELINK13 10 21

Department of Housing Mackay(07) 4967 0888

A bond loan and rental assistance is available through application. Public rental is also available.

Legal Aid Queensland1300 651 188

For legal information and assistance

Women's Legal Service1800 677 278

or

North Queensland

Women's Legal Service1800 244 504

Provides legal information, advice, referral and support for women

Kids Helpline1800 55 1800

Support and information for children



Domestic Violence Protection Order

The Court Process Explained



DOMESTIC VIOLENCE RESOURCE SERVICE

(MACKAY & REGION) INC.

Email: admin@domesticviolenceservice.com.au



Funded by the Department of Communities

The Court Process

Time: Domestic Violence Applications are mentioned before the magistrate at 8.45am on any day, Monday to Friday. Urgent matters can be heard by the magistrate either during the morning or afternoon court sitting.

If any application is contested, the magistrate will set a time for a hearing. A temporary order can be sought at this time, if it is necessary.

Court Staff: The **magistrate** will determine whether an order is made in relation to the Domestic Violence Application. They preside over the court and are to be addressed by all as 'Your Honour'.

The **Clerk of the Court** sits directly in front or to the side of the magistrate and is responsible for preparing orders, taping proceedings (when required) and assisting the magistrate with any other matters while the court is in session.

The **Police Prosecutor** is the police officer who may represent an applicant for an order in the court. The police prosecutor may appear for the applicant at the time their case is mentioned and if the matter is contested. There is a section on Page 13 of the application where you can nominate that the police prosecutor represents you in court.

The **Court Assistant Worker** will be available to offer support and information regarding the court process. You can talk to the worker at court or contact the Domestic Violence Resource Service prior to the time your application is mentioned.

What happens when my application is mentioned?

- **Aggrieved** is the person taking out the protection order.
- **Respondent** is the person the order is taken out against.
- The court is '**closed**' to anyone not directly involved with the application. It is a good idea to arrive before 8.45am and inform the clerk at the information desk. They can show you to a quiet waiting room and inform the court assistant when they arrive.
- The police prosecutor initiates the court process at 8.45am. They will loudly call out the applicant and respondent's names to go into the court room. The applicant will stand with the police prosecutor at the bar table along with the court support worker if necessary, while the respondent and their legal representative, if they have one, stand at the other end of the bar table.
- The magistrate will determine if the applicant wants the order and they will go through the conditions that are being sought on the application. The magistrate will emphasise that the most important condition is:
A: "The respondent must be of good behaviour towards the aggrieved and not commit domestic violence"
- If the respondent is present, the magistrate will address them to determine if they consent to the order being made. The order is normally for two years. However, at the discretion of the magistrate, an order may be made for an alternative period.
- Where a respondent is not present and has not indicated that they wish to contest the order and the information contained in the application is sufficient for the magistrate, an order may be made in accordance with the conditions being sought.
- However, if the respondent has not been served with the application, the matter may be adjourned to another date.
- Where the respondent is present and nominates that they wish to contest the order being made, the magistrate will set the matter down for a later date. The time nominated for this hearing will normally be within four to eight weeks of the last court appearance.

What will happen at the court hearing?

The applicant may be represented by a police prosecutor. Alternatively, you can apply for Legal Aid or nominate that you be represented by a private solicitor. The respondent may also be represented by a solicitor.

Prior to the time of the hearing, information which can assist your case will need to be collected. This will involve you making a statement to the police, or your legal representative, detailing the history of domestic violence.

Evidence of abuse e.g. photographs, doctor's certificates may be used as evidence in court.

Others who have witnessed the violent behaviour may also give statements and testify in court.

