

What to expect when you go to the Childrens Court

If you go along to the Childrens Court, you can expect to see:

- the magistrate
- someone from the Director of Child Protection Litigation
- your parents
- lawyers.

If you are Aboriginal or Torres Strait Islander, there may be someone from your community, called an independent entity, or independent person.

Magistrate

The magistrate (or judge) is in charge of the Childrens Court. They get the final say and make the decisions about what's going to happen to you. The magistrate will make a decision after looking at all the information and letting everyone have their say, including you (if you want to).

Director of Child Protection Litigation

The Director of Child Protection Litigation (DCPL) will explain to the court why there are concerns (worries) about your safety and wellbeing. They will ask the court to make a child protection order to keep you safe. They will explain what they think needs to happen to look after you and who will be working on this.

Child Safety works with the DCPL and provides them with information. Your child safety officer (CSO) should find out what you think about their decisions. Your CSO is expected to tell the DCPL and the court that information.

Parents

Your parents will be asked if they agree or disagree with what the DCPL is saying. If your parents don't agree, they can tell the court why they think you should live with them. This means explaining why they are both 'able' and 'willing' to take care of you and keep you safe in their care. These are legal words that your lawyer or your CSO can explain to you. If your parents have a lawyer, their lawyer will speak to the magistrate for them.



Separate representative

The separate representative is a lawyer the court might appoint for you. They are independent from everyone else in the court – they don't work for Child Safety or the DCPL or for your parents. Part of their job is to find out your views and wishes (if you want to have a say) and to make sure the court knows what they are. The separate representative must also tell the court what they think is best for you. Sometimes, what you want and what is best for you might not be the same thing.

Direct representative

The direct representative is another kind of lawyer who works with children and young people. A direct representative can help you get information and can explain what the law means for your situation. They tell the court what you would like to happen and they will stand up for your point of view. To be your lawyer, a direct representative will first need to be sure you can understand the court process and the decision you want to have a say in. You can ask your CSO, the court or your separate representative to help you contact a direct representative, or you can contact Legal Aid Queensland on 1300 65 11 88 for help with this.

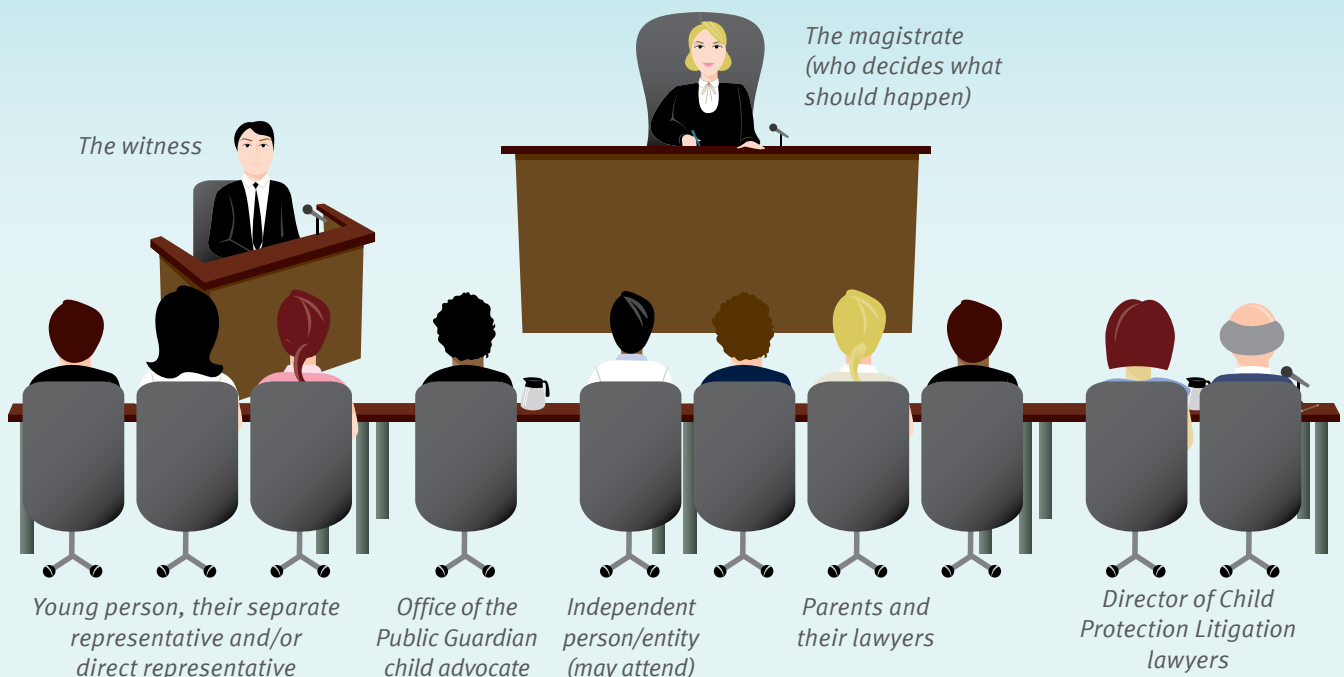
Child advocate

A child advocate-legal officer is a lawyer from the Office of the Public Guardian (OPG) who can help you to express your views and wishes to the court, Child Safety, the DCPL and any other agencies. They are independent from everyone else involved in court. The child advocate can stand up for your views and wishes at court, and help you participate in the court proceedings by going to court with you, helping you to meet with the magistrate in private, or going on your behalf to express your views and wishes so you don't have to go. The child advocate can also help you contact a direct representative if you want legal advice or a direct representative to represent you. You can ask your CSO, the court, your separate representative or your community visitor to help you contact a child advocate.

Independent entity or person

If you are Aboriginal or Torres Strait Islander, you can ask for someone of significance to you or your family, and who is able to speak about your culture, to support you and provide information about your culture to the court. Each person in your family can have their own independent person to support them, or the same independent person can support more than one person in the family. The information the independent person gives to Child Safety, the DCPL and the court can help to make sure you have a connection to your family, culture and community.

Who's who in the courtroom?



Words you may hear

Mention

A mention is a short court appearance where the magistrate looks at the case, and can then make directions. A direction is an order to make sure something happens – like that your case plan be reviewed at a case plan review meeting or that a social assessment report be prepared. There may be a number of mentions while the case is being heard. When a case is given another mention date, this is called an adjournment.

Interim order

At a mention or another type of court appearance that is called an interim hearing, the court can make an interim (short) order about your care arrangements. For example, an interim contact order would allow your parents to spend time with you between court dates.

Evidence

Evidence is information the magistrate will use to decide the case. Most of the time the information (evidence) is written down on paper and given to the court so the magistrate can read it. Papers given to the magistrate are usually called court documents.

Subpoena

A subpoena is an order to give information to the court. A person can be ‘subpoenaed’ to give information in person, but documents, like police records, can also be ‘subpoenaed’ so that these are available for the magistrate to read before making a decision. If a magistrate reads ‘subpoena documents’, these documents are then called ‘exhibits’ and form part of the evidence.

Court-ordered conference

A court-ordered conference is a meeting held when someone doesn’t agree with the DCPL about a child protection order. You may hear this called a COC.

An independent chairperson runs the COC, with the aim of getting everyone to agree to an outcome.

A COC is held before a hearing, unless the court is worried that someone may not be safe at a meeting. There may be more than one COC while the case is being heard.

Hearing (trial)

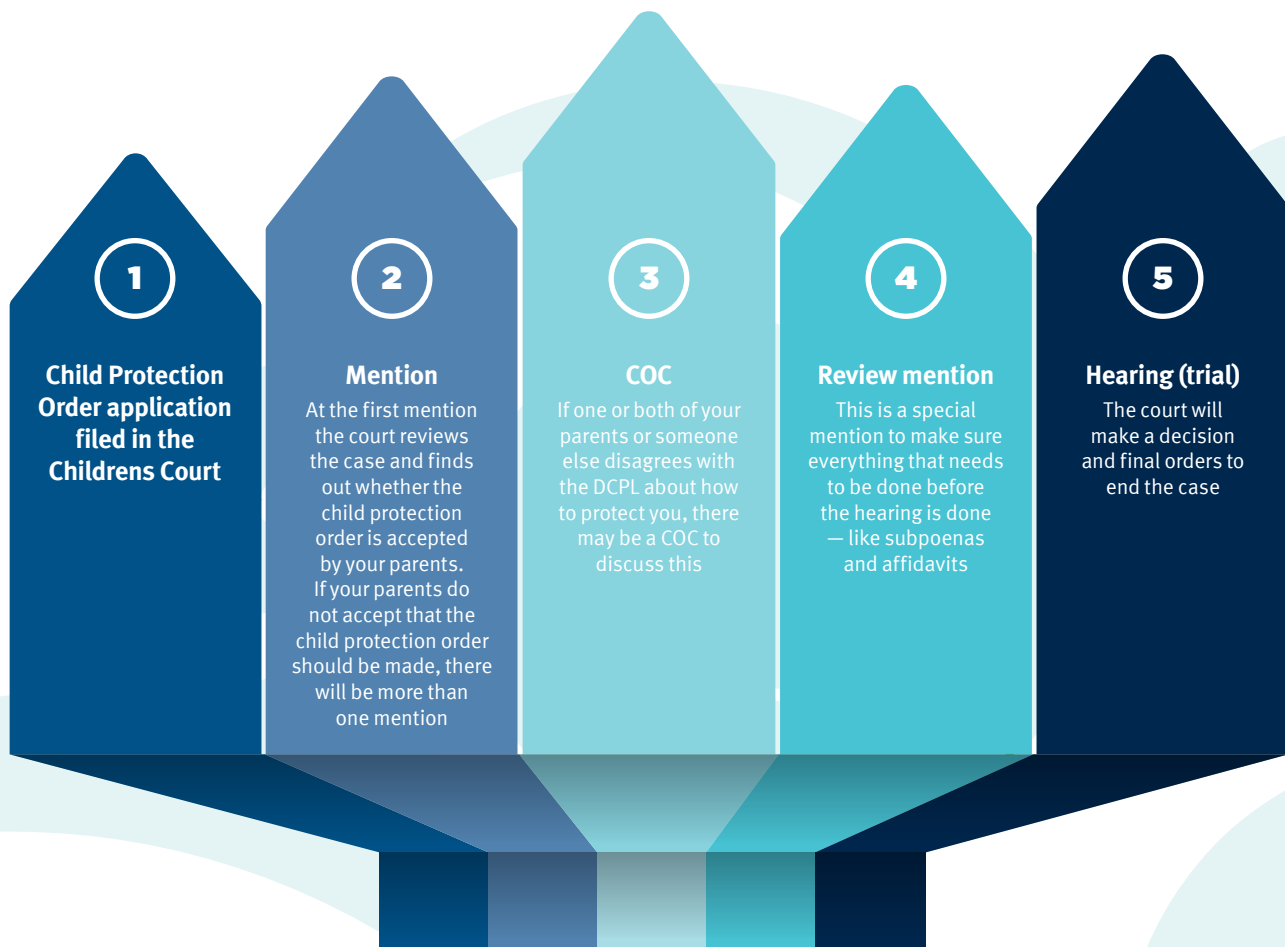
At a hearing (this can also be called a trial), the magistrate decides whether to make a child protection order and what type of order would help most to keep you safe. The magistrate will read documents and listen to what people involved in your care (like your parents and your CSO) have to say.

At the hearing, the lawyers will ask the people involved in your care questions. The magistrate might also ask questions. When someone attends court to answer questions, they are called a witness. Before a hearing starts, the witnesses can sign a written document for the magistrate to read which sets out what they want the court to know about your care. This is a court document called an affidavit.

After all the witnesses have been spoken to, each party can give a short speech about their side of the case, called submissions. Submissions can also be written and given to the magistrate to read. Once this is finished the magistrate will make their decision. This may take a while because the magistrate has to consider everything they have read and heard in court.



The Child Protection Order application court process might happen differently each time, but usually it will go something like this:



Do you need extra help accessing our services?



If you would like this factsheet explained in your language, please phone the Translating and Interpreting Service on 13 14 50 to speak to an interpreter. Ask them to connect you to Legal Aid Queensland. If you are deaf or have a hearing or speech impairment you can contact us using the National Relay Service. To make a call, go to the National Relay Service website and ask for 1300 65 11 88 (Legal Aid Queensland's legal information line). These are free services.

This resource is intended to be used with children and young people aged 10 to 17 years by child safety officers, lawyers and youth workers.

Your Local Legal Aid Queensland office:

BRISBANE

44 Herschel St, 4000

BUNDABERG

3rd Floor, WIN Tower,
Cnr Quay & Barolin Sts, 4670

CABOOLTURE

Ground Floor, Kingsgate
42 King St, 4510

CAIRNS

Level 2, Cairns Square Complex,
42-52 Abbott St, 4870

INALA

Level 1, Inala Commonwealth
Offices, 20 Wirraway Pde, 4077

IPSWICH

Level 7, 117 Brisbane St, 4305

MACKAY

Ground Floor,
17 Brisbane St, 4740

MAROOCHYDORE

Ground Floor, M1 Building
1 Duporth Ave, 4558

MOUNT ISA

6 Miles St, 4825

ROCKHAMPTON

Ground Floor, 35 Fitzroy St, 4700

SOUTHPORT

Level 2, 7 Bay St, 4215

TOOWOOMBA

1st Floor, 154 Hume St, 4350

TOWNSVILLE

3rd Floor, Northtown
280 Flinders St, 4810

WOODRIDGE

1st Floor, Woodridge Place,
Cnr Ewing Rd & Carmody St, 4114

**For more information
about our services visit
legalaid.qld.gov.au**

or phone 1300 65 11 88
or 1300 650 143 (Indigenous Hotline)

