

Magistrates Court of Queensland

The Magistrates Court of Queensland is a local court found in all cities and most towns throughout the state.

All criminal and many civil cases first enter the court system in the Magistrates Court and the bulk of these cases are dealt with here. The Magistrates Court also tests criminal cases to see if there is sufficient evidence to send serious cases to the District and Supreme Courts.

Who makes the decisions in the Magistrates Court?

A magistrate makes all judgments and decisions. In court, a magistrate is addressed as Your Honour and usually wears a plain black robe and no wig. There is no jury.

If someone has been charged with an offence and a magistrate is not available, for instance in remote areas, two justices of the peace can convene a court to deal with the early stages of the case. In remote Indigenous communities, the Justices of the Peace have the power to conduct a committal hearing (to send the case to a higher court), hear simple offences and hear certain offences where the person charged has pleaded guilty.

Who else attends court?

In a criminal case there is:

- a court services officer who assists the magistrate and records proceedings
- a defendant, the person accused of the offence, who may be represented by a lawyer or choose to represent themselves
- a prosecutor who gives details of the charge to the court (in most cases this is a police officer)
- witnesses and support people.

The media and members of the public are usually allowed to attend. However, if a defendant is under 17 years of age the court becomes a Children's Court and the magistrate

will restrict access. Similarly a magistrate may order that the court be closed or certain details withheld from publication for cases of a sensitive nature involving domestic violence or sexual assault.

In a civil case there is:

- a plaintiff, the person or company that files the claim
- a defendant, the person or company being taken to court.

In many civil cases the parties are represented by lawyers.

What kind of criminal offences can the Magistrates Court hear?

If a person commits a criminal offence, under Queensland law they must be brought before a Magistrates Court as soon as possible. The criminal code and other legislation list the offences that a Magistrates Court can hear.

The Magistrate has the power to decide the case if the person has been charged with a summary offence or an indictable offence that can be heard summarily (i.e. in the Magistrates Courts).

This includes minor offences (e.g. shoplifting or disorderly behaviour), traffic offences or offences such as burglary, assault, fraud or a drug offence.

The defendant may need to appear before the magistrate more than once. Their first appearance is called a mention. A summons, bail undertaking or notice to appear will advise the defendant when and where to attend court.

If the defendant pleads guilty at the mention, the magistrate will usually make a decision on the penalty (the sentence) immediately.

If the defendant pleads not guilty the magistrate will set a hearing date, giving both

the prosecutor and the defence time to prepare their case and organise witnesses. At the hearing the magistrate will listen to the evidence presented by both sides and decide on the defendant's guilt or innocence.

If found not guilty the defendant will usually be free to leave the court and the case is finished. If the defendant is found guilty the magistrate will pass sentence. Magistrates have the power to order a range of sentences including fines, unpaid community service and jail.

What if the person has been charged with a more serious offence?

If the charge is more serious the magistrate will decide if the evidence is strong enough to put the person on trial in a higher court. When this occurs the hearing is called a committal as the magistrate may commit the defendant to the Supreme or District court to stand trial or to be sentenced.

The other way to commit a defendant to another court for trial or sentence is by Registry committal. Registry committals are performed by the registrar in the court house and not in a court room. No one appears and no evidence assessed. If all requirements are met, the registrar commits the defendant.

Serious crimes known as indictable offences including armed robbery, rape and murder must be sent to the District or Supreme Court to be heard by a jury of 12 people. If the jury finds the accused person guilty, a judge will decide the penalty.

What kinds of civil cases can the Magistrates Court hear?

The Magistrates Court hears most civil cases in Queensland. If a person or company wants to sue another for compensation or money owed, the claim should be filed in the Magistrates

Court. Claims may include a debt, personal injury, car accident, defamation, goods sold and delivered, work done or negligence. However the amount in dispute must be \$150 000 or less. If the amount is greater than \$150 000 the claim should be filed in the District or Supreme Court.

Civil cases which involve small amounts of money less than \$25 000, are dealt with by the Queensland Civil and Administrative Tribunal (QCAT).

Sometimes people involved in a civil dispute reach an agreement and settle before they go to court. However if the two parties cannot agree, a hearing date will be set for the case to be heard in the Magistrates Court. At the hearing the parties or their legal representatives present their arguments using witnesses and any evidence to support their claims. After listening to both sides the magistrate makes a decision or judgment. The decision usually involves one side paying the other a sum of money. Civil cases do not result in jail terms.

Can the parties appeal if they think the magistrate's decision in a civil trial is unfair?

Yes, in certain circumstances. Appeals against decisions made in the Magistrates Court are taken to the District Court. An appeal must be lodged within 28 days of the magistrate's decision and relate to questions of law. The District Court will not re-examine the evidence or conduct the trial again.

What else does the Magistrates Court do?

The Magistrates Court also hears domestic violence cases and minor family law matters such as applications for DNA tests to determine a child's parentage, child maintenance and child protection orders.

The Magistrates Court covers a number of specialised areas including:



- the Childrens Court, for offences committed by juveniles. If these offences are of a serious nature, they can be sent to the Childrens Court of Queensland (part of the District Court)
- the Coroners Court, for hearing inquiries into deaths that have occurred under unusual circumstances, and inquiries into the occurrence of fires and explosions.

Further information

For more information on the Magistrates Court of Queensland visit www.courts.qld.gov.au