

Court Appointed Questioner

Factsheet

In domestic violence hearings, in NSW, a defendant who is unrepresented is not allowed to directly question the complainant. This rule is established under [s289VA of the Criminal Procedure Act 1986](#).

The defendant is the person charged with the offence and has the right to defend the allegations in court. The complainant is the person or persons who the alleged offence was committed against.

What does this mean?

If the defendant does not have a solicitor and is representing themselves in a hearing for a domestic violence offence, they will not be allowed to ask the complainant questions directly.

In these cases, the court will assign a 'Court Appointed Questioner' (CAQ) to ask the defendant's questions on their behalf.

The complainant will have the option to give evidence from a remote witness room and can also request not to see or hear the defendant during the hearing.

The 'Court Appointed Questioner'

The CAQ is a person assigned by the court to ask the complainant the defendant's questions. The CAQ will be present in the courtroom while the complainant gives evidence and will then ask the defendant's prepared questions during cross-examination.

'Cross-examination' is when the defence asks the complainant or witness questions to test or challenge their evidence and clarify the facts for the court. After completing this task, their role will end, and they will no longer be involved in the case.

The Court Appointed Questioner **cannot**:

- provide legal advice
- help the defendant formulate their questions

The Court Appointed Questioner **can**:

- assist with writing the questions if the defendant has difficulty in doing so
- confirm words that are written if illegible

What is the process?

The Magistrate will appoint a CAQ and will ask the defendant to prepare a list of questions which they

intend to ask the complainant. The prosecution and the complainant are not a part of this process.

What does the defendant need to do?

The defendant will need to prepare a list of questions to ask the complainant during cross-examination. This can be done either before the court date, while listening to the complainant's evidence (known as evidence-in-chief), or after the evidence-in-chief is completed.

Note: A question is a request for information that requires an answer or response.

What happens at the hearing?

At the hearing, the prosecution will start by summarising the allegations and calling the complainant and any witnesses to give evidence. The defendant will then have a chance to outline their case and may choose to give evidence or call witnesses.

Once the complainant has provided their evidence, the CAQ will ask the defendant's prepared questions exactly as they were written. If there are any new or follow-up questions at that point, the defendant will have the chance to write them down and give them to the CAQ.

The prosecution can object to any of these questions, especially if they are not relevant, harassing, intimidating, offensive, or humiliating. The Magistrate will then decide if the question is allowed.

The prosecution is the legal party responsible for presenting a case to the court against someone accused of a crime.

Legal support services

If you would like further information or legal support, you can contact the following agencies:

Law Access/Legal Aid - legalaid.nsw.gov.au or 1300 888 529

Aboriginal Legal Service - alsnswact.org.au or 1800 765 767

Law Society of NSW - lawsociety.com.au or 02 9926 0333

[Legal Help and Support - courts.nsw.gov.au/help-and-support/get-legal-help-and-support.html](http://courts.nsw.gov.au/help-and-support/get-legal-help-and-support.html)