



## Recovery Orders

If someone does not return your child to you, you can apply to the Court for a Recovery Order.

### What is a Recovery Order?

The Family Law Act 1975 section 67Q deals with Recovery Orders. A Recovery Order is a court order that means that the person who took your child MUST return your child to you. A Recovery Order can say that a child must be returned to:

- their parent,
- a person the child lives with, spends time with or communicates with as set out in a parenting order, or
- a person who has parental responsibility for the child.

A Recovery Order is enforceable by the Courts and State and Federal Police.

Note: Parental Responsibility means responsibility for making decisions that affect the child's future.

### Who can apply for a Recovery Order?

You can apply for a Recovery Order if you are:

- The child's parent
- The person the child primarily lives with
- A person the child spends time with or communicates with as set out in a parenting order
- A person who has parental responsibility for the child as set out in a parenting order
- The child's grandparent, or
- Someone concerned with the care, welfare and development of the child. For example

you are a person the child lives with or spends time with but there are no parenting orders that say this.

### How do I apply for a Recovery Order?

You should first get legal advice. A solicitor can apply for a Recovery Order for you or you can do it yourself. You can download an application form called an 'Application in a Case' from the Family Law Courts website at [www.familylawcourts.gov.au](http://www.familylawcourts.gov.au). You can also find a list on the Family Law Courts website of what to include in your application if you are acting for yourself.

If you think you know where your child is you should include this information in your application. You have a better chance of getting your child back if you have any information about where they may be.

### What does the Court look at when deciding whether to grant a Recovery Order?

The main thing the Court looks at when deciding whether or not to grant a Recovery Order is what is in the best interests of the child, not what is in the parent's best interests. After looking at this the Court can look at any other things it thinks are necessary and relevant.

See our factsheet "Best Interests of the Child" for a list of factors that the Court can consider.

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## **What can the Court order?**

The court can order that a person returns the child to you at a specific time and place. Alternatively they can order that police find, recover and return the child. A Recovery Order can also say how the child is to be cared for until they are returned.

A Recovery Order can make it an offence for the person who took the child to take the child again. If the Court makes this order and the person takes the child again, he or she can be arrested.

## **The Court Order has been made, now how do I get the child back?**

If the Court orders that the police find, recover and return the child to you, you **MUST** give a copy of the order to the police. Usually this will be the Australian Federal Police. The Australian Federal Police will not, unless there are exceptional circumstances, recover a child unless you are close by and ready to collect the child which means you may have to travel to pick the child up from the police.

Once the child has been returned to you, you must let the Court Registry (the court where the order was made) know as soon as possible.

## **What can I do if I don't know where my child has been taken?**

If you don't know where your child is, you can ask the Court to make other orders that help find the child. You can ask the Court for a Location Order which orders a person to give the Court information about where the child may be.

You can ask the Court to make a Commonwealth Information Order that requires Commonwealth Government Departments such as Centrelink to give the Court any information and records that

may help find the child.

You can also ask the Court to make a Publication Order that allows the media to publish the photograph and details of the child and the person you think has taken them.

## **What if my child has been taken outside of Australia?**

If your child has been taken out of Australia without your permission or has not been returned to Australia you should contact the Commonwealth Attorney General's Department for help.

Australia has an agreement with many countries called the Hague Convention on a Civil Aspect of International Child Abduction. That agreement requires the other country to return the child to Australia.

For further information about children taken outside of Australia you can contact the International Social Service on (03) 9614 8755 or go their website at [www.iss-ssi.org](http://www.iss-ssi.org). You can also get further information from the Attorney General's website at [www.ag.gov.au](http://www.ag.gov.au).

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