

If your child or a child you have responsibility for has not been returned to your care as arranged and you are unable to recover them by communication with the other party, you can seek a **Recovery Order** from the Court. A **Recovery Order** is an order of the Court that a child is returned to a parent, a person with parental responsibility for the child or a person who the Court has previously ordered that the child lives with, spends time with or communicates with.

### **Where do I apply for a Recovery Order?**

Unless you have a current parenting case in the Family Court, an application for a **Recovery Order** should be filed in the Federal Circuit Court, stating specifically the orders that you seek. This can also include details of how you want the Court to order that the child(ren) will be recovered. If you do not have a current Parenting Order, you should apply for one at the same time as you apply for a **Recovery Order**.

You will also have to file an affidavit to support your application. An affidavit is a written statement presenting evidence and facts relating to your legal application. It must be witnessed by an authorised person (e.g. a Justice of the Peace). As well as supporting your application with evidence, you should also collect as much information as possible to help the authorities find and return the child.

The follow are some of the details that may be relevant to your case:

- A short history of the relationship between you and the person that you think the child is with
- A list of previous court hearings and Court Orders
- Details about where the child usually lives
- How and when the child was taken from you or not delivered to you
- Where you believe the child might be and why
- Any steps that have already been taken to find the child
- Why you believe it is in the child's best interests to be returned to you
- What you believe to be the likely impact on the child if a **Recovery Order** is not made

It is essential that all of the relevant facts are disclosed, including evidence relating to any complaint that the person with the child might have about you. Our lawyers at Aaron Legal can help you to word this affidavit correctly and include all of the information necessary to support your case and maximise your chances of recovering the child.

The Court will always consider the best interests of the child above all else when making a decision about a **Recovery Order**. The Court can order the return of the child and the specific details of this including time and place. **A Recovery Order** can authorise or direct a person chosen by the court, such as a police officer, to find, recover and deliver the child to one of the people listed above. **A Recovery Order** can also give directions about the day-to-day care of a child until the child is returned.

**A Recovery Order** can prohibit the person from taking the child again and can authorise the arrest of the person if they remove or take possession of the child again.

#### **What if the child still isn't found?**

If you are unable to locate the child, it may be appropriate to request one or more of the following Orders from the court:

- **A Location Order** requires a person to give the Court information about the child's location.
- **A Commonwealth Information Order** requires a Commonwealth Government Department, such as Centrelink, to give the Court information from their records, about the child's location.
- **A Publication Order** allows the media to publish details and photographs of the missing child and the person they are believed to be with. *This is usually a last resort and you should always seek legal advice before you pursue this avenue*

#### **What if the child has been taken out of Australia?**

If your child or the child you have parental responsibility for has been taken out of Australia without your consent, or has not been returned to Australia, you should contact the Commonwealth Attorney General's Department for assistance. Australia has an agreement with some countries to return abducted children to their country of usual residence.

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