



FAMILY LAW FACTSHEET 2: RECOVERY ORDERS

If a child is in immediate danger call the Police on 000

BREACHING A PARENTING ORDER

If one parent is not complying with a Parenting Order, a lawyer from PCLS can help you to understand your legal rights and responsibilities.

WHAT IS A RECOVERY ORDER?

A Recovery Order is an order that can be made by the Court if a child/ren are taken from your care without your agreement. If a Recovery Order is made by the Court, the child/ren will be returned to the person who applied for the Order. You can apply for a Recovery Order if a child normally lives with you, and:

- ✓ A Recovery Order is in the child's best interests; and
- ✓ Has been taken from your care without your agreement, and the other person is refusing to return them; or
- ✓ Has not been returned following an arranged visit and the other person is refusing to return them

Recovery Orders can authorise the Police to take action to find the child/ren but the Police cannot enforce Parenting Orders without a Recovery Order.

WHO CAN APPLY FOR A RECOVERY ORDER?

- ✓ A parent who the child lives with, spends time with or communicates with under a Parenting Order
- ✓ A person who has parental responsibility for the child
- ✓ Grandparent of the child
- ✓ A person concerned with the care, welfare and development of the child. For example, there may be no Parenting Order, but the child lives with you or spends time with you

A RECOVERY ORDER CAN INCLUDE RETURNING THE CHILD TO:

- ✓ A parent of the child
- ✓ A person with whom the child is to live with, spend time with or communicate with under a Parenting Order
- ✓ A person who has parental responsibility for the child

A RECOVERY ORDER COULD ALSO INCLUDE:

- ✓ Allowing the police to stop and search any place to find a child
- ✓ Allowing the police, with necessary force, to recover a child
- ✓ Allowing a person to whom a child is returned, to deliver the child to a parent
- ✓ Giving directions about caring for the child until the child is returned
- ✓ Stopping someone from again removing a child
- ✓ Allowing the police to arrest, without warrant, a person who again removes a child

Disclaimer: This factsheet provides general information and is not to be taken as legal advice. Published 2019.



HOW DO I APPLY FOR A RECOVERY ORDER?

If there are no Parenting Orders in place, you should see a lawyer at PCLS who will help you file an initiating application seeking Parenting Orders at the same time as a Recovery Order (see [Family Law Factsheet 1 Parenting Arrangements](#) and [Family Law Factsheet 4 Initiating Applications](#)).

If there are Parenting Orders in place, you should see a lawyer at PCLS who will assist you with filling out the right Court forms to apply for a Recovery Order. Once the Court has authorised a Recovery Order, you must give a copy of this to the Police. A Recovery Order is valid for 12 months from the date of issue unless otherwise stated.

IF THE COURT DECIDES NOT TO MAKE A RECOVERY ORDER YOU CAN:

- ✓ Apply for Parenting Orders
- ✓ If Parenting Orders are in place you can use Family Dispute Resolution to try and resolve your dispute with the other person

A Lawyer from PCLS can refer you to a Family Dispute Resolution Service or help you apply for Parenting Orders.

If at any point you are concerned for the safety and wellbeing of the child, you should call the police station (ideally the station closest to where you think the child is) and request a welfare check. You will need a suspected address in order for the Police to conduct the check.



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