



Family Law: Recovery Orders

This fact sheet summarises the Ask LOIS webinar on this topic, presented by Gabrielle Craig, Solicitor, Women's Legal Services NSW on 21 May 2013. This webinar can be downloaded for free at <http://www.asklois.org.au/webinars/past-webinars>

This fact sheet covers

- What is a recovery order?
- When is a recovery order needed?
- Who can apply for a recovery order?
- What steps are involved in getting a recovery order?

What is a recovery order?

A recovery order is like a warrant for the return of the child and empowers the state, territory and federal police to find and return the child.

When is a recovery order needed?

- Generally, if a child has not been returned to, or has been taken from their carer, a recovery order may be needed.
- Even if there is already a parenting order in place, you still need a recovery order from the Court because the Police do not have the authority to enforce Family Court orders unless a recovery order is made.

Who can apply for a recovery order?

1. A person who the child lives with, spends time with or communicates with as stated in a parenting order;
2. A person who has parental responsibility for the child in a parenting order; or
3. Any person concerned with the care, welfare and development of the child.

What if there are no parenting orders?

- If there are no parenting orders and a child is taken or not returned, then an application for parenting orders can be made immediately and at the same time an application for a recovery order can be made for the child to be returned.

What steps are involved in getting a recovery order?

1. Application to the court for an urgent recovery order
 - The Court will need evidence that they should deal with the application urgently. If the case is not urgent then the court will require parties to try **Family Dispute Resolution** before an application to the court can be made. There are some exemptions that apply to Family Dispute



Resolution eg, where there is family violence, so it is important to get legal advice.

- Normally **the other parent needs to be served** (formally notified) with the application. If the other parent cannot be found and if the situation is very urgent, the Court may hear the application ex parte (without the other parent present in court)
- 2. The Court will listen to the arguments and look at the evidence
- 3. A recovery order is made by the Court
- 4. The Police can recover the child

What happens if no one knows where the child has been taken?

An application can be made to the Court for a Location Order or a Commonwealth Information Order to get information from individuals or government departments about where the other parent is and where the children may be.

What happens if the child is taken overseas?

Get advice from a family law solicitor!

- **LawAccess:** <http://www.lawaccess.nsw.gov.au/>
 - 1300 888 529 (Monday – Friday 9am – 5pm)
- **Women’s Legal Services NSW** <http://www.womenslegalnsw.asn.au/>
 - Women's Legal Contact Line: 02 8745 6988 or 1800 801 501 (Monday 9:30am – 12:30pm, Tuesday 1:20pm – 4:30pm, Thursday 9:30am – 12:30pm)
 - Domestic Violence Legal Advice Line: 02 8745 6999 or 1800 810 784 (Monday 1:30pm – 4:30pm, Tuesday 9:30am – 12:30pm, Thursday 1:30pm – 4:30pm, Friday 9:30am – 12:30pm)
 - Indigenous Women’s Legal Contact Line: 02 8745 6977 or 1800 639 784 (Monday 10:00am-12:30pm, 10:00am-12:30pm, Thursday 10:00am-12:30pm)
- **Community Legal Centres (CLCs):**
http://www.clcnsw.org.au/postcode_search.php