



# How to put a child on the Family Law Watchlist (formerly the airport watch list)

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With Australia's international borders now open and less restrictions on international travel following the pandemic lockdowns, we are seeing the return of more clients seeking urgent applications for their children to be added to the Family Law Watchlist ("Watchlist"). In this blog, we explore the Watchlist's purpose, how to apply for orders and what it means if orders are made.

## What is the Family Law Watchlist?

The Family Law Watchlist (previously known as the Airport Watchlist) is managed by the Australian Federal Police and is designed to prevent children from being unlawfully removed from Australia.

The Watchlist operates at all international seaports and airports within the Commonwealth of Australia.

## How to apply for Family Law Watchlist Court orders

Orders to put a child on the Watchlist are made by the [Federal Circuit and Family Court of Australia](#) or Family Court of Western Australia ("the Court") and then implemented by the Australian Federal Police.

To apply for an order, you must make an application through the Court.

You need to include the following evidence in affidavit material:

The location of where the child may be travelling to;

When or how a child may travel;

The person or persons [with whom the child lives with \(and then spends time with\)](#);

Who has [parental responsibility](#) for the child, including if there are any orders in place;

The evidence to support the child being a flight risk;

Any links the travelling parent has to the destination the child is at threat of flying to;

Any evidence which supports immediate travel.

The Court will look at all the evidence before listing your application and making any orders.

## How can a child be removed from the Family Law Watchlist?

How you remove a child from the Family Law Watchlist depends on how the child was placed on the list and if an order was made, was it made in the absolute or conditional on a time period.

An absolute order prevents the child leaving Australia altogether. If an absolute order is made, you will need new orders discharging (cancelling) the previous order made. This means you need to return to Court for the removal. This can also be achieved by communicating with the other parent and reaching consent (and then filing consent orders).

If your order is time-limited, at the end of the expiration period, the child will be removed from the Family Law Watchlist on this date.

If an order is made where the removal of the child can be by authenticated consent (signing a Statutory Declaration of both parents), this can also be achieved. You need to ensure the Statutory Declaration meets the requirements of the Australian Federal Police to ensure they can affect the removal of the child from the Watchlist.

## What do I need to be cautious of?

The Court will try and list Watchlist applications expeditiously to avoid a child travelling without consent.

Even if a child is flying to a [Hague Convention Country](#), it can take some time for the child to be returned (if they do leave the country without consent).

However, you must be careful to ensure all your evidence which is filed with the Court is full, frank and complete.

The Court's resources are limited in listing such applications. If you file an urgent application and the other party responds with evidence showing:

consent having been given; or

no intention of travelling; or

a basis to show there was no concern,

a costs order could be made against you.

Whilst this is a balancing act, you need to ensure your affidavit material in support of your application is complete and thorough.

Seeking legal advice from a lawyer experienced with Family Law Watchlists ensures your affidavit is accurate and that your application has the highest chance of success.

## **What happens if an order is made regarding the Family Law Watchlist?**

If the Court lists the application, there will be a hearing.

If, after submissions are made, the Court considers an order is appropriate to be made, the Court will make the order.

The Court will then send the order to the Australian Federal Police to add the child to the Watchlist.

It is important to know that it is the child who is added to the Watchlist, not the other parent.

## **When do I need a family lawyer?**

Watchlist applications are often time-critical.

The drafting needs to be thorough to demonstrate to the Court the urgency of the application with the evidence to support the order being made.

Our team at Meillon & Bright has experience in these applications and can assist you at short notice.

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*The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.*