



**LAW  
INSTITUTE  
VICTORIA**



# 2022 Accredited Specialisation Assessment Guidelines

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## Children's Law

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# Table of Contents

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Assessment Guidelines Overview .....	2
Performance Outcomes .....	2
Methods of Assessment.....	2
Results .....	3
Supplementary assessment.....	3
Key Milestones & Program Timetable .....	4
SCHEDULE 1: ASSESSMENT COMPONENT PART 1 .....	5
Assessment overview .....	5
The examination is divided in two parts: .....	5
Assessment Criteria .....	6
Examination Conditions .....	6
Access to Support Materials .....	6
SCHEDULE 2: ASSESSMENT COMPONENT PART 2 .....	7
Assessment overview .....	7
Assessment criteria.....	7
SCHEDULE 3: ASSESSMENT COMPONENT PART 3 .....	8
Assessment overview .....	8
Assessment criteria.....	8
Assessment Conditions.....	8
SCHEDULE 4: GENERAL TOPICS FOR ASSESSMENT, RECOMMENDED READINGS & LEGISLATION	10
Core Topics.....	10
Written Examination Part A - General Knowledge Expected of All Candidates.....	10
SCHEDULE 5: CHILD PROTECTION & YOUTH CRIME SPECIFIC STREAMS TOPICS FOR ASSESSMENT, RECOMMENDED READINGS & LEGISLATION.....	20
Written Examination Part B – Area Specific Streams – Child Protection or Youth Crime .....	20
Legislation (State): .....	23
SCHEDULE 6: RECOMMENDED COMPUTER REQUIREMENTS FOR ASSESSMENTS .....	25
Written Examination Devices Specification.....	25
Oral Assessments .....	25

# Assessment Guidelines Overview

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Lawyers who are accredited as specialists are recognised as having enhanced skill levels, as well as substantial involvement in established legal specialty areas. The Law Institute of Victoria requires such specialists to demonstrate superior knowledge, experience and proficiency in a particular area of law to ensure that recognition as an accredited specialist is meaningful, credible and reliable.

These Assessment Guidelines should also be viewed in conjunction with the **Application Guidelines** and the **Accredited Specialisation Scheme Rules**.

## Performance Outcomes

Specialist Accreditation is a structured assessment process which requires the candidate to draw on their existing knowledge and skills to demonstrate their competency and expertise in their chosen area of law.

Practitioners wishing to be accredited should be able to:

1. perform at a superior standard which is expected of practitioners wishing to hold themselves out as specialists in the area
2. display a superior standard of knowledge of the law and procedure which underpins the performance of tasks in this area of practice.

Specific assessment criteria and performance outcomes are listed under the details of individual assessments that follow.

## Methods of Assessment

The LIV Accredited Specialisation assessments are all delivered in a digital environment. This provides equitable access for all candidates irrespective of location and is also aligned with the nature of legal practice in today's digital world. There is a base level of computer literacy required indicative of the skills required of a specialist lawyer. It is incumbent upon candidates to have access to suitable technology and infrastructure to perform in the most optimal way. Details of these requirements are outlined in [Schedule 6](#).

Three assessments make up the Accredited Specialisation program in **Children's Law**.

1. [Written Exam](#)
2. [Simulated Interview](#)
3. [Mock Submissions Contest](#)

The three assessments are weighted equally, and candidates must achieve a satisfactory grade of at least 50% in all three assessments. Candidates who complete all three assessments to the performance standard are eligible for accreditation as a specialist in Children's Law.

The below schedules include further details in relation to each of the three assessments along with details of topics for assessment and relevant legislation that you will need to know to undertake the program.

Candidates may, in any or all of the assessment program, be assessed on any or all of the Assessment Topics and Legislation listed in Schedules [4](#) and [5](#). Further details of the assessment program and procedures are contained in the schedules within.

**Candidates will be examined on the law as it stands at the date of assessment.**

## Results

Results are only released after the completion of all three assessments and with all candidates results, regardless of area of law being issued on the same day.

As outlined in Rule [4.11.6 of the scheme rules](#), all assessments undergo a rigorous marking process. Any assessment that is deemed to have not achieved a satisfactory result will go through an independent second round of marking before a recommendation is made to grant or deny Accredited Specialisation.

**It is important to note the following information about results:**

- You will not be provided with individual assessment marks
- Outcomes are delivered as either satisfactory or unsatisfactory for each assessment component with an overall satisfactory in all three resulting in being granted specialisation.
- Candidate Assessment Reports (CARs) will be provided to candidates on any assessment where an unsatisfactory grade is attained. The CAR will provide constructive feedback for improvement to the candidate. No further feedback or grades will be disclosed.

## Supplementary assessment

Candidates may be required to undertake additional assessment at the discretion of the Specialisation Board. The Specialisation Board will only consider a recommendation from an advisory committee for a proposal of a supplementary assessment being offered to a candidate due to exceptional circumstances. Candidates will be notified the decision of the Specialisation Board in their official notification of results.

# Key Milestones & Program Timetable

Candidates are advised that Accredited Specialisation program requires a significant commitment in order to achieve a satisfactory outcome. Based on feedback from previous candidates the number of hours of study is in excess of 100.

We encourage you to dedicate and manage time in the lead up to and during the assessment period. Candidates need to plan their workload well in advance of the key assessment dates and are encouraged to seek support in the form of study leave from employers where possible to optimise performance across all assessment tasks.

ITEM	DATE
<b>Applications Open</b>	Mid-January 2022
<b>Applications Close</b>	25 March 2022
<b>2022 Accredited Specialisation Program begins</b> <ul style="list-style-type: none"> <li>– Welcome Orientation Session</li> <li>– Access to the LIV Student Portal and resources</li> </ul>	03 May 2022
<b>Candidate support sessions:</b> <ul style="list-style-type: none"> <li>– Study techniques series</li> <li>– Online exam platform familiarisation</li> </ul>	May-August
<b>Candidate self-guided study:</b> <ul style="list-style-type: none"> <li>– Review assessment guidelines &amp; make study notes</li> <li>– Form study groups</li> <li>– Work with mentors</li> </ul>	May-August
<b>Practice Written Exam &amp; Familiarisation Exam access available</b>	July
<b>Assessment Period</b> <ul style="list-style-type: none"> <li><b>Part 1:</b> <a href="#">Written Examination (Schedule 1)</a></li> <li><b>Part 2:</b> <a href="#">Oral Presentation (Schedule 2)</a></li> <li><b>Part 3:</b> <a href="#">Simulated Court Presentation (Schedule 3)</a></li> </ul>	Sunday 7 August Tuesday 16 August Wednesday 17 August
<b>Results Released</b>	Early November
<b>Conferral Ceremony</b>	Early December

**Note:** The above dates are correct at the time of publishing. Should any changes need to occur, they will be communicated directly to candidates throughout their assessment program as early as possible.

# SCHEDULE 1: ASSESSMENT COMPONENT PART 1

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## Written Examination

<b>Exam Date:</b>	Sunday 7 August
<b>Time:</b>	Three hours and 30 minutes inclusive of reading, writing, and planning time
<b>Venue:</b>	LIV online exam platform (refer to application guidelines for full details)

## Assessment overview

This part will examine the candidate's knowledge of substantive law and the ability to apply that knowledge in practice.

In planning and time management, it is recommended to use the mark allocation per question as a guide.

## The examination is divided in two parts:

### Section A

- This section is compulsory and will be comprised of a series of short answer questions
- These questions require brief answers and are worth a total of 50% of the total exam mark
- The questions will cover a wide range of topics drawn from the general knowledge list in Schedule 4: Topics for Assessment.

### Section B

- This section will contain a choice of two optional questions worth a total of 50% of the mark.
- Candidates will be required to answer ONE of the two questions on one of the following topics:
  - Child Protection or
  - Youth Crime.
- This section will present candidates with more complex factual situations in which expert legal advice might be sought.

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**IMPORTANT:** In order to pass the written examination, candidates will need to achieve a minimum of 50% in each part of the exam.

## Assessment Criteria

Candidates will be assessed on their:

- Ability to identify relevant issues from a given fact situation
- Knowledge of relevant law (including significant recent decisions) and skill in applying that knowledge in practice
- Knowledge of the procedural rules
- Knowledge of relevant child development and social science issues and skill in applying that knowledge in practice
- Ability and knowledge of non-legal services that a person may be referred to
- Ability to provide practical, clear and comprehensive advice
- Awareness of practical considerations in dispute resolution
- Ability to identify and address any ethical issues

## Examination Conditions

- Access to a computer with webcam and microphone
- Access to the exam is via the safe exam browser, once installed on your computer, this will be located on your desktop and called Exam Launch File, LIV Online Assessment Candidate App (the app)
- All questions must be answered within this digital environment
- All questions can be reviewed and updated prior to submitting the exam
- Once the exam is submitted, there is no opportunity to revisit or change your responses
- Access to any external sites including email is disabled for the duration of the exam.
- Once you submit the exam you will be automatically redirected to the confirmation of submission screen.
- You will need to logout of the safe exam browser once you have completed to your exam, candidates will not have access to their computers applications and programs until logging out of the site.
- Refer to [Schedule 6: Recommended Computer Requirements for Assessments for more information](#)

## Access to Support Materials

- This examination is an open book exam.
- Prior to the exam, you will be asked to save your digital notes on the device on which you will be completing your examination. These can be saved in a drive that does not required access via the internet or document management system. You are also encouraged to have these available on a USB stick as a backup.
- The format of accessible files include word, excel and PDF.
- You may access your digital notes via the exam delivery system. There will be two windows within the browser – one for your notes, the other for your examination. These can be located on dual screens.

# SCHEDULE 2: ASSESSMENT COMPONENT PART 2

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## Simulated Interview

<b>Presentation Date:</b>	Tuesday 16 August
<b>Presentation Time:</b>	45 min scheduled by appointment closer to the date
<b>Presentation Venue:</b>	Via Zoom, candidates must use a device with a working camera

## Assessment overview

The simulated interview is designed to enable candidates to demonstrate skill in conducting a first interview with the client. A sound knowledge of the relevant law, rules and procedures will be required.

Using the information from the materials available for download following the written examination, via the student portal, candidates will conduct a simulated interview/meeting with a child or young person in legal proceedings in one particular practice area.

Candidates will be required to meet with the child or young person to gather relevant information and facts and be tested on their ability to appropriately communicate with the child or young person.

- The interview will take up to 45 minutes and will be recorded for assessment by examiners.
- At the conclusion of the interview, candidates will be given 15 minutes to record their observations, make file notes and submit.
- File notes will be used as part of the overall assessment in this examination component and may assist you in gaining accreditation.
- **Candidates will be expected to provide preliminary advice during the interview.**
- The time allocated for the interview and completion of the file notes will be strictly enforced.

## Assessment criteria

Candidates will be assessed on their:

- Ability to appropriately and sensitively communicate, specifically with a child or young person
- Ability to elicit relevant information and facts from the child or young person
- Identification of relevant issues and giving of appropriate advice where relevant – explain the actions to be taken following the interview
- Ability to identify and address any ethical issues

A sound knowledge of the relevant law, rules, procedures and any developmental or social science issues will also be required.

**In order to achieve a satisfactory result, candidates must achieve no less than 50% in this assessment.**



# SCHEDULE 3: ASSESSMENT COMPONENT PART 3

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## Mock Submissions Contest

<b>Date:</b>	Wednesday 17 August
<b>Time:</b>	20 min scheduled by appointment closer to the date
<b>Venue:</b>	Via Zoom, candidates must use a device with a working camera

## Assessment overview

Using the information from the materials available for download following the written examination, via the student portal, along with the information gathered and elicited in the Simulated interview, candidates will be required to appear in a mock submissions contest representing the child. Candidates will have up to 20 minutes for their submissions, and this time may include questions from Magistrates' and advisory committee assessors will play the role of Clerk.

The nature of the submissions contest will vary for each practice area, and may include (but is not limited to) one of the following:

- Child Protection – Interim accommodation order contest
- Youth Crime – Plea or bail application or other application in any jurisdiction

**Please note:** *date may be subject to change due to 2022 court availability. Candidates will be notified immediately of any change.*

## Assessment criteria

Candidates will be assessed on their ability to demonstrate proficiency in the following aspects of advocacy:

- Child Protection & Youth Crime:
  - Preparation in demonstrating knowledge of the facts
  - Knowledge of law and practice
  - Presentation, use of sound judgment, decision making skills, organisation, reasoning and cogency of argument and capacity to respond to intervention from the bench
  - Appreciation of Children's Court etiquette
- Ability to identify and address any ethical issues

## Assessment Conditions

Candidates may use the resources of their offices in completing this exercise. However, consultation with any other person in completing the exercise is **not permitted** and the material submitted must be entirely the candidate's own work.

**In order to achieve a satisfactory mark candidates must achieve no less than 50% in this assessment.**

# SCHEDULE 4: GENERAL TOPICS FOR ASSESSMENT, RECOMMENDED READINGS & LEGISLATION

All applicants will be expected to display a working knowledge of all the practice areas listed in the general knowledge section of topics:

- a) to identify relevant legal issues
- b) provide appropriate advice to a child or adult client including the options available to the client, procedural steps, likely outcome,
- c) understand key policy issues surrounding a particular area of general knowledge.

**Candidates will be assessed on the law as it stands on the day of the examination.**

**Please note:** Any matter relevant to practice in **children's law** may be examined, including the areas listed below. The following list gives an indication of other matters which candidates might be asked to address. Candidates may be asked questions arising under any legislation, related regulations and other materials listed in these guidelines. This is not intended to be an exhaustive list.

## Core Topics

The suggested knowledge areas and recommended readings outlined below have all been identified as 'core' topics candidates are expected to demonstrate:

- A comprehensive knowledge of the content, operation and application of legislation relevant to the topic.
- A comprehensive knowledge of cases relevant to the operation of the legislation and its application to key issues.
- An ability to apply the legislation and authorities to a broad range of facts.

## Written Examination Part A - General Knowledge Expected of All Candidates

1. Aboriginal placement principles and cultural issues	
<b>Knowledge Areas</b>	Core
<ul style="list-style-type: none"><li>• The systematic overrepresentation of Aboriginal persons and children in custody and in out of home care;</li><li>• Application of the Aboriginal placement principles.</li></ul>	
<b>Recommended Reading</b>	
<u>Cases:</u>	Core
<ul style="list-style-type: none"><li>• DoHS and K Siblings 2013;</li><li>• DoHS and The D Children 2012</li></ul>	
<u>Other:</u>	Core
<ul style="list-style-type: none"><li>• <a href="#">Bringing them Home Report</a></li><li>• Dardee Boorai: Victorian Charter of safety and wellbeing for Aboriginal Children and Young People, December 2008;</li></ul>	

- DHS (as it then was) Aboriginal Child Placement Principle Guide, August 2002;
- [DFFH Child Protection Manual – Cultural planning for Aboriginal children – new model](#)
- Protocol between DHS child protection service and VACCA, April 2002;
- [‘Always was, always will be Koori children’ report, Commission for Children and Young People 2016](#)
- [‘In the child’s best interests’ report, Commission for Children and Young People 2016](#)
- [‘Our youth, our way: inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system’ Commission for Children and Young People 2021](#)
- [‘Child protection and Aboriginal and Torres Strait Islander children’ CFCA Resource Sheet – January 2020](#)

## 2. Alternative Dispute Resolution (ADR)

### Knowledge Areas

- General principles of ADR; Core
- Best practice in ADR:
- The operation of ADR within the Children’s Court.

### Recommended Reading

- Children’s Court of Victoria Conciliation Conference Guidelines and related Practice Directions; Core
- “Alternative Dispute Resolution” Tania Sourdin 2008 Third Edition, Lawbook Co;
- “Mediation for Lawyers” Samantha Hardy and Olivia Rundle 2010 CCH Australia especially chapters 4 and 5 on lawyers involvement before and during a mediation;
- “Mediation Principles, Process Practice” Lawrence Boulle, 2011, Third Edition, Butterworths see chapter on Mediation in Courts and Tribunals;

## 3. Family Law as it intersects with child protection generally

### Knowledge Areas

- General principles and operation of Family Law Act re parenting orders and children; Core
- Circumstances if DFFH issue a protection application whilst Family Law Act orders are in operation;
- How DFFH may intervene in Family Law proceedings.

### Recommended Reading

Cases: Core

- i. General
  - Re:K (1994) FamCA 1994,
  - R v R: Children’s Wishes (2000) FLC 93-000
  - In the Marriage of Rice and Asplund (1979) 6 Fam LR 570
  - Goode & Goode [2006] FamCA 1346 or (2006) FLC 93-286
- ii. Unacceptable Risk
  - Donaghey & Donaghey [2011] FamCA 13
  - Theophane & Hunt (Final parenting orders) [2014] FamCA 1038

iii. Instruments

- Family Law Act 1975 (Part VII & Part IX);
- [Protocol between the DHS, FCoA and FMC, May 2011](#)

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Other:

Core

- [Role of a Family Law Independent Children’s Lawyer, Victoria Legal Aid \(2016\)](#)
- [NCPC Issues Paper No 34 2011 - Child Protection and family law - Joining the dots”.](#)
- Cashmore J and Parkinson P “Children’s Participation in Family Law Disputes: The views of parents, lawyers and counsellors” (2009) 82 Family Matters 15-21;
- Best Practice Guidelines for lawyers doing family law work, Law Council of Australia, 4th edition 2017
- “Being a family lawyer and being child focused – A question of priorities? 21 (1) Australian Journal of Family Law 37

#### 4. Child development, Attachment, Brain Development, Child Abuse

##### Knowledge Areas

- Child development;
- Attachment;
- Brain development;
- Child Abuse, Physical abuse and Neglect;
- Child sex abuse.

Core

##### Recommended Reading

Core

*i. Child development:*

- [CFCA Practitioner Resource 'Developmental differences in children who have experienced adversity' practice guides and webinar \(2018\)](#)
- [DHHS – Child development and trauma guide](#)
- [Selma Fraiberg, Edna Adelson, and Vivian Shapiro, \*Ghosts in the Nursery\*](#)
- [Search Institute - 40 developmental assets lists](#)
  - Adolescents (ages 12-18)
  - Middle Childhood (ages 8-12)
  - Grades K-3 (ages 5-9)
  - Early childhood (ages 3-5).
- [AIC 'Antisocial behaviour during the teenage years: Understanding developmental risks' \(2018\)](#)

Core

*ii. Attachment:*

- [Forslund et al, Attachment goes to court: child protection and custody issues \(2021\)](#)
- [‘Children’s attachment needs in the context of out of home care’ CFCA Practitioner Resource November 2016](#)
- [CFCA latest material on 'parenting attachment'](#)
- [CFCA latest material on 'Post-separation parenting'](#)

Core

*iii. Brain Development:*

- Perry, Examining child maltreatment through a neurodevelopmental lens (2009) Journal of Loss and Trauma 240-255

- Steinberg Laurence "How Adolescents make decisions: New discoveries about the adolescent brain" (2014)
- [CVCA Paper No 36 December 2015 'Children's exposure to domestic and family violence'](#)
- [CFCA Practitioner resource 'The effect of trauma on the brain development of children' \(2016\)](#)

iv. *Child Abuse, Physical abuse and Neglect:*

Core

- [CFCA Resource Sheet September 2018 "What is child abuse and neglect"](#)
- [CFCA Paper No 20 April 2014 "Understanding child neglect"](#)
- Maguire – which injuries may indicate child abuse? [2010] Arch Dis Child Pract Ed (8 pages)
- [CFCA Resource sheet January 2014 "Effects of Child abuse and neglect on children and adolescents"\\*](#)
- [\\*CFCA Resource sheet January 2014 "Effects of child abuse and neglect for adult survivors"](#)
- [CFCA Paper No 8 September 2012 "The role of supervisory neglect in childhood injury"](#)
- [CFCA Paper No 10 November 2012 "Family structure and child maltreatment: do some family types place children at greater risk?"](#)
- [CFCA Paper no 15 June 2013 "Rarely an isolated incident"](#)
- [CFCA Resource sheet May 2017 "Risk and protective factors for child abuse and neglect"](#)
- [CFCA Resource sheet March 2017 "Corporal punishment: key issues"](#)
- Cashmore, Judy, 'The link between child maltreatment and adolescent offending: Systems neglect of adolescents' Family Matters Issue 89, 2011, pp. 31-41.

v. *Child Sex Abuse:*

Core

- [DHS \(as it then was\) - Child sexual abuse: understanding and responding \(2009\)](#)
- [CFCA Paper No 6 July 2012 'Fathers with a history of child sexual abuse: New findings for policy and practice'](#)
- [CFCA Paper No 11 January 2013 "The long term effects of child sex abuse"](#)

## 5. Social science

### Knowledge Areas

- Child protection practice model
- At-risk Culturally and Linguistically Diverse (CALD) young people;
- Children who crossover;
- Family Violence;
- FASD;
- Out of Home Care;
- Parental Issues.

Core

### Recommended Reading

i. *Child protection practice*

- [DFFH 'SAFER children framework guide' 2021](#)

Core

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Core

ii. *At-risk CALD young people*

- [Shepherd, S. M., & Masuka, G. \(2020\). Working with at-risk Culturally and Linguistically Diverse young people in Australia – risk factors, programming and service delivery, Criminal Justice Policy Review.](#)
- [Shepherd, S. M., Bailey, A., & Masuka, G. \(2020\). The experiences and perspectives of African Australian community service providers who work with at-risk and justice-involved youth. International Journal of Offender Therapy and Comparative Criminology](#)

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Core

iii. *Children who crossover*

- [Baidawi, S., Piquero, A.R. Neurodisability among Children at the Nexus of the Child Welfare and Youth Justice System. J Youth Adolescence 50, 803–819 \(2021\).](#)
- [McGrath A, Gerard A & Colvin E 2020. Care-experienced children and the criminal justice system. Trends & issues in crime and criminal justice no. 600. Canberra: Australian Institute of Criminology.](#)
- [Baidawi, Sheehan and Flynn 'Criminal exploitation of child protection-involved youth' \(2020\)](#)
- [Crossover Kids: a comparison of two studies \(2019\)](#)
- [Baidawi S & Sheehan R 2019. 'Crossover kids': Offending by child protection-involved youth. Trends & issues in crime and criminal justice no. 582. Canberra: Australian Institute of Criminology.](#)

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Core

iv. *Family Violence*

- Richard Chisholm "The harmful impact of parental conflict on children and the harmful impact of legislative complexity on people trying to help children" Australian Journal of Law 22 (2) August 2008 152-153
- Amanda Hart and Dale Bradshaw "The idolised post separation family in Australian Family Law; A dangerous paradigm in cases of domestic violence intuitive approaches to family violence" Journal of Family Studies Volume 14 number 2-3 October 2008 291-309.
- [Jane Wangmann "Different types of intimate partner violence – an exploration of the literature" \(2011\) Australian Domestic & Family Violence Clearinghouse](#)
- [Zoe Rathus 'Shifting Language and Meanings between Social Science and the Law: Defining Family Violence'](#)
- [CFCA Paper No 36 December 2015 'Children's exposure to domestic and family violence](#)
- Jo Howard 'Adolescent violence in the home – the missing link in family violence prevention and response'
- [Gartland et al 'Intimate partner violence and child outcomes at age 10: a pregnancy cohort' \(EPub ahead of print, 2020\)](#)
- Douglas, Heather. *Women, Intimate Partner Violence , and the Law*, Oxford University Press (2021) Chapters 5, 7.

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Core

v. *FASD:*

- CFCA Paper No 29 December 2014 "Fetal Alcohol Spectrum Disorders: Current issues in awareness, prevention and intervention"
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vi. <i>Out-of-home care:</i>	Core
<ul style="list-style-type: none"> <li>• Commission for Children and Young People (2015) "...As a Good Parent Would" Report;</li> <li>• <a href="#">CREATE 'Out of home care in Australia 2018' (2019)</a></li> <li>• <a href="#">AIHW 'The views of children and young people in out-of-home care: overview of indicator results from second national survey, 2018' (2019)</a></li> <li>• <a href="#">CFCA Paper no 52 'Therapeutic residential care services in Australia: A descriptio of current service characteristics '(2019)</a></li> <li>• <a href="#">CFCA Paper no 49 'Therapeutic residential care: An update on current issues in Australia' (2018)</a></li> </ul>	

vii. <i>Parental issues</i>	Core
<ul style="list-style-type: none"> <li>• <a href="#">Bromfield et al NCPIC Issues Paper No 33 2010 - Issues for the safety and wellbeing of children in families with multiple and complex problems</a></li> <li>• McConnell, D &amp; Llewellyn, G <a href="#">Stereotypes, parents with intellectual disability and child protection'</a> (2002) Journal of Social Welfare and Family Law pp 297 – 317</li> <li>• Swain, P &amp; Cameron, N <a href="#">'Good Enough Parenting: Parental disability and child protection' Disability and Society</a> (2003) pp 165 - 177</li> <li>• <a href="#">Collings, S et al 'She was there if I needed to talk or to try and get my point across': specialist advocacy for parents with intellectual disability in the Australian child protection system' Australian Journal of Human Rights 2018</a></li> <li>• <a href="#">Lightfoot, E et al 'A case record review of the termination of parental rights in cases involving parents with a disability' Child and Youth Services Review 2017.</a></li> <li>• <a href="#">CFCA Paper No 14 – May 2013 "Meeting children's needs when the family environment isn't always "good enough": A systems approach"</a></li> <li>• <a href="#">CFCA Paper No 30 February 2015 "Fatherhood and mental illness"</a></li> <li>• <a href="#">CFCA Resource Sheet January 2015 "An overview of alcohol misuse and parenting"</a></li> <li>• <a href="#">CFCA Paper No 43 June 2017 'Fathers who use violence'</a></li> <li>• <a href="#">AIC 'Parental offending and children's conduct problems' (2019)</a></li> </ul>	

## 6. Child Protection generally

<b>Knowledge Areas</b>	Core
<ul style="list-style-type: none"> <li>• Decision making principles and s.276;</li> <li>• Grounds for applications;</li> <li>• Interim Accommodation Orders;</li> <li>• Protection orders;</li> <li>• Therapeutic Treatment Orders;</li> <li>• Permanent Care Orders.</li> </ul>	

### Recommended Reading

<u>Cases:</u>	Core
<ul style="list-style-type: none"> <li>• Secretary to the DHS v Sanding [2011] VSC 42 (22 February 2011)</li> </ul>	

<u>Instruments:</u>	Core
<ul style="list-style-type: none"> <li>• Children, Youth &amp; Families Act 2005</li> </ul>	



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Other:

- Children's Court of Victoria - Research Materials - Family Division - General
- Children's Court of Victoria - Research Materials - Family Division - Child Protection - Law applying after 1 March 2016
- Springvale Legal Service, Lawyers Practice Manual Victoria, loose-leaf, Law Book Co.

## 7. Civil law generally

### Knowledge Areas

- School,
- Employment,
- Becoming Independent,
- Health,
- Crimes Compensation/Vocat,
- Fines,
- Contract/Consumer,
- Social Media: Bullying, Cyber-Bullying, Sexting;
- Migration,
- Ndis.

Core

### Recommended Reading

Cases:

- Sahhitanandan [2019] VSCA 115; Underwood [2018] VSCA 87;
- Nei Lima De Costa Junior {2016} VSCA 49 which reinforces [Guden v The Queen](#) [2010] VSCA 19;
- DPP v Za Lian and Hlawnceu 2019 VSCA 75R.

Core

Instruments:

- s 501, s 189, s 198, s 116 of the Migration Act.

Core

Other:

- ["Am I Old Enough? Common Legal Issues for Young People" \(2019\)](#)
- Lawyers Practice Manual Victoria, Volume 2,
- The Law Handbook 2019: your practical guide to the law in Victoria, Fitzroy Legal Service as relevant;
- National Disability Insurance Scheme (NDIS) – child and family system interface - Section 4.
- Planning Operational Guideline of the National Disability Insurance Agency (NDIA) - Section 10, *Deciding to include supports in a participant's plan* & Appendix 1- Table of guidance on whether a support is most appropriately funded by the NDIS.

Core

## 8. Construction of childhood and children's rights

### Knowledge Areas

- Key international and domestic instruments that protect the rights of children
- Status and potential impact of international instruments in domestic law
- Status and potential impact of domestic human rights instruments
- Relevant domestic case law relating to domestic and international human rights instruments
- Potential impact of rights on litigation, policy development, advocacy and service delivery concerning children.
- Raising the age of criminal responsibility.

Core

## Recommended Reading

<u>Cases:</u>	Core
<ul style="list-style-type: none"><li>• Secretary to the DHS v Sanding [2011] VSC 42 (22 February 2011)</li><li>• A &amp; B v Children's Court of Victoria &amp; Ors [2012] VSC 589 (5 December 2012)</li><li>• Certain children (by their Litigation Guardian Sister Marie Brigid Arthur) v Minister for Families and Children and Others (2016) 51 VR 473</li><li>• Minister for Families and Children v Certain Children (by their Litigation Guardian Sister Marie Brigid Arthur) (2016) 51 VR 597</li><li>• Certain Children (by their Litigation Guardian Sister Marie Brigid Arthur) v Minister for Families and Children and Others [No 2] (2017) 52 VR 441</li></ul>	
<u>Instruments:</u>	Core
<ul style="list-style-type: none"><li>• Victorian Charter of Human Rights and Responsibilities Act</li><li>• United Nations Convention on the Rights of the Child</li><li>• United Nations Rules for the Protection of Juveniles Deprived of their Liberty</li><li>• United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)</li></ul>	
<u>Other:</u>	Core
<ul style="list-style-type: none"><li>• <a href="#">Committee on the Rights of the Child General Comment No 24 Children's Rights in Juvenile Justice</a></li><li>• <a href="#">Child Protection Practice Manual Advice on Human Rights and the Victorian Charter</a></li><li>• Michael Stanton and Katharine Brown 'The Convention on the Rights of the Child and Domestic Human Rights Legislation: Opportunities and Future Directions, Victorian Paper, Seminar Paper 20 October 2021</li><li>• John Tobin, 'Courts and the Construction of Childhood: A New Way of Thinking' in Michael Freeman (ed) Childhood and the Law (OUP) (2012).</li><li>• O'Brien, Wendy and Fitz-Gibbon, Kate 2017, The minimum age of criminal responsibility in Victoria (Australia): Examining stakeholders' view and the need for principled reform, Youth Justice, vol. 17, no. 2, pp. 134-152.</li></ul>	

## 9. Ethics & Professional Responsibility

### Knowledge Areas

- Fundamental ethics and duties of lawyers but particularly those representing a child on a direct instruction's basis;
- Best practice in meeting and taking instructions from children.

### Recommended Reading

<u>Core readings:</u>	Core
<ul style="list-style-type: none"><li>• <a href="#">Legal Profession Uniform Law Australian Solicitors 'Conduct Rules 2015 (ASCRs) available for download through the Legal Services Board website;</a></li><li>• VLA Guides and resources:<ul style="list-style-type: none"><li>○ <a href="#">Child protection in the Family Division of the Children's Court</a> and</li><li>○ <a href="#">VLA representing children in child protection proceedings guide</a> and</li><li>○ <a href="#">Intervention orders affecting children old enough to give direct instructions</a> and</li><li>○ <a href="#">Youth Crime</a></li></ul></li><li>• Cashmore J, Perceptions of Children and Lawyers in Care and Protections Proceedings (1994) 8 International Journal of Law and Family;</li><li>• Lawrie Maloney "Children's voices reflections on the telling and the listening" Journal of Family Studies, Volume 11, number 2, October 2005 216-227;</li><li>• J Cashmore, A Graham, et al, Family Law: Working with Children Good Practice Guide.</li></ul>	

10. Intervention Orders	
<b>Knowledge Areas</b>	
<ul style="list-style-type: none"> <li>The general operation of Family Violence Protection Intervention Orders;</li> <li>The general operation of Personal Safety Intervention Orders.</li> </ul>	Core
<b>Recommended Reading</b>	
<u>Cases:</u>	Core
<ul style="list-style-type: none"> <li>M and M (2000) FLC 93-006</li> <li>Joyce &amp; Joyce [2015] FCCA 2502</li> <li>Turnley &amp; Gibb [2016] FamCA 53</li> <li>Lennox &amp; Lennox [2016] FamCA 367</li> </ul>	
<u>Instruments:</u>	Core
<ul style="list-style-type: none"> <li>Family Violence Protection Act 2008;</li> <li>Personal Safety Intervention Orders Act 2010</li> </ul>	
<u>Other:</u>	Core
<ul style="list-style-type: none"> <li><a href="#">Elicia Savvas and Anoushka Jeronimus 'Troubled teens'</a></li> <li><a href="#">Royal Commission into Family Violence (Victoria) Final Report, Chapters 10 and 11</a></li> <li><a href="#">Family Safety Violence MARAM Practice Guides: Foundation Knowledge</a></li> <li>Monash Gender and Family Violence Program "Investigating Adolescent Family Violence in Victoria. Understanding Experiences and Practitioner Perspectives' (2018)</li> <li>Judicial College of Victoria Family Violence Bench Book</li> <li>Judicial College of Victoria Personal Safety Intervention Orders Bench Book</li> <li>Children's Court of Victoria - Research Materials - Family Division – Intervention orders.</li> </ul>	
11. Model Litigant	
<b>Knowledge Areas</b>	
<ul style="list-style-type: none"> <li>How model litigants must conduct themselves;</li> <li>Consequences of failing to act as model litigant.</li> </ul>	Core
<b>Recommended Reading</b>	
<u>Cases:</u>	Core
<ul style="list-style-type: none"> <li>Melbourne Steamship Co. Ltd v Moorehead (1912) 15 CLR 333;</li> <li>Yong Jun Qin v The Minister for Immigration and Ethnic Affairs (1997) 75 FCR 155</li> </ul>	
<u>Instruments:</u>	Core
<ul style="list-style-type: none"> <li><a href="#">Victorian Model Litigant Guidelines</a></li> <li><a href="#">Code of Conduct for Victorian Public Sector Employees 2015</a></li> </ul>	
<u>Other:</u>	Core
<ul style="list-style-type: none"> <li>The Law Society of New South Wales: A Guide to Ethical Issues for Government Lawyers, Second Edition, 2010</li> <li>The State as Model Litigant, Victorian Government Solicitors Office, September 2006 Lunchtime Seminar Series, Presented by Stephen Lee, Assistant Victorian Government Solicitor</li> <li>Buchanan, Lynn &amp; Dr John Lynch 'Model Litigant Rules, LIJ, March 2011, 41.</li> </ul>	
12. Youth Crime	
<b>Knowledge Areas</b>	
<ul style="list-style-type: none"> <li>Children who crossover: Children in both the Family Division and the Criminal Division (s.362(2) and s 522(2));</li> </ul>	Core

- Jurisdiction for criminal proceedings in the Children’s Court (age);
- Doli incapax;
- Referral for DFFH investigation (both protective and therapeutic);
- Sentences available and the sentencing principles in the Children’s Court;
- Bail.

**Recommended Reading**

<u>Cases:</u>	Core
<ul style="list-style-type: none"> <li>• <a href="#">HA (A Pseudonym) v The Queen [2021] VSCA 64</a></li> <li>• RP v The Queen [2016] HCA 53 (21 December 2016)</li> <li>• <a href="#">Webster (a Pseudonym) v The Queen [2016] VSCA 66</a></li> <li>• <a href="#">DHHS and J [2015] VChC 1</a></li> <li>• CNK v The Queen (2011) 32 VR 641; [2011] VSCA 228</li> </ul>	
<u>Instruments:</u>	Core
<ul style="list-style-type: none"> <li>• Children, Youth and Families Act (2005)</li> <li>• Summary Offences Act (1966)</li> <li>• Crimes Act (1958)</li> </ul>	
<u>Other:</u>	Core
<ul style="list-style-type: none"> <li>• Fox, Richard G and Nadia Deltondo, Victorian Criminal Procedure: State and Federal Law, 15th ed, Monash University Law Book Co-operative, 2019</li> <li>• Springvale Legal Service, Lawyers Practice Manual Victoria, looseleaf, Law Book Co</li> <li>• “Criminal Prosecutions of Children” – Part 6 Criminal Prosecution of Children.</li> </ul>	

# SCHEDULE 5: CHILD PROTECTION & YOUTH CRIME SPECIFIC STREAMS

## TOPICS FOR ASSESSMENT, RECOMMENDED READINGS & LEGISLATION

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In addition to Part A (General Knowledge), candidates will be expected to demonstrate an in-depth knowledge of one of two practice areas:

- **Child Protection; or**
- **Youth Crime**

As a candidate you will be expected to be able to address more complex issues specific to your particular chosen practice and are expected to cover the topics set out in the Schedule below.

All Candidates are expected to know relevant and current case law and keep abreast of any developments in the law in their chosen practice area. However, the most significant cases in a practice area have been included for ease of reference.

Candidates are expected to make their own enquiries as to whether any new cases add to, modify or overturn any listed cases.

### Written Examination Part B – Area Specific Streams – Child Protection or Youth Crime

#### 1. Child Protection Stream

##### Knowledge Areas

Core

- Decision-making principles;
  - Family Division procedure;
  - Types of applications;
  - Grounds for applications;
  - Interim Accommodation Orders;
  - Protection Orders;
  - Permanent Care Orders;
  - Therapeutic Treatment Orders
  - Appeals (both judicial and administrative);
  - Case planning;
  - Aboriginal Child Placement Principles
  - Working with Children Check;
  - Secure Welfare
  - Mandatory reporting/notifier details
  - Interstate transfer of proceedings;
  - Offences relating to the protection of children;
  - Costs;
  - Restriction on publication of proceedings;
-

- Rules of Children’s Court;
- Service & Subpoenas.

**Recommended Reading**

Legislation:	Core
<ul style="list-style-type: none"> <li>• <i>Children Youth &amp; Families Act 2005</i> (Vic)</li> <li>• <i>Children Youth &amp; Families Regulations 2017</i> (Vic)</li> <li>• <i>Children, Youth &amp; Families (Children’s Court Family Division) Rules 2017</i></li> </ul>	

Case Law:	Core
<ul style="list-style-type: none"> <li>• Buckley v Buckley, unreported SCV decision of O’Byrne J, 11 December 1992</li> <li>• DHS v HW Peter Power, unreported SCV decision of McDonald J, 28 June 1996</li> <li>• DHS v Ross [2003] VSC 172 (*R)</li> <li>• Purcell v RM [2004] VSC 14</li> <li>• DHS v Yalniz, unreported SCV decision of Nathan J, 13 July 2001 (*R)</li> <li>• JA and others v. Millar and others, unreported SCV decision, 21 May 1992</li> <li>• Perry v DHS, unreported SCV decision of Cummins J, 27 February 1997</li> <li>• Perry v DHS and Others, unreported SCV decision of Cummins J, 4 March 1997</li> <li>• Fiddler v Cantor, unreported SCV decision of Beach J, 24 January 1994</li> <li>• Grandell v Hartrick (no 1), unreported SCV decision of Beach J, 1 February 1994</li> <li>• Grandell v Hartrick (no 2), unreported SCV decision of Beach J, 10 August 1994</li> <li>• AA v Secretary to the Department of Health and Human Services and others [2020] VSC 400</li> <li>• GG v DHHS [2020] VSC 749</li> <li>• <a href="#">Secretary to DHHS v Children’s Court of Victoria</a> (AZ and BG) [2020] VSC 527</li> <li>• <a href="#">QQQ v the Department of Families, Fairness and Housing (Review and Regulation)</a> [2021] VCAT 372 (17 May 2021)</li> <li>• Sani (a Pseudonym) v Secretary of the Department of Families, Fairness and Housing [2021] VSC 366</li> <li>• <a href="#">Warfe (a pseudonym) v Secretary to DFFH</a> [2021] VSC 482</li> <li>• <a href="#">SL v DFFH</a> [2021] VSC 523</li> <li>• <a href="#">DHHS and C1, C2 and C3</a> [2020] VChC 7</li> <li>• <a href="#">Re JH</a> [2021] VChC 2</li> </ul>	

*Please note: the LIV has arranged the permission of the President of the Children’s Court to access the unreported cases listed above. To obtain copies, please email [specialisation@liv.asn.au](mailto:specialisation@liv.asn.au)*

Other:	Core
<ul style="list-style-type: none"> <li>• <a href="#">Bringing them Home Report</a></li> <li>• Dardee Boorai: Victorian Charter of safety and wellbeing for Aboriginal Children and Young People, December 2008;</li> <li>• DHS (as it then was) Aboriginal Child Placement Principle Guide, August 2002;</li> <li>• <a href="#">DFFH Child Protection Manual – Cultural planning for Aboriginal children – new model</a></li> <li>• Protocol between DHS child protection service and VACCA, April 2002;</li> <li>• <a href="#">‘Always was, always will be Koori children’ report, Commission for Children and Young People 2016</a></li> </ul>	

- [‘In the child’s best interests’ report, Commission for Children and Young People 2016](#)
- [‘Our youth, our way: inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system’ Commission for Children and Young People 2021](#)
- [‘Child protection and Aboriginal and Torres Strait Islander children’ CFCA Resource Sheet – January 2020](#)

Core

*Practice & Procedure:*

- Children's Court of Victoria - Research Materials - Family Division - General
- Children's Court of Victoria - Research Materials - Family Division - Child Protection - Law applying after 1 March 2016
- <https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/case-planning/internal-review-decisions>
- [Siobhan Mansfield ‘Parents lacking capacity’](#)

Core

*DFFH material:*

- [Child Protection Manual](#)
- [DFFH website ‘Children and families’](#)

Core

*Aboriginal Placement Principles and Cultural Issues:*

- [DFFH relevant advices](#)
- [DFFH Strong Culture Strong Peoples Strong Families - 10 year plan](#)
- [CFCA Paper No 34 August 2015 – Enhancing the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle](#)
- [CFCA Resource Sheet - January 2020 ‘Child protection and Aboriginal and Torres Strait Islander children’](#)
- [SNAICC ‘Understanding and applying the Aboriginal and Torres Strait Islander Child Placement Principle’ \(2017\)](#)
- [SNAICC ‘The Family Matters Report’ \(2018\)](#)

**\*\*Please note that further materials may be prescribed.**

## 2. Youth Crime Stream

### Knowledge Areas

- Arrest & Investigation;
- Commencement of process;
- Possible alternatives to proceeding in court, including cautions, informal diversion (e.g. Ropes) and Children’s Court Youth Diversion;
- Criminal procedure applying to children in the Children’s Court and higher jurisdictions
- Rules of evidence applying to children in the Children’s Court and higher jurisdictions
- Forensic procedures involving children
- Bail law applying to children;
- Jurisdiction of the Children’s Court (age and type of offence);
- Committal procedure including summary jurisdiction applications;
- Criminal offences (types and elements);
- Complicity;
- Derivative liability;
- Doli incapax;
- Fitness to plead in the Children’s Court;

Core

- Defences including mental impairment;
- Sentencing options and sentencing principles applying to children in the Children’s Court and higher jurisdictions;
- Breaches of sentencing orders;
- Orders in addition to sentence;
- Appeals from the Children’s Court;
- Effect of Children’s Court criminal history.

### Recommended Reading

#### Legislation (Cth):

Core

- *Crimes Act 1914* (Cth)
- *Criminal Code 1995* (Cth)
- *Crimes Legislation Amendment (Telecommunications offences and other Measures) Act (No.2) 2004* (Cth)

#### Legislation (State):

Core

- *Appeals Cost Act 1998* (Vic)
- *Bail Act 1997* (Vic)
- *Charter of Human Rights and Responsibilities 2006* (Vic)
- *Children, Youth and Families Act 2005* (Vic)
- *Control of Weapons Act 1990* (Vic)
- *Crimes Act 1958* (Vic)
- *Criminal Procedure Act 2009* (Vic)
- *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic)
- *Drug Poisons and Controlled Substances Act 1981* (Vic)
- *Evidence (Miscellaneous Provisions) Act 1958* (Vic)
- *Evidence Act 2008* (Vic)
- *Graffiti Prevention Act 2007* (Vic)
- *Road Safety Act 1986* (Vic)
- *Sentencing Act 1991* (Vic)
- *Sex Offenders Registration Act 2004* (Vic)
- *Summary Offences Act 1966* (Vic)
- *Terrorism (Community Protection) Act 2005* (Vic)

#### Other:

Core

- Fox, Richard G and Nadia Deltondo, *Victorian Criminal Procedure: State and Federal Law*, 15th ed, Monash University Law Book Co-operative, 2019
- Freckleton, Ian *Indictable Offence in Victoria*, 7th ed, Law Book Company 2020
- Freckleton, Ian *Criminal Law Investigation and Procedure Victoria*, Looseleaf, 5 vols, Law Book Co
- Judicial College of Victoria:
  - *Children’s Court Bench Book*
  - *Search Warrants Manual*
  - *Victorian Criminal Proceedings Manual*
  - *Victorian Criminal Charge Book*
  - *Victorian Sentencing Manual*
- *Sexual Assault Manual: Investigation, Prosecution and Sentencing in Victoria - Uniform Evidence Manual*
- [Former Magistrate Peter Power’s Research Materials relating to youth crime](#)
- Nash QC, Gerard, *Criminal Legislation Victoria, Annotated*. 2016: Bourke's Criminal Law, soft cover, Butterworths
- Odgers, Stephen, *Uniform Evidence Law*, 16th Ed, 2021
- Bagaric, M., *Ross on Crime*, 8th Ed, 2018



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- Springvale Legal Service, Lawyers Practice Manual Victoria, looseleaf, Law Book Co Part 6 – Criminal Prosecution of Children
  - [VLA resources available at Information for lawyers - youth crime webpage](#)
  - Operating Procedures of the Victoria Police Manual (VPM):
    - VPMG Bail and remand
    - VPMG Charges, procedure and guidelines
    - VPMG Disposition of offenders procedure and guidelines
    - VPMG Interviews and statements
    - VPMP Disposition of offenders policy rules
    - VPMP Police Care or Custody
    - VPMG Searches of persons
    - VPMP Searches of persons
    - VPMG Searches of property
    - VPMP Searches of property
    - VPMP Cautions
  - [Multi-jurisdictional court guide](#)
  - DFFH Child Protection Manual on referrals from Children's Court Criminal Division and Therapeutic Treatment Report and Order
  - DHS (as it then was) Specialist Practice Resources in particular
    - Adolescents and their families;
    - Adolescents with sexually abusive behaviours.
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# SCHEDULE 6: RECOMMENDED COMPUTER REQUIREMENTS FOR ASSESSMENTS

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All assessments are delivered in a digital format including via the LIV student portal for release and submission of assessments, the LIV online exam platform Assess App or Zoom/ for oral assessments. You are required to ensure you have all the required infrastructure, and access to the digital assessment platforms prior to the completion of your assessment. To ensure you are set up to succeed, here are some things to consider in advance to check that your computer meets the following recommended computer requirements of optimal performance of the platforms.

You will require access to a computer with a working a webcam and microphone to complete the assessment program.

## Written Examination Devices Specification

Windows	
Processor	i5 2.2GHz /AMD A6 1.8Ghz
Operating system	Windows 10 64-bit
Memory	8GB
Hard drive	250GB SSD (solid state drive)
Display	14" screen with 1920 x 1080 screen resolution
Battery life	8 hours under normal use

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The following devices cannot currently be used to access the LIV online exam platform:

- Mac (we anticipate having Mac compatible with the Safe Exam Browser by the time of the 2022 Written Examinations)
- iPads
- Chromebooks.
- Smartphones: this includes iPhones, Android devices, and any other mobile OS devices

Successful applicants will have access to one on one support from our exam provider to set up the applications and work through all requirements for exam setup.

## Oral Assessments

Oral assessments will be conducted via Zoom. In addition to a working web camera and microphone, Zoom support recommends minimum internet speeds for clear and high-quality video and audio throughout. For more information on minimum internet speeds for video conferencing visit the below two useful websites.

- [Reviews.org - breaks down requirements in a simplistic way](#)
- [Zoom Support - System Requirements](#)