

Accredited Specialisation Application Guidelines 2018

CHILDREN'S LAW



What is an Accredited Specialist?

A lawyer who is accredited as a specialist is recognised as having an enhanced skill level, 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 and reliable.

Eligibility for Accreditation

- Membership of the Law Institute of Victoria
- A current practising certificate
- At least five years' experience in practice
- Substantial involvement in this area of practice over the past three years
- Three references in support of the application
- Successful completion of the prescribed assessment program

Candidates who do not meet the eligibility criteria may apply for an exemption from criteria in accordance with the *Specialisation Scheme Rules*. Such applications for exemptions must be lodged no later than **4pm on Friday 6 April 2018**.

IMPORTANT: Details of the conditions for gaining specialist accreditation are contained in the Specialisation Scheme Rules which can be found at:

https://www.liv.asn.au/LIVPublicWebSite/media/150th-Anniversary-2009/LIV%20Documents/20180420_Master_SpecialisationSchemeRules_April16.pdf

Specialisation candidates are particularly advised to read the *Specialisation Scheme Rules* and familiarise themselves with the requirements for any applications for exemption or special consideration. The Rules are located under the Scheme Administration tab of the *Specialisation Scheme* link.

Assessment

The assessment program for Accredited Specialisation in Children's Law is in three parts. To gain accreditation candidates must obtain a satisfactory mark in each of the three parts of the program. Candidates may, in any or all of the assessment program, be assessed on any or all of the **Assessment Topics** listed in **Schedule 4**.

Part 1: Written Examination – See **Schedule 1**

Part 2: Simulated Interview – See **Schedule 2**

Part 3: Mock Submissions Contest – See **Schedule 3**

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

Supplementary assessment

Candidates may be required to undertake additional assessment at the discretion of the Specialisation Board.

Exemption from Written Examination

Candidates may apply in advance for an exemption from the written examination if they have recently studied subjects relating to Children's Law in a postgraduate course at a tertiary institution. Any such exemption is entirely at the discretion of the Specialisation Board and will be assessed on a case by case basis.

Eligibility for the exemption is subject to the following conditions. The completed post graduate course units **must:**

- have been completed within the preceding five years of the date of application
- assess knowledge that is equivalent in range to the knowledge assessed in the specialist accreditation exam
- be at a level of complexity and standard of knowledge that is equivalent to that assessed in the specialist accreditation exam
- contain knowledge that is of equivalent relevance to practice in the specialist accreditation exam.

Any application for an exemption should be made at the time of lodging the application form, which is to be lodged no later than **4pm on Friday, 6 April 2018**.

Timetable

Monday 26 February 2018	Accredited Specialisation information evening
Friday 6 April 2018	Applications requesting Board discretion (for those who do not meet eligibility criteria) or exemption from the Written Examination close, at 4pm
Friday 20 April 2018	All other Applications close at 4pm
Monday 28 May 2018	Accredited Specialisation Exam Techniques evening
Saturday 28 July 2018	Part 1: Written Examination
Wednesday 8 August 2018	Part 2: Simulated Interview
Thursday 9 August 2018	Part 3: Mock Submissions Contest
Late October 2018	Results sent to candidates
Late November 2018	Accredited Specialisation Conferral Ceremony

IMPORTANT: Candidates who wish to apply for special consideration in relation to their assessment tasks must do so in accordance with the Rules https://www.liv.asn.au/LIVPublicWebSite/media/150th-Anniversary-2009/LIV%20Documents/20180420_Master_SpecialisationSchemeRules_April16.pdf

Performance Standards

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.

General Recommendations

Candidates may find it of assistance in preparing for the assessment tasks to:

- form a study group – to register your interest in forming a study group please contact **special@liv.asn.au**
- attend appropriate LIV CPD events in the area of specialisation
- review previous examination papers and videos of simulated interviews - these are available at http://www.liv.asn.au/PDF/Professional-Development/Accredited-Specialisation/AS_AssessmentMaterials.aspx
- read some or all of the Suggested Reading Material listed in **Schedule 5**

Legislation and Other Provisions

Candidates should be familiar with the relevant parts of legislation relating to the selected topics for assessment, and the legislation listed in **Schedules 4 and 5**.

Applications

Applications must be made on the prescribed application form.

Resume of Practice

As evidence of substantial involvement, applicants must submit a resume of their professional activities relevant to practice in Children's Law. The resume should give the Board an overall picture of the applicant's experience and expertise in Children's Law, with an emphasis on involvement over the past three (3) years. It is not expected that a comprehensive curriculum vitae will be submitted.

No standard format is prescribed. However, applicants might find it helpful to use some or all of the following headings:

- broad description of current practice activities
- experience in specific areas of activity in Children's Law
- involvement with relevant professional organisations

- relevant publications and presentations
- academic qualifications
- other.

It is not necessary to repeat details provided on the application form.

Please forward to the Law Institute of Victoria:

1. The completed application form
2. Three references
3. Resume of practice
4. Application fee of \$1,100.00 (including GST) payable to the Law Institute of Victoria.

Applications close

4pm Friday, 6 April 2018 for applicants wishing to apply for Board discretion because they do not meet the eligibility criteria or for applicants wishing to apply for exemption from the Written Examination.

4pm Friday, 20 April 2018 for all other applications.

The address for applications is:

Accredited Specialisation

Law Institute of Victoria
GPO Box 263, MELBOURNE 3001
or DX 350, MELBOURNE

Inquiries:

Telephone: 9607 9461
Facsimile: 9607 9404
Email: special@liv.asn.au

SCHEDULE 1: EXAMINATION ASSESSMENT COMPONENT PART 1

WRITTEN EXAMINATION

Exam Date: Saturday 28 July 2018

Exam Time: Three hours plus 30 minutes for reading and planning. Time to be confirmed

Exam Venue: Saxons Training Centre, 500 Collins Street, Melbourne

Assessment Overview

The written examination will comprise two sections.

Section A – This section is compulsory and will contain questions requiring brief answers to shorter questions and is worth a total of 50 percent of the 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 three optional questions worth a total of 50 per cent of the mark. Candidates will be required to answer one of the three questions on one of the following topics: Child Protection, Independent Children’s Lawyers or Youth Crime. This section will present candidates with more complex factual situations in which expert legal advice might be sought.

In order to pass the examination, candidates must achieve a passing mark in both Sections A and B.

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

Examination Conditions

Typed exams

Candidates in this area of specialisation have the option to elect whether they would like to submit a handwritten or typewritten examination. All candidates who elect to type their examination will use a computer supplied by the Law Institute of Victoria, and will only have access to a word processor on this computer.

General conditions

The written examination is an open book exam.

- Candidates may take into the examination room any books, notes or other written material.
- Portable computers may be used for reference purposes on a read-only basis so long as their use does not disturb other candidates. Access to the internet is strictly prohibited.
- Mobile telephones are not permitted.
- Questions must be answered in the script book provided for candidates electing to submit a handwritten examination, or in the word processor provided for those electing to type responses.
- Handwriting must be legible for candidates electing to submit a handwritten examination.
- Each candidate will be issued with an examination number.
- The names of candidates must not appear on any material submitted for assessment.

After the examination

Immediately following the conclusion of the written examination, candidates will be able to download the following information through www.accreditedspecialisation.liv.asn.au:

1. Materials pertaining to the simulated interview in Part 2 of the assessment program
2. Materials pertaining to the mock submissions contest for the purposes of completing Part 3 of the assessment program.

SCHEDULE 2: EXAMINATION ASSESSMENT COMPONENT PART 2

SIMULATED INTERVIEW

Interview Date: Wednesday 8 August 2018

Interview Time: By appointment

Interview Venue: Law Institute of Victoria

Assessment Overview

Using the information from the materials available for download on www.accreditedspecialisation.liv.asn.au following the written examination, candidates will be required to 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.

Candidates should allow 45 minutes for the simulated interview.

Assessment Criteria

Candidates will be assessed on their:

- ability to appropriately and sensitively communicate, specifically with a child or young person – 30 per cent
- ability to elicit relevant information and facts from the child or young person - 30 per cent
- identification of relevant issues and giving of appropriate advice where relevant – 30 per cent
- explain the actions to be taken following the interview – 10 per cent.

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

SCHEDULE 3: EXAMINATION ASSESSMENT COMPONENT PART 3

MOCK SUBMISSIONS CONTEST

Contest Date: Thursday 9 August 2018

Contest Time: By appointment

Contest Venue: Children's Court of Victoria, 477 Little Lonsdale Street, Melbourne

Assessment Overview

Using the information from the materials available for download on www.accreditedspecialisation.liv.asn.au following the written examination, along with the information gathered and elicited in the Simulated interview, candidates will be required to appear in a mock submission contest representing the child.

The nature of the submissions contest will vary for each practice area, and may include one of the following:

- Child Protection – Interim accommodation contest
- Independent Children's Lawyers – Interim hearing
- Youth Crime – Plea or bail application.

In preparing for this exercise candidates may use the resources of their office. However, consultation with any other person in completing the exercise is not permitted. Candidates will be required to provide a signed statement to that effect.

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 - 25 per cent
- Knowledge of law and practice - 25 per cent
- Presentation, use of sound judgment, decision making skills, organisation, reasoning and cogency of argument and capacity to respond to intervention from the bench - 45 per cent
- Appreciation of children's court etiquette - 5 per cent.

Independent Children's Lawyers:

- Preparation in demonstrating knowledge of the facts - 20 per cent
- Knowledge of law and practice – 20 per cent
- Presentation, use of sound judgment, decision making skills, organisation, reasoning and cogency of argument and capacity to respond to intervention from the bench – 45 per cent
- Drafting skills – 10 per cent
- Appreciation of court etiquette – 5 per cent.

SCHEDULE 4:

TOPICS FOR ASSESSMENT

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

All applicants will be expected to display a working knowledge of all the practice areas listed in the General Knowledge section of topics: to recognise typical problems, construct an advice or appropriate response to a child and to outline the steps which would be taken to resolve a matter.

General Knowledge

- Aboriginal placement principles and cultural issues
- ADR
- Child abuse allegations in family law courts
- Child development and social science:
 - children's participation
 - meeting children and taking instructions
 - child development and impact of trauma
 - basic social science
 - effects of family violence.
- Child protection:
 - best interests principle
 - decision-making principles
 - types of applications
 - grounds for applications
 - protection and other orders
 - Children's Court Independent Children's Lawyers.
- Civil law:
 - school
 - employment
 - becoming independent
 - health
 - crimes compensation
 - fines
 - contract/consumer

- social: bullying, cyber-bullying and sexting
- migration.
- Construction of childhood and children's rights:
 - Conceptual foundations
 - Charter of Human Rights and Responsibilities
 - Children's rights instruments.
- Ethics
- Independent Children's Lawyers (ICL) under the Family Law Act 1975 (CT):
 - the basis for the appointment of an ICL
 - guidelines for the role and duties of ICL
 - the role of the ICL at trial, including gathering evidence
 - consideration of child's views and wishes
 - principles applicable to the removal of an ICL
 - the role of the ICL in assisting self-represented litigants
 - the ICL's responsibility to argue for a cause of action based on relevant evidence and not personal opinion
 - the role of the ICL in relation to parents proposed consent orders
 - orders relating to the welfare of children.
- Intervention orders:
 - family violence
 - personal safety.
- Model Litigant.
- Youth Crime:
 - sentences available and the sentencing principles in the Children's Court
 - procedure on hearing summary offences in the Children's Court
 - Cross-over Children: Children in both the Family Division and the Criminal Division (s.362(2) and s522(2))
 - jurisdiction for criminal proceedings in the Children's Court (age)
 - possible alternatives to proceeding in court, including: cautions, informal diversion and programs
 - referral for DHS investigation (both protective and therapeutic)
 - effect of Children's Court criminal history.

Practice areas

In addition, the applicant will be expected to demonstrate an in-depth knowledge of one of three practice areas: Child Protection, Independent Children's Lawyers and Youth Crime. The applicant is expected to be able to address more complex issues specific to their particular chosen practice area and cover the matters set out in these guidelines.

1. Child Protection

- Best interests principle
- Decision-making principles
- Family Division procedure, including ADR
- Types of applications
- Withdrawal of applications
- Grounds for applications, including therapeutic treatment orders
- Interim accommodation orders
- Protection and other orders
- Costs
- Appeals (both judicial and administrative)
- Case Planning
- Aboriginal placement principles and cultural issues
- Social sciences:
 - attachment theory
 - brain development
 - child trauma
 - child sex abuse
 - out-of-home-care
 - physical abuse
 - resilience
 - therapeutic services.

2. Independent Children's Lawyers (ICL)

- Adoption:
 - ICL role in County Court applications
- Children:
 - dispute resolution
 - jurisdictional requirements and discretion to exercise jurisdiction
 - parental responsibility
 - parenting orders: general principles
 - parenting orders (particular issues)
 - views of the child: principles as to children's views are weighed
 - evidence of child views
 - family violence
 - allegations of child abuse
 - interim parenting orders
 - family reports
 - culture
 - Aboriginality
 - religion
 - surrogacy
 - enforcement of parenting orders
 - alteration of parenting orders
 - paternity
 - reaching agreement
 - consent orders.
- Hague Convention on the Civil Aspects of Child Abduction
- Injunctions
- Parentage
- Practice and procedure:
 - evidence
 - court practices
 - costs
 - reviews/appeals
 - jurisdictional issues.
- Relocation
- Reports under the *Family Law Act 1975* (Cth)
- Social Sciences:
 - see list above under Child Protection
 - high conflict families

- mental health issues
- Special medical procedures

3. Youth Crime

- Sentencing options and sentencing principles applying to children in the Children's Court
- 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.
- Bail law applying to children
- Jurisdiction of the Children's Court (age and type of offence)
- Commencement of process
- Arrest and investigation
- Forensic procedures involving children
- Charge
- Criminal offences that apply to children and possible defences
- Application of Doli incapax
- Possible alternatives to proceeding in court, including infringement notices and CAYPINS
- Fitness to plead and mental impairment in the Children's Court.
- Breaches of sentencing orders
- Appeals from the Children's Court.

SCHEDULE 5:

READING GUIDE 2018

CHILDREN'S LAW

General Knowledge

As outlined in the Accredited Specialisation Application Guidelines, applicants are expected to display a working knowledge of all the practice areas listed in the General Knowledge section of topics, as well as to recognise typical problems, construct an advice to a client and to outline the steps which would be taken to prepare the matter for hearing.

Relevant legislation includes:

- *Bail Act 1997 (Vic)*
- *Civil Procedure Act 2010 (Vic) Parts 2.1- 2.3*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Children Youth & Families Act 2005 (Vic)*
- *Crimes Act 1958 (Vic)*
- *Criminal Procedure Act 2009 (Vic)*
- *Evidence Act 2008 (Vic)*
- *Evidence Act 1995 (Cth)*
- *Family Law Act 1975 (Cth)*
- *Family Law (Child Abduction Convention Regulations) 1987*
- *Family Law (Family Dispute Resolution Practitioners) Regulations 2008 (Cth) regs 25 -29*
- *Family Violence Protection Act 2008 (Vic)*
- Family Law Rules
- *Federal Circuit Court Act 1999 (Cth)*
- *Federal Circuit Court Rules*
- *Magistrates' Court Act 1989 (Vic)*
- *Personal Safety Intervention Orders Act 2010 (Vic)*
- *Summary Offences Act 1966 (Vic)*
- *Working with Children Act 2005 (Vic)*

Other recommended materials – Case Law, references and websites

Aboriginal Placement Principles and Cultural Issues

- *Bringing them Home*
- Dardee Boorai: *Victorian Charter of safety and wellbeing for Aboriginal Children and Young People*, December 2008
- DHS (as it then was) *Aboriginal Child Placement Principle Guide*, August 2002
- *DHHS Child Protection Manual – Cultural planning for Aboriginal children – new model*
<http://www.cpmanual.vic.gov.au/node/3791>
- *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
<https://ccyp.vic.gov.au/upholding-childrens-rights/systemic-inquiries/always-was-always-will-be-koori-children/>
- *'In the child's best interests' report*, Commission for Children and Young People 2016
<https://ccyp.vic.gov.au/upholding-childrens-rights/systemic-inquiries/in-the-childs-best-interests/>
- *'Child protection and Aboriginal and Torres Strait Islander children' CFCA Resource Sheet – August 2017* <https://aifs.gov.au/cfca/publications/child-protection-and-aboriginal-and-torres-strait-islander-children>
- *DOHS and K Siblings* 2013
- *DOHS and The D Children* 2012

ADR

- *"Alternative Dispute Resolution"*, Tania Sourdin, 2008, Third Edition, Lawbook Co
- *"Bargaining in the Shadow of the Law: The Case of Family Mediation"*, Becky Batagol and Thea Brown, 2011, Themis Press refer 8.6.3 Lawyers and Family Dispute Resolution
- *Children's Court of Victoria Conciliation conference guidelines and practice directions*
- *"Issues of Fairness and Justice in ADR"* NADRAC report published November 1997
- *"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
- National Mediator Accreditation Scheme Practice Standards
- *National Principles for Resolving Disputes and supporting Guide*, NADRAC (National Alternative Dispute Resolution Advisory Council) April 2011

Child abuse allegations in family law courts

- *Donaghey & Donaghey* [2011] FamCA 13
- Richard Chisholm, "*Child Abuse allegations in family law cases: a review of the law*" (2011) 25 Australian Journal of Family Law 1-25
- Protocol between the DHS, FCoA and FMC, May 2011
- Daryl Higgins, "*Co-operative and co-ordination evaluation of the Family Court Australia's Magellan Case Management Model*" (2007)
- Family Court of Australia - *Practice Direction no 6 of 2004 Child Sexual Abuse or Other Physical Abuse*

Communication with Child Clients

- 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
- Cashmore J, "*Perceptions of Children and Lawyers in Care and Protections Proceedings*" (1994) 8 International Journal of Law and Family
- DHHS Beginning Practice Participant notes – Interviewing Children Part 1 and 2
- Lawrie Maloney "*Children's voices reflections on the telling and the listening*" Journal of Family Studies, Volume 11, number 2, October 2005 216-227
- VLA, *Guide to representing children in the Criminal Division of the Children's Court* (2017)
<http://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-resource-guide-to-acting-for-children-in-the-criminal-division-of-the-childrens-court.docx>
- VLA, *Guide to representing children in the Family Division of the Children's Court* (2017)
<http://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/lp-psl-cp-guide-to-acting-for-children-in-the-family-division.docx>
- VLA, *Children's Court Family Division capacity checklist* (2016)
<https://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-childrens-court-family-division-capacity-checklist.doc.docx>
- CFCA Practitioner Resource April 2015 "*Working with culturally and linguistically diverse (CALD) adolescents*" <https://aifs.gov.au/cfca/publications/working-culturally-and-linguistically-diverse-cald-ad>

Child development & impact of trauma

- DHHS – Child development and trauma guide
- 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)
- DHHS Beginning Practice Participant notes – Victimology Part 1 and 2

Basic social science

- Perry, "*Bonding and Attachment in Maltreated Children: Consequences of Emotional Neglect in Childhood*"
- Tom Altobelli "*Children's attachment its impact on Family Law practice*", 5th Family Law intensive, Family Law Section, 12 February 2005.
- Vincent Papaleo, "*Developmental considerations in contact residence and re-location disputes*", Family Law Intensive, Family Law Section, 12 February 2005
- Bromfield et al, NCPC Issues Paper No 33 2010, "*Issues for the safety and wellbeing of children in families with multiple and complex problems*"
- Maxwell, "*Family Law and the Intellectually Disabled in Australia*" (1993) 7 Australian Journal of Family Law 151-171
- CFCA Paper No 14 May 2013 "*Meeting children's needs when the family environment isn't always "good enough": A systems approach*" <https://aifs.gov.au/cfca/publications/meeting-childrens-needs-when-family-environment-isnt>
- CFCA Paper No 29 December 2014 "*Fetal Alcohol Spectrum Disorders: Current issues in awareness, prevention and intervention*" <https://aifs.gov.au/cfca/publications/fetal-alcohol-spectrum-disorders-current-issues-awarenes>
- CFCA Resource sheet, "*Effects of Child abuse and neglect*" (2014) <https://aifs.gov.au/cfca/publications/effects-child-abuse-and-neglect-children-and-adolescents>
- CFCA Resource sheet January 2014 "*Effects of child abuse and neglect for adult survivors*" <https://aifs.gov.au/cfca/publications/effects-child-abuse-and-neglect-adult-survivors>
- CFCA Paper No 36 December 2015 "*Children's exposure to domestic and family violence*" <https://aifs.gov.au/cfca/publications/childrens-exposure-domestic-and-family-violence>
- CFCA Resource sheet May 2017 "*Risk and protective factors for child abuse and neglect*" <https://aifs.gov.au/cfca/publications/risk-and-protective-factors-child-abuse-and-neglect>
- CFCA Practitioner Resource June 2016 "*The effect of trauma on the brain development of children*" <https://aifs.gov.au/cfca/publications/effect-trauma-brain-development-children>
- Steinberg Laurence "*How Adolescents make decisions: New discoveries about the adolescent brain*" (2014) (pdf ppt)
- Bennett Max "*Childhood Abuse: The vicious cycle*" (2015) (pdf ppt)
- Perry, Dr Bruce and Szalavitz, Maia (2009) "*The Boy Who Was Raised as a Dog: And Other Stories from a Child Psychiatrist's Notebook--What Traumatized Children Can Teach Us About Loss, Love, and Healing*" (Book)

- Cashmore, J and Parkinson, P (2014) "The use and abuse of social science research evidence in Children's cases"
- Griffin et al "Addressing the Impact of Trauma Before Diagnosing Mental Illness in Child Welfare"

Child Protection

- Springvale Legal Service, *Lawyers Practice Manual Victoria*, looseleaf, Law Book Co "Protection proceedings in the Children's Court" chapter
- NCPC Issues Paper No 34 2011, "*Child Protection and family law... Joining the dots*"
- Solomon, A (2013) "*Far From the Tree: Parents, Children and the Search for Identity*", Scribner : Chapter 2 – 'Deaf'
- CFCA Resource Sheet September 2015, "*What is child abuse and neglect*"
<https://aifs.gov.au/cfca/publications/what-child-abuse-and-neglect>
- CFCA Paper No 20 April 2014, "*Understanding child neglect*"
<https://aifs.gov.au/cfca/publications/understanding-child-neglect>

Construction of Childhood and Children's Rights

- *Secretary to the DHS v Sanding* [2011] VSC 42 (22 February 2011)
- *A & B v Children's Court of Victoria and Ors* [2012] VSC 589 (5 December 2012)
- United Nations Convention on the Rights of the Child
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)
- David Archard (2006 revised) "*Children's Rights*"
- John Eekelaar, "*Family Law and Personal Life*" (2008)(Oxford University Press USA) pp 155-161.
- John Tobin, "*Courts and the Construction of Childhood: A New Way of Thinking*" in Michael Freeman (ed) *Childhood and the Law* (OUP) (2012)
- Geoff Monaghan, "*Autonomy vs Beneficence: Ethics and the Representation of Children and Young People in Legal Proceedings*" (2008) Vol 8 No 2 (QUTLJJ)
- Judy Cashmore and Patrick Parkinson "*The Debate about Children's Voices*" in *The Voice of A Child in Family Law Disputes* (Oxford) (2008) pp 1 -22
- www.hrlc.org.au
- Child Protection Practice Manual Advices on Human Rights and the Victorian Charter:
www.dhs.vic.gov.au/cpmanual

- *Certain Children v Min. for Families and Children and Ors*
- Commission for Children and Young People: The Same Four Walls: inquiry into the use of isolation, separation and lockdowns in the Victorian youth Justice system, Melbourne: Commission for Children and Young People, 2017. <https://ccyp.vic.gov.au/upholding-childrens-rights/systemic-inquiries/the-same-four-walls/>

Civil Law

- “Am I Old Enough? Common Legal Issues for Young People”, available on the Victoria Legal Aid website publications page
- Lawyers Practice Manual Victoria, Volume 2,
- The Law Handbook 2017: your practical guide to the law in Victoria, Fitzroy Legal Service (covering topics set out under General Knowledge (Civil Law) in Schedule 4 of the Children’s Law Application Guidelines)

Ethics

- “Best Practice Guidelines for lawyers doing family law work”, Law Council of Australia, 2nd edition 2010
- “Being a family lawyer and being child focused – A question of priorities?” 21 (1) Australian Journal of Family Law 37
- *Legal Profession Uniform Law Australian Solicitors’ Conduct Rules 2015* (ASCRs) available for download through the Legal Services Board website: http://lsbc.vic.gov.au/?page_id=248

Family Violence

- *Jaeger and Jaeger* (1994) FLC 92-492
- *JG and BG* (1994) FLC 92-512
- *A and A* (1998) 92-800
- *M and M* (2000) FLC 93-006
- 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 www.adfvc.unsw.edu.au

- Zoe Rathus, "*Shifting Language and Meanings between Social Science and the Law: Defining Family Violence*" <http://www.austlii.edu.au/au/journals/UNSWLawJI/2013/15.html>
- Jo Howard, "*Adolescent violence in the home – the missing link in family violence prevention and response*" <http://communitywebs.org/walkingoneggshells/wp-content/uploads/2015/04/Adolescent-violence-Jo-Howard..pdf>
- Elicia Savvas and Anoushka Jeronimus, "*Troubled teens*" <https://www.liv.asn.au/Staying-Informed/LIJ/LIJ/April-2017/Troubled-teens>
- "*Royal Commission into Family Violence*" (Victoria) Final Report, Chapters 10 and 11
- "*Family Violence Best Practice Principles*" Family law courts www.familycourt.gov.au

Family Violence Intervention Orders and Personal Safety Intervention Orders

- Judicial College of Victoria Family Violence Bench Book
- Judicial College of Victoria Personal Safety Intervention Orders Bench Book

Independent Children's Lawyer (ICL)

- *Re:K* (1994) FamCA 1994,
- *P & P* (1995) FLC 92-615,
- *Knibbs and Knibbs* (2009) FamCA 840,
- *B & R and the Separate Representative* (1995) FLC 92-636,
- *R v R: Children's Wishes* (2000) FLC 93-000,
- *T & L* (2000) FLC 93-056,
- *T & S* (2001) FAM CA 1147,
- *T & Anor* (2000) FLC 93-049,
- *T & N* (2003) FLC 93-172
- *Re F* (Litigants in Person Guidelines) (2001)
- *De Roma & De Roma* [2013] FamCA 566
- Guidelines For Independent Children's Lawyers (2013)
- Australian Standards of Practice for Family Assessments and Reporting - February 2015
- J Cashmore, A Graham, et al, "*Family Law: Working with Children Good Practice Guide, Independent Children's Lawyers*", Legal Aid New South Wales

Model Litigant

- *Melbourne Steamship Co. Ltd v Moorehead* (1912) 15 CLR 333 (standard of fairplay to be observed by the Crown, per Griffiths CJ)
- *Yong Jun Qin v The Minister for Immigration and Ethnic Affairs* (1997) 75 FCR 155
- Code of Conduct for Victorian Public Sector Employees (No.1) 2007
- The Law Society of New South Wales: *A Guide to Ethical Issues for Government Lawyers*, Second Edition, 2010
- "*The State as Model Litigant*", Victorian Government Solicitors Office, September 2006 Lunchtime Seminar Series, Presented by Stephen Lee, Assistant Victorian Government Solicitor
- Schedule 8 – Model Litigant Guidelines, Victoria
- Buchanan, Lynn & Dr John Lynch, "*Model Litigant Rules, OK?*", LIJ, March 2011, 41
- Victorian Government Solicitor's Office client newsletter - revised Model Litigant Guidelines for the State of Victoria, March 2011

Youth Crime

- Fox, Richard G and Nadia Deltondo, "*Victorian Criminal Procedure: State and Federal Law*", 14th ed, Monash University Law Book Co-operative, 2015 (Part 2.2.3, 2.2.4,3.3,4.2,4.3,5,6.2,9.16,10.6)
- Springvale Legal Service, Lawyers Practice Manual Victoria, looseleaf, Law Book Co "*Criminal Prosecutions of Children*" – Part 6 Criminal Prosecution of Children
- *Bradley Webster v The Queen* [2016] VSCA 66
- *DPP v Woods* [2014] VSC 1 (17 January 2014)
- *DPP v SL* [2016] VSC 714 (29 November 2016)
- *Application for bail by HL* (No. 2) [2017] VSC 1 (6 January 2017)
- *Re: Application for bail by JF* [2017] VSC 139 (23 February 2017)
- *Certain Children v Minister for Families and Children* [2017] VSC 251 (11 May 2017)
- *DPP v SE* (2017) VSC 13 (31 January 2017)

Practice Areas

As outlined in the Accredited Specialisation Application Guidelines, applicants are expected to demonstrate an in-depth knowledge of one of three practice areas: Child Protection, Independent Children’s Lawyers or Youth Crime. Candidates are reminded that topics covered are set out in Schedule 4 of the Application Guidelines. Candidates are expected to address more complex issues specific to their particular chosen practice area.

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, therefore case law is generally not listed below.

However, a list of cases has been included in the Child Protection Practice Area and under ‘Adoption’ in the ICL Practice Area as it is acknowledged that some case law in these areas may be either difficult to access (or in the case of adoption matters, rarely accessed).

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

1. CHILD PROTECTION – PRACTICE AREA

Case Law

- *Buckley v Buckley*, unreported SCV decision of O’Byrne J, 11 December 1992
- *DHS v HW Peter Power*, unreported SCV decision of McDonald J, 28 June 1996
- *DHS v Ross* [2003] VSC 172 (*R)
- *DHS v Yalniz*, unreported SCV decision of Nathan J, 13 July 2001 (*R)
- *JA and others v. Millar and Ors*, unreported SCV decision, 21 May 1992
- *M. and Others v. M. and Ors* [1993] 1 VR 391
- *PA v Angela Karavidas and Ors* [2001] VSC 185
- *Perry v DHS*, unreported SCV decision of Cummins J, 27 February 1997
- *Perry v DHS and Ors*, unreported SCV decision of Cummins J, 4 March 1997
- *Fiddler v Cantor*, unreported SCV decision of Beach J, 24 January 1994
- *Grandell v Hartrick (no 1)*, unreported SCV decision of Beach J, 1 February 1994
- *Grandell v Hartrick (no 2)*, unreported SCV decision of Beach J, 10 August 1994
- *Purcell v RM (no 1)* [2004] VSC 14
- *CC & JC v DHS* [2003] VSC 134
- *Secretary to the DHS v Sanding* [2011] VSC 42 (22 February 2011)

- *DHS v Children's Court of Victoria and Ors* [2012] VSC 422 (10 September 2012)
- *SM v County Court of Victoria* [2017] VSC 440

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 special@liv.asn.au.

Further reading – Practice & Procedure

- Children's Court of Victoria - Research Materials - Family Division - General
- Children's Court of Victoria - Research Materials - Family Division - Child Protection
- Children's Court of Victoria – Virtual Court, <http://childrenscourt.courtexus.com/>
- Siobhan Mansfield 'Parents lacking capacity' <https://www.liv.asn.au/Staying-Informed/LIJ/LIJ/April-2017/Parents-lacking-capacity>

DHHS material

- Child Protection Manual www.dhs.vic.gov.au/cpmanual

Aboriginal Placement Principles and Cultural Issues

- DHHS relevant advices in www.dhs.vic.gov.au/cpmanual
- Strong culture, peoples and strong families - towards a safer future for Indigenous families and communities
- CFCA Paper No 34 August 2015, "*Enhancing the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle*" <https://aifs.gov.au/cfca/publications/enhancing-implementation-aboriginal-and-torres-strait-islander-child>

Social Sciences

- Attachment Theory
- "*Children's attachment needs in the context of out of home care*", CFCA Practitioner Resource November 2016 <https://aifs.gov.au/cfca/publications/childrens-attachment-needs-context-out-home-care>
- CFCA latest material on "*Post-separation parenting*" <https://aifs.gov.au/cfca/bibliography/post-separation-parenting>

Brain Development

- D Glaser, "*Child Abuse, Neglect and the Brain*" (2000) 41(1) J. Child Psychol. Psychiat. 97-116

- B Perry, *"Examining child maltreatment through a neurodevelopmental lens"* (2009) Journal of Loss and Trauma 240-255
- CVCA Paper No 36 December 2015, *"Children's exposure to domestic and family violence"*
<https://aifs.gov.au/cfca/publications/childrens-exposure-domestic-and-family-violence>

Child Sex Abuse

- DHS, *"Child sexual abuse: understanding and responding"* (2009)
- CFCA Paper No 11 January 2013, *"The long term effects of child sex abuse"*
<https://aifs.gov.au/cfca/publications/long-term-effects-child-sexual-abuse>

Out-of-home care

- Bromfield and Osborn NCPC Child Abuse Prevention Issue No 26 2007, *"Getting the big picture: A synopsis and critique of Australian out-of-home care research"*
- Anglicare Victoria: Children in care report card (2015) <https://aifs.gov.au/cfca/2015/08/27/report-children-care-report-card>
- Commission for Children and Young People (2015) *"...as a good parent would"*
<http://www.cryp.vic.gov.au/downloads/inquiry/final-report-as-a-good-parent-would.pdf>

Parental issues

- CFCA Paper No 30 February 2015, *"Fatherhood and mental illness"*
<https://aifs.gov.au/cfca/publications/fatherhood-and-mental-illness>
- CFCA Resource Sheet January 2015, *"An overview of alcohol misuse and parenting"*
<https://aifs.gov.au/cfca/publications/overview-alcohol-misuse-and-parenting>
- CFCA Paper No 43 June 2017, *"Fathers who use violence"* <https://aifs.gov.au/cfca/publications/fathers-who-use-violence>

Physical abuse, Child Abuse and Neglect

- Maguire, *"Which injuries may indicate child abuse?"* [2010] Arch Dis Child Pract Ed (8 pages)
- CFCA Resource sheet March 2017, *"Corporal punishment: key issues"*
<https://aifs.gov.au/cfca/publications/corporal-punishment-key-issues>
- CFCA Paper No 8 September 2012, *"The role of supervisory neglect in childhood injury"*
<https://aifs.gov.au/cfca/publications/role-supervisory-neglect-childhood-injury>
- CFCA Paper No 10 November 2012, *"Family structure and child maltreatment: do some family types place children at greater risk?"* <https://aifs.gov.au/cfca/publications/family-structure-and-child-maltreatment-do-some-family-type>

- CFCA Paper no 15 June 2013, "*Rarely an isolated incident*" <https://aifs.gov.au/cfca/publications/rarely-isolated-incident-acknowledging-interrelatedn>
- CFCA Resource sheet September 2014, "*Who abuses children?*" <https://aifs.gov.au/cfca/publications/who-abuses-children>

Therapeutic services

- CFCA Resource sheet December 2014, "*Defining the public health model for the child welfare services context*" <https://aifs.gov.au/cfca/publications/defining-public-health-model-child-welfare-services-context>
- NCPC Issues No 35 November 2011, "*Therapeutic residential care in Australia: Taking stock and looking forward*" <https://aifs.gov.au/cfca/publications/therapeutic-residential-care-australia-taking-stock-and>
- CFCA Paper No 37 February 2016, "*Trauma-informed care in child/family welfare services*" <https://aifs.gov.au/cfca/publications/trauma-informed-care-child-family-welfare-services>

2. INDEPENDENT CHILDREN'S LAWYERS (ICL) – PRACTICE AREA

Hague Convention on the Civil Aspects of Child Abduction

- International law and the child – Australian Government Attorney General's website (www.ag.gov.au)
- Michael Nicholls QC, "*Australia and the 1996 Hague Child Protection Convention*" (2013) 3 Fam L Rev 123

Practice and procedure

- Family Court of Australia Practice Directions

Social sciences

- Refer to readings under "social sciences" in Child Protection Practice Area of this guide
- David Edney and David Deam, "*Drug testing in Family Law*", Law institute Journal, Volume 80, number 4, April 2006 48-53
- J McIntosh, "*Enduring Conflict in Parental Separation: Pathways of Impact on Child Development*" (2003) 9(1) Journal of Family Studies 63
- J McIntosh and R Chisholm, "*Shared Care and Children's Best Interests in Conflicted Separation*" (2007) 20 Australian Family Lawyer 1
- J McIntosh, "*Entrenched conflict in Parental Separation: Pathways of Impact on Child Development: A synopsis of recent research*" 2002

- A Robinson, Brian Rogers and Bruce Smyth, “*Mental health and the Family Law system*” *Journal of Family Studies*, 2 10 (1) April 2004
- Special Issue on Alienation – *Family Court Review*, Volume 48, number 1 January 2010, pp 6 – 47

3. YOUTH CRIME – PRACTICE AREA

Legislation

Commonwealth

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

State

- *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 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)

Further Reading

- Cashmore, Judy, *"The link between child maltreatment and adolescent offending: Systems neglect of adolescents"* 2011, Family Matters Issue 89, pp. 31-41.
- Fox, Richard G and Nadia Deltondo, *"Victorian Criminal Procedure: State and Federal Law"*, 14th ed, Monash University Law Book Co-operative, 2015
- Freckleton, Ian, *"Indictable Offence in Victoria"*, 6th ed, Law Book Company 2015
- 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
- Magistrate Peter Power's Research Materials
- Nash QC, Gerard & Bagaric, Mirko, *"Criminal Legislation Victoria"*, Annotated. 2011: Bourke's Criminal Law, soft cover, Butterworths
- Odgers, Stephen, *"Uniform Evidence Law"*, 12th Ed, 2016
- Bagaric, M., *"Ross on Crime"*, 7th Ed, 2016
- Springvale Legal Service, *"Lawyers Practice Manual Victoria"*, looseleaf, Law Book Co Part 6 – Criminal Prosecution of Children
- Operating Procedures of the Victoria Police Manual:
 - VPMG Bail and remand
 - VPMG Charges, procedure and guidelines
 - VPMG Disposition procedure and guidelines
 - VPMG Interview special categories of person
 - VPMP Disposition policy rules
 - VPMP Police Care or Custody
 - VPMP Cautions
- DHHS Child Protection Manual on referrals from Children's Court Criminal Division and Therapeutic Treatment Report and Order
- DHS (as it then was) Practice Resources in particular
 - Adolescents and their families
 - Adolescents with sexually abusive behaviours
- Judicial College of Victoria, Children's Court Bench Book