Running a child focussed matter

What are the preconditions to having an interim hearing?
- What subpoena evidence is required?
  - Note: subpoena all parties' records, not just the other parent
  - FaCS; Police; hospitals; counsellors; doctors; schools
  - Remember to file Notices of Request to Inspect
- Amended Application/Response/ affidavits?
- Is an ICL required?
- Is a CDC (or equivalent) required?

Affidavit
- Admissibility
  - Use direct speech
  - Attach official documents like AVOs
  - Don't use affidavits to make submissions
- Brevity - see FCCA Practice Direction Interim Hearings No - 2 of 2017
- What does the client want?
  - Does your affidavit provide the factual basis of the orders you seek?
  - If the parents will ultimately co-parent, be careful to lay a framework for that future relationship and avoid gratuitous criticisms
  - If you're running a no-contact case be very specific
- What type of family violence?
  - If coercive controlling, set out evidence of this
  - If it is reactive explain this
- Specificity - if there are serious allegations, go to some trouble to set them out properly

Case Outline document
- Set out chronology
- Set out the orders sought in a printed short minute
- What do you identify as the issues in dispute
- Submissions (use s60CC as a template)

Communicating with Chambers and ICL
- Copy all other parties in
- If chambers, have agreed position first between parties

Negotiating an interim settlement
- Beware *Rice & Asplund*
- Consider the length of time - could be 2 years so ensure Christmas etc is covered
- Who does typescript
- Consider the practicality - eg don't give up every weekend

Client safety
- Contact security if necessary
- Arrange for client to be present via telelink
- Arrange for safe room

At the hearing
- Applicant on the left, Respondent on the right
- Announce your appearance: Applicant; Respondent; ICL
- Let the Judge know the documents you rely on (should be in Case Outline, but if you've tabbed subpoena material identify it)
- Your submissions should be in your case outline

Where is the case heading?
- Where do you see the final outcome sitting
- Is your strategy child focussed and constructive?
- If you are seeking supervision, why, and will there be an end to it?
- Would a judge see your application as punitive and disproportionate?
- What do you feel will be achieved by the Orders you seek?
- Beware of burning relationship bridges unnecessarily

Identification of type of family violence
- Coercive controlling
- Reactive
- Situational
- Separation related

What orders are you seeking?
- Supervision
- ICL?
- Transfer to Family Court?
- Single Expert
- 69ZW Orders?
- Family therapy?
- Anchor program?
- Injunctions?
- Invitation to Minister (FaCS) to join

Drug testing
- Urinalysis
- Hair follicle
- Chain of custody
- Who pays?
- Who makes the request?
- Consequences of dirty test result

Be child focussed
- Consider age of children
- Effect on children of proceedings?
- Weigh the benefits of protective orders against the loss of relationship
- Any views; how will evidence be obtained of this?

Procedural fairness
- Always recommend independent legal advice to self-reps
- Adhere to time limits
- Give other parties fair warning of any application you intend to make