

## Q6

### WHAT DO THE COURTS NEED TO BE THINKING ABOUT?

*"This court is different. We don't do conflict. We minimise hostility. This is about solving problems."  
[FDAC judge]*

*"I have never heard parents speak so openly in court as they do in FDAC. I think it's really healthy. Their confidence develops. They move from rigidity to feeling more relaxed and you see them build a relationship with the judge."  
[local authority social worker]*

*"Your child is a great credit to you both. You are doing so well. You deserve a medal for the changes you have made in your life. Thanks very much for that."  
[FDAC judge]*

*"Grandmas will always be welcome in this court. We appreciate the level of support that the family is providing."  
[FDAC judge]*

Court staff and judges need to consider where the court should sit, with what frequency, which judges should hear FDAC cases, and how best to achieve judicial continuity throughout. The London FDAC had two main judges, with two back-up judges covering for occasional holiday and sick leave.

The likely number of FDAC cases per year will inform decisions about how frequently the court sits, and the number of judges needed. The size and capacity of the FDAC team, and the way in which the team is commissioned, will impact on the number of cases likely to be coming into an FDAC court. In London, the number of FDAC cases per year is 47, with one new case starting every month. In newer sites, the aim is for around 20-25 cases in the first year, with more expected in subsequent years. The London FDAC court sits each Monday, with non-lawyer reviews held in the morning and the afternoons used for hearings involving lawyers, including the first hearing of new cases.

It is important to remember that these are cases that would in any event be coming before the court in care proceedings. The difference about FDAC cases is that they will have more hearings because of the regular non-lawyer reviews. There is evidence from the independent evaluation that this is counter balanced to a certain extent by a reduction in contested proceedings.

Special attention will be needed to decide where best to locate the FDAC court in areas covering rural or widespread populations. For example, in Buckinghamshire and Milton Keynes they decided to have two locations for FDAC: one at the care centre, and the other at a magistrates' court, to ensure that parents from areas far away from the care centre will have less difficulty travelling to court regularly.

Thought will need to be given to transport for parents, especially given the frequent court attendance needed. In Buckinghamshire/Milton Keynes a scheme of volunteer drivers run by a voluntary organisation has been extended to cover parents needing help to get to court. In East Sussex the local authority provides families with travel expenses and travel warrants.

Also important will be consideration about facilities at the court. Traditional court room layouts are not the best for a problem-solving court approach and so, if possible, it will be helpful to identify a court room that can be modified to provide a more inclusive environment. On FDAC hearing days you will need to provide a room where the specialist team can be based, a room for private consultations for parents and lawyers, and a waiting area outside the court room for parents who are waiting for their hearing and for other family members and children who come with them.

### **Reflections about getting going at court, from the first UK FDAC judge**

*"It's important to be more informal than in traditional proceedings, and not be too caught up in process.*

*Too many parents have said that they did not feel that they were really involved in proceedings in which their children were removed. Too many have said that their lawyers did all the talking and that it was as if they were not there. Too often they say that the proceedings seemed punitive.*

*At the same time it is important to retain the authority of the court. I do not believe that this is as difficult as some might think. On the whole people are predisposed to respect the authority of the court and, I think, more so when they feel supported by the process.*

*It follows that the layout of the court is important.*

*I am always happy for a child to be in the courtroom, unless there is a good reason why not. Usually it will be a child in a pram or pushchair, or a toddler. I put up with noise!*

*I think the judge should to be on the same level as everyone else, and that the parents to be next to their lawyers.*

*I always try to ask myself if I am being fair to the person I am dealing with. This seems particularly helpful in FDAC. You will be dealing with difficult cases and people who have such severe problems, and having to balance the best interests of children against the difficulties experienced by their parents.*

*And remember, none of this is quantum physics! Develop your own style. Be considerate, tolerant, empathetic, supportive, sometimes sympathetic, and above all human and humane. Remember how hard it must be to be taken to court about the thing that we all care about most – how we care for our children. But never lose the authority of the court.”*