

## 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]

### JUDGES AND COURT

Judges need to be committed to the problem solving court approach and prepared to receive training in this way of working, including an introduction to motivational interviewing techniques. It is helpful if Judges build a relationship with the specialist team as well as with the parents who are attending the non-lawyer reviews. The FDAC National Unit provides joint training for the Judges and specialist team members which helps to support the development of the relationship between the Judge and the team from the beginning. Contact The National Unit at [info.FDACnu@tavi-port.nhs.uk](mailto:info.FDACnu@tavi-port.nhs.uk) who will let you know if they are available and if not point you in the direction of someone suitable from an established FDAC team or an FDAC advocate.

It is also important to have court staff and administrators involved from the outset so that they are clear about the different approach in FDAC and are able to help in terms of listing, venues, space for the team on FDAC hearings days and so on.

### JUDICIAL CONTINUITY AND FREQUENCY OF COURT

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. 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 most common arrangement is for a site to have two main judges alternately sitting fortnightly for a half day or day depending on the number of cases, with two back-up judges covering for occasional holiday and sick leave. At a minimum teams should see 32 cases (8 per keyworker) per annum.

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 additional fortnightly 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.

**Facilities at court:** 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, so for example, where the Judge can be on the same level as professionals and parents and/or where the parents can speak easily to the Judge. 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 should 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.”*

There is detailed guidance available for FDAC Judges. If you want to find out more contact [info.FDACnu@tavi-port.nhs.uk](mailto:info.FDACnu@tavi-port.nhs.uk) or contact and FDAC team or advocate [here](#) to ask for a copy of the guidance.