

FDAC: Giving Hope

District Judge Richard O'Hagan

Black Country FDAC Open Day 8 May 2024

FDAC is a precious resource. Today is about celebrating it, but also about protecting it, and building on what we have here achieved here in the Black Country. Thank you all for coming today.

I wanted to start by sharing something personal about my own journey through the care system, first as a solicitor and later as a judge. Other speakers will be sharing information about FDAC, its aims and objectives, how it works, and the hard evidence that shows that it does work. I hope and believe that you will find what they have to say informative and inspiring. I'm not going to cover any of that territory now. This is personal.

It began for me with my first care case. It was the late 1990s. I was a newly qualified solicitor. I was mainly dealing with the work that all rookie solicitors tend to do, the non-mols and the straight-forward child contact disputes. Then, one day, I was asked to see a new client who had turned up without an appointment. There was no one in the office more experienced than me available, and so I saw her.

The client told me that she had given birth two days earlier. Her baby girl was still in hospital. The local authority had issued proceedings, and they were seeking to remove the child. The case was listed before the magistrates that afternoon (all care cases started before the magistrates back then). She told me more. This was her fourth child. The other three had all been removed, and placed for adoption. She was only in her mid-20s. That was the same age as me at the time. The reason for all this was, she told me, because of her mental health and because she couldn't get off alcohol and drugs. She also said that her boyfriend got "a bit physical" at times. She added that, "He only hits me when I deserve it." Those stark, appalling words revealed so much. She not only accepted being subjected to violence, but she believed that she deserved it.

So, I went to Court that afternoon. Shortly after I arrived, I met the solicitor for the child. He was an older man, insensitive, pompous and arrogant. He told me that my client needed "to sort herself out". He said that she "just has to come off the alcohol and drugs". Inexperienced as I was, I could see that the word "just" was doing a lot of the heavy lifting in that statement. At that stage, I didn't know how much. Inevitably, the justices made an ICO, and the child was removed.

To my surprise, the client wanted me to continue representing her. She said that it was because I was "kind". I didn't properly understand that at the time. I did later. What she meant was that she knew she would lose this child. She had already lost all her previous children. Since she believed that she would inevitably lose the baby whatever she or her solicitor did, it wasn't important to her that she should have a really good solicitor. What mattered to her was that she should have a solicitor who would be kind to her whilst all this happened. She didn't want a skilled, experienced

advocate, but someone to support her whilst she went through the process that she knew from the start was going to come to an end with her losing another child.

Shortly after the first hearing, I had the meeting with her that I shall never forget. She came in to give me instructions so that I could draft her statement. As we were talking, she told me almost matter of factly that her dad first had sex with her when she was 12. At that moment everything else that I knew about her fell into place: the chaos, the dysfunction, the fragile mental health, the need for alcohol and drugs, and the staying in an abusive relationship all made sense when set against the backdrop of childhood sexual abuse.

The case ended, as it was always going to end, with the Court making a care order, and freeing the child for adoption. In the intervening months, my client had had a social work assessment and a psychological assessment. They had come to the obvious conclusion: she was deeply vulnerable and damaged by her life experiences. She was unable to make and sustain change without intensive input. That input was never offered to her. I remember wondering why they had bothered with the assessments at all. They simply said what I always knew they were going to say. They were measuring the nature and extent of the problems that meant that she was always going to fail. Nothing was done to help her to address the problems.

Over the years that followed, I saw many other cases follow that same grim path. In some I represented the parents, and in others the child, but the end point was always the same. The assessments seemed to me to be a well-intentioned act of cruelty: they gave the illusion of hope, but they were always going to come to a negative conclusion. Something needed to be done to help parents to address their problems, not just the alcohol and drug use, but the underlying difficulties that had led the parent to use alcohol and drugs to manage. There were no adequate resources out there. So, we continued in case after case, measuring the sadness of people's lives but doing nothing to change it.

I didn't know it at the time, but a district judge sitting in London was having the same experiences that I was having, seeing the same things that I was seeing, and feeling the same sense of helplessness and despair at the situation. His name was Nick Crichton. He decided to do something about it. He had learnt about problem solving courts from trips to America, and he used what he had learnt to develop the model that is now FDAC.

Shortly after my appointment as a DJ, I was given the opportunity to work in FDAC. From the start, it was clear to me that here was what I had been longing for when I was a solicitor, something which would give hope to the vulnerable, traumatised people who are the mainstay of the care system. It wasn't perfect (nothing is) but it was fair, and it was sincere in its attempts to help parents turn their lives around, and it offered hope.

The hope was real. Not every parent who goes through FDAC is able to have their child remain in their care. For some the underlying problems are too deeply entrenched to be resolved in timescales that meet the needs of the child or children for decisions to be made. Many parents do succeed though, certainly enough to

make the whole thing worthwhile. Even for those who don't, the changes achieved may be enough to create a foundation that will enable them to succeed when their next child arrives. For all, there is a real possibility of success, a real basis for hope.

The feeling when the parent does succeed is wonderful. I am just the judge dealing with the cases. I feel that giddy rush of joy when it happens. I can only begin to imagine how it must be for the parents themselves. I also think of those parents' solicitors, of how it must feel to know that their clients have a chance, and not to feel the despair I felt when I knew that there was nothing to offer my clients. Above all, I think of the children, of the impact on them of knowing that their parents were given that chance, and better still when their parents were able to make the changes needed.

There are wonderful moments along the way. For me the best was an FDAC conference in Ludlow in early 2024. Gemma Hatfield, head of our local team, said she was going to bring on a parent who had successfully graduated from FDAC. I had no idea that she was going to do that, and I didn't know who it would be. It was one of my parents, a man whose case I'd handled. He saw me, forgot he was meant to be talking, charged over to me, and gave me a huge hug. Only in FDAC would that ever happen.

I hope today is going to be a positive experience for all of you. You will hear so much said, important things to think about and to learn, and hopefully to act upon. I want to say here at the outset that these things are not abstract, not merely a matter of procedure, a different way of managing care proceedings. They're about hope, and giving that hope where otherwise it would be hopeless. That's why I believe in it, why I'm so passionate about protecting what we have and building on it. Thank you for coming and for listening.