

Formative Evaluation for the Alcohol and other Drug Treatment Court Pilot

Prepared for
Ministry of Justice

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Preface

This report has been prepared for the Ministry of Justice, and was written by Lisa Gregg from Litmus Limited and Alison Chetwin (independent evaluator), with review and contributions from Liz Smith (Litmus Limited), Timothy Taotua (Integrity Professionals Limited) and Maria Marama (Māori evaluator).

This document reports on findings from the formative evaluation of the Alcohol and Other Drug Treatment Court (AODT Court) pilot. Appendices for this report are contained in the Technical Appendices Report (Litmus, 2014).

We acknowledge and thank all those who participated in interviews and group discussions, including AODT Court participants and their whānau.

We also thank the AODT Court co-ordinator for help with the data collation and the AODT Court case managers for help with accessing court participants to interview. Thanks also go to those who provided venues for the interviews and group discussions.

Glossary

AA	Alcoholics Anonymous
AOD	Alcohol and other drug
AODT Court	Alcohol and Other Drug Treatment Court
AODT Court Steering Group	Wellington based steering committee made up of national level representatives from the justice and health sectors, chaired by the Ministry of Justice, District Courts representative
AODT Court Treatment Network Steering Group	Auckland based steering group made up of treatment provider representatives and the AODT Court judges, led by Odyssey house
CADS	Community Alcohol and Drug Services
CAG	Community Advisory Group; a voluntary group of community representatives based in Auckland to support the AODT Court
CMS	Case Management System
Clients	All those receiving alcohol and drug treatment, including AODT Court participants
District Court	Refers to those courts using standard court processes
DSM-IV	Diagnostic and Statistical Manual of Mental Disorders Fourth Edition
EBA	Driving with excess breath/blood alcohol
ESR	Institute of Environmental Science and Research
G4S	Provider of the electronic alcohol monitoring anklets, known as SCRAM (Secure Continuous Remote Alcohol Monitor)
JAX	Justice Application Express, a Ministry of Justice repository for AODT Court data
Karakia	Māori incantations and prayers, used to invoke spiritual guidance and protection
Kaumātua	Adult, elder, elderly man, elderly woman, old man
Kuia	Elderly woman, grandmother, female elder
Māori tikanga	Correct Māori procedure, custom, meaning, practice and convention
Ministry	Ministry of Justice
NA	Narcotics Anonymous
NHI	National Health Index number
NDCI	National Drug Court Institute
Participant	Offender who is part of the AODT Court
Pou Oranga	Māori adviser to the AODT Court

PDS	Public Defence Service
RoC*RoI	Risk of re-conviction and Risk of re-imprisonment score (a computer-based statistical model used by the Department of Corrections)
SCRAM	Secure Continuous Remote Alcohol Monitor
Te Whare Whakapiki Wairua	Alcohol and Other Drug Treatment Court
Tuakana teina	The relationship between an older (tuakana) and a younger (teina) person specific to teaching and learning in the Māori context
Tupuna	Ancestor, grandparent
Whāea	Mother, aunt, aunty
Whakamana	To give authority to, give effect to, give prestige to, confirm, enable, authorise, legitimise, empower
Whānau	Extended family, family group, a familiar term of address to a number of people. May also include friends who may not have any kinship ties to other members
Whare kai	Dining hall

1. Executive summary

The Alcohol and Other Drug Treatment Court (AODT Court) pilot is designed to supervise offenders whose offending is driven by their alcohol and other drug (AOD) dependency, by providing judicial oversight of their engagement with treatment programmes and rehabilitation support services before they are sentenced. The desired outcomes of the AODT Court pilot are to: reduce reoffending and imprisonment; reduce drug and alcohol consumption and dependency; positively impact on health and wellbeing; and be cost-effective.

The Ministry of Justice commissioned this formative evaluation of the AODT Court pilot in the Auckland and Waitakere District Courts one year after its commencement in November 2012. The formative evaluation has drawn on observations, interviews with stakeholders and participants in both courts, and administrative data related to the pilot. Litmus Limited will also carry out a process evaluation and a cost-effectiveness study (by Sapere Research Group) over the next four years.

1.1 Summary of findings

Development of the AODT Court

- The judiciary, the Law Commission and the Ministry of Justice with support from the Ministry of Health, Department of Corrections and New Zealand Police have all contributed to the development of the AODT Court, which is part of the Addressing the Drivers of Crime work programme in New Zealand.
- \$1.93 million per year for five years has been invested to support the pilot of the AODT Court in Auckland and Waitakere District Courts with an expectation that agencies will absorb additional operational costs. Additional funding has been provided from the 'proceeds of crime' and from the Drivers of Crime programme to purchase extra treatment beds.
- The AODT Court aligns with international best practice. Distinctive New Zealand features are: the AODT Court is a pre-sentence initiative; the inclusion of Māori cultural practices; the inclusion of participants charged with driving while intoxicated; the use of case managers from the health sector and peer support workers; and the ability for participants to attend 12-step meetings.

Overview of AODT Court processes

- The AODT Court is aimed at defendants whose offending is driven by AOD dependency. The AODT Court is a specialist District Court and operates under general legislation and judicial discretion.
- The AODT Court provides selected defendants, who are facing a term of imprisonment of up to three years, with an opportunity to participate in an AOD treatment programme before sentencing. Where the AODT Court is not offered, the District Court¹ process is followed.

¹ In this report the term 'District Court' refers to those courts using standard court processes.

- Potential participants are identified when appearing at the Auckland or Waitakere District Courts and considered against a set of criteria. The District Court judge refers participants to the AODT Court based on a specialist alcohol and drug assessment and other information which demonstrate they meet the AODT Court eligibility criteria.
- Where a referral is made, the defendant's eligibility is discussed by the AODT Court team at a pre-court team meeting.
- Defendants must consent to participate and plead guilty to be accepted into the AODT Court. Participants are on bail while participating in the AODT Court. A treatment plan is created based on the individual's assessed treatment needs.
- The length of the AODT Court programme varies depending on participants' needs and can last between 12–18 months. The AODT Court programme has three phases. In phase 1 the focus is on intensive treatment and rehabilitation, frequent random drug and alcohol testing and court appearances. In phases 2 and 3, components of phase 1 continue, and there is increasing emphasis on vocational, educational and personal goals with the intent of securing employment, or entering study or training.
- The AODT Court has a system of graduated incentives and sanctions that are delivered by the court.
- AODT Court participants may exit the court through termination or graduation.
- Graduates are AODT Court participants who successfully complete all three phases of the AODT Court programme. The graduates are sentenced by the AODT Court judge and successful graduation is taken into account at that sentencing.

Governance and management

- The AODT Court Steering Group oversees the pilot. The Ministry of Health has contracted Odyssey House to lead the provision of a comprehensive AOD assessment and treatment service. A treatment provider network is led by an AODT Court Treatment Network Steering Group. The AODT Court judges have formed an Auckland-based AODT Court Community Advisory Group (CAG) whose role is evolving.
- The overall governance and operational management of the AODT Court are working as intended in the pilot's design. The continuing collaboration and information sharing among the agencies represented in the initiative are seen as a key strength in the pilot's implementation.
- The AODT Court Steering Group is seeking more timely and informative reporting so they are aware of operational issues that require discussion at a governance level. To provide context, the AODT Court judges are seeking the opportunity to present progress reports and proposals to the AODT Court Steering Group.
- The AODT Court team has sought to meaningfully incorporate tikanga Māori into the court process, based on the understanding that knowledge of culture is a significant factor in bringing about change and healing for Māori. In the pilot design, the strategies to incorporate tikanga Māori into the AODT Court are restricted to the role of community Māori representatives and not a design that embeds Māori tikanga in the AODT Court.
- Training has increased the AODT Court team's understanding of the court, the roles of other team members, and fostered good team dynamics. Further training and induction is needed for new appointees.

Determining eligibility

- AOD assessments are undertaken by the Auckland Community Alcohol and Drug Services (CADS). The number of referrals for AOD assessment is lower than the expected 300 to 400 referrals. In the first year of the pilot's operation, 197 referrals were received by CADS for AOD assessments.
- There are indications that appropriate defendants are being identified and referred to CADS. 84% of referrals for AOD assessment by CADS meet the criteria for AOD dependence and are recommended for the AODT Court. CADS are seeking feedback from the AODT Court team on the selection outcome of defendants they recommended for the Court.
- As of December 2013, 158 people had attended a Determination Hearing at the AODT Court. Of these, 99 people (63%) were accepted into the Court (49 at Auckland and 50 at Waitakere).
- The evaluation was unable to assess the application of the eligibility criteria in participant selection at the Determination Hearing as there is no central record kept of this information. Feedback from the AODT Court team highlights a lack of clarity and agreement on the eligibility of offenders with violent histories, and a lack of process to review disagreements about whether an offender is eligible.
- The most common reasons for not accepting offenders to the AODT Court from a Determination Hearing include: violence, living outside of the geographic boundary, mental health issues, the amount of time spent in custody or likelihood of a prison sentence of less than 18 months.
- Before joining the AODT Court, participants had varying degrees of understanding about what would be involved in taking part in the programme, and some were dissatisfied with information received about the AODT Court. Participants described the selection process for the AODT Court as rigorous; although some noted they were anxious about whether or not they would be accepted.
- Participants' attitudes to the AODT Court tended to evolve over time. Most commenced the programme thinking it was an easy option to avoid prison. Through their involvement in the programme, participants realised that to remain in the AODT Court required substantial commitment from them and it offered an opportunity for change.

AODT Court programme

- The AODT Court team consists of the AODT Court judge, the case manager, the court co-ordinator, the defence counsel and the police prosecutor. The AODT Court team participates in pre-court team meetings on the morning of each sitting day and in the AODT Court hearings. The AODT Court team considers reports and shares information on each participant appearing on that sitting day.
- The AODT Court team is learning to work effectively together, in particular managing their roles and the new ways of communicating in a therapeutic court. Participants gave positive feedback on all roles within the AODT Court team.
- The AODT Court team shows good information sharing and collective commitment in the pre-court team meetings and court hearings. The team noted that care is needed to respect and value the contribution of all team members based on their areas of specific expertise and to manage the balances between judicial and therapeutic processes, particularly with regard to information sharing.

- For the AODT Court case managers, the AODT Court co-ordinator, and defence counsel, their role is expanding beyond its intended focus to the detriment of their capacity to manage full caseloads. In part this reflects that some issues identified at pre-court meetings and in court hearings are not clearly allocated to a specific AODT Court team role, for example ensuring participants have appropriate social and financial supports to take part in the AODT Court.
- The court session is a powerful teaching and community-building activity. Participants had mostly positive reactions to the court hearing describing it as humbling, strength-based, supportive, and encouraging.
- Both the pre-court team meetings and court hearings are becoming too long as caseloads increase.
- At December 2013, 99 participants had been accepted into the AODT Court, with 73 current participants. Further work is required to ensure the court reaches the target of 100 participants at any one time (50 in each court).
- Participants and whānau appreciated the use of tikanga Māori in the AODT Court; although the Māori provider hui believed that the use of tikanga is in its infancy.
- There is some evidence from participants that the incentives and sanctions contribute to modifications in their behaviour
- Participants are working through the three phases of the AODT Court with most in phase 1. The evaluation could not assess the length of time in each phase.

Victim engagement

- Overall, victims' voices are not well represented in the Determination Hearing process.
- The involvement of Victim Advisors has been minimal as few victims have asked to be kept informed.
- The court processes are evolving as participants move through the AODT Court phases. As some participants are nearing the third AODT Court phase, the processes for victim involvement in restorative justice are beginning to be thought through.
- The intention of the AODT Court is to introduce restorative justice processes into phase 3 of the court process. For victims however, this may be too late in the process, given there will be a long delay between the offence and phase 3.

Treatment

- The Ministry of Health has contracted with Odyssey House as the lead provider of a comprehensive AOD assessment and treatment service to support the AODT Court pilot.
- An AOD Court treatment provider network has been established which is a collaboration between Odyssey House, Higher Ground and the Salvation Army.
- Good integration exists between the AODT Court and the treatment programmes, and the governance arrangements are working effectively.
- Participants who have been accepted into the AODT Court and are in custody awaiting treatment are not able to take part in the existing treatment preparation sessions. This lack of preparation can make their adjustment to treatment more difficult.

- There is a limited range of treatment types available in the pilot region and as a result it can be difficult to place participants in a programme that best meets their needs. Gaps identified in the existing treatment types are community-based treatments with accommodation options, residential treatment options, treatment facilities that meet the specific needs of women and of specific cultural groups, and programmes to address criminal behaviour.
- Participants interviewed were in the main positive about their treatment programmes as they offer a strong support network, and a strategy to prevent relapse. Treatment is not without its challenges with participants noting the need to adjust to treatment regimes. This adjustment can initially involve disruptive behaviour and absconding from the treatment programme.
- Peer support workers are responsible for engaging and retaining AODT Court participants in the treatment pathway, and for helping them to build and maintain support for their recovery. The peer support workers' role is expanding beyond its intended scope and thus impacting on their capacity to undertake all expected tasks.
- There is a significant need to access well supervised, AOD-free community accommodation in a supportive and safe environment. The relevant person in the AODT Court needs to build relationships to access existing suitable community accommodation. The Wings Trust may be contracted to provide additional beds for AODT Court participants.
- Participation in and support from AA and NA in the AODT Court is a strength of the AODT Court pilot as 12-step meetings help participants learn how to engage with people, build relationships and then integrate back into the community.

Testing

- Drug use is tested randomly twice a week using a urine test at two community based clinics and at residential treatment locations. Stakeholders reported that the use of the instant urine cups for drug testing is working well as only not negative samples need to be couriered for lab testing.
- Alcohol is tested through Secure Continuous Remote Alcohol Monitor (SCRAM) anklets and breath testing. The AODT Court has 30 SCRAM anklets which allow for 24-hour monitoring of alcohol consumption. Concerns have been raised about the adequacy of monitoring alcohol use after SCRAM anklets are removed.
- Stakeholders consider the AOD testing to be a critical area of the AODT Court process. Testing provides reliable information about participants' AOD use and also acts as a deterrent to taking drugs.
- The majority of participants are positive about the AOD testing. Many participants reported that testing helped motivate them to stay sober, particularly in the early stages of their participation with the AODT Court.
- There are three main issues with the AOD testing: 1) Differing perceptions between the AODT Court and the testing providers on the timeliness and content of the information reported; 2) Queries about the consistency of testing delivered against agreed protocols in residential treatment facilities; 3) The location of community-based testing sites due to the distance participants must travel to be tested.

Exiting the AODT Court

- There are two ways a participant can be exited from the AODT Court: termination or graduation. As the AODT Court is one year into the pilot, there have been no graduations as no participants have reached this stage.
- In total, there have been 26 terminations from the AODT Court from the 99 cases accepted (26%). It is too early in the pilot to make a judgement on the termination rate. Initial indications suggest the rate looks acceptable compared to international figures. However, there are wider contextual factors that will need to be considered in making comparisons such as eligibility and termination criteria.
- The AODT Court team expects there will be a reasonable number of terminations from the AODT Court, given the high-risk and high-needs group targeted. There is recognition that terminations are not necessarily failures and the success of the AODT Court is not restricted to the number of graduations.
- Some stakeholders felt more could be in place to support the AOD recovery of those who are terminated from the AODT Court.
- Stakeholder opinions vary on when someone should be terminated from the AODT Court and whether appropriate sentences are imposed on those terminated. Some stakeholders felt there were cases that were afforded too many warnings when they were not demonstrating sufficient progress through a phase of the AODT Court.
- Given that the first graduations are expected in March–April 2014, systems to support those graduating from the court are starting to be considered and developed.

Data collection

- Data on all those considered for AODT Court at the District Court is recorded in Case Management System (CMS). The AODT Court Justice Application Express (JAX) database starts from the point a referral is made to the AODT Court for a Determination Hearing, and follows participants through the AODT Court pathway.
- AODT Court data is also collected through: CADS data on AOD assessments; Institute of Environmental Science and Research (ESR) drug and alcohol testing data; case managers' treatment data; New Zealand Police workforce data collected for the AODT Court roles².
- At this stage of the evaluation, the focus on the data collection has been on the JAX data system. Problems have occurred with both inputting data and obtaining reports from JAX resulting in gaps in the data reported for the evaluation. Issues with JAX seem to have occurred due to insufficient systems and workforce capacity for ensuring data quality.
- Overall the main data challenges are:
 - some incomplete and unclear data definitions which have resulted in inconsistency in interpretation and data entry across the courts
 - limited ongoing user training to accompany use of the database
 - inability to access all the data collected in aggregated form
 - insufficient rules loaded into JAX to ensure data accuracy, consistency, and completeness.

² Data on New Zealand Police workforce, ESR testing, and case managers' treatment data was not available for the formative evaluation. It is hoped that this data will be made available for the process evaluation as required.

1.2 Assessing and strengthening AODT Court pilot implementation

Overall the implementation of the AODT Court pilot has broadly followed the intended pilot design as specified in the AODT Court handbook (Ministry of Justice, 2012b). Detailed below is an assessment of the implementation of the pilot's components together with suggested areas for strengthening implementation.

Governance, operational management and training

The overall governance and operational management of the AODT Court are working as intended in the pilot's design.

Areas to strengthen implementation are:

- Ensure timely and informative reporting to the AODT Court Steering Group so they are aware of operational issues that require discussion at a governance level.
- Consider facilitating the involvement of the AODT Court judges at part of the AODT Court Steering Group meeting to provide context to progress reports and proposals they are putting forward.
- Clarify the role of tikanga Māori in the design of the AODT Court to ensure alignment between design, governance and implementation. This reflects that the pilot design takes a narrower view of the role of tikanga Māori in the AODT Court.
- Support ongoing training and induction for new appointees.

Determining eligibility

The overall process for identifying defendants and determining eligibility requires further strengthening. There is a need to:

- Determine the feasibility of using a checklist to record and provide evidence that participants met the eligibility criteria at the Determination Hearing.
- Investigate the feasibility of establishing clear criteria for offenders with violent histories.
- Develop a process to review eligibility decisions where there is disagreement within the AODT Court team on whether a potential participant meets the defined criteria.

AODT Court programme

While the AODT Court team roles are working together as intended, the scope of the key AODT Court team members' roles are expanding beyond what was originally expected which is impacting on their capacity to manage increasing caseloads. Key areas to strengthen implementation are:

- Review the scope of the AODT Court case managers, the AODT Court co-ordinator, and defence counsel roles and responsibilities to address their current expansion and ensure they can complete their expected tasks within their current FTE and expected caseload.
- Determine where the responsibility for addressing participants' financial and social needs (eg, their accommodation and income) to take part in the AODT Court lies.
- Consider an occasional team debrief to discuss implementation and the tensions inherent in roles, communications and relationships within a therapeutic court model.

The AODT pre-court team meetings and court hearings are being undertaken as intended in the pilot design. Time management practices need strengthening to reduce the length of the pre-court team meetings and AODT Court sessions.

Victim engagement

Victim involvement is not working as intended. The key area to strengthen implementation is ensuring the intended process for victim involvement in the Determination Hearing process is followed.

Treatment

Treatment pathways and relationships are working as intended, although there are a number of implementation challenges to accessing timely treatment services that best meet participants' needs.

Key areas to strengthen implementation are:

- Consideration by the AODT Court Steering Group and the AODT Court Treatment Network Steering Group to determine whether there are any solutions to the identified gaps in treatment types.
- Review the scope of peer support workers' role.

Testing

There is a lack of clarity on whether the AOD testing is implemented as intended as questions have been raised over the process and quality assurance of testing. To strengthen the implementation of AOD testing:

- Facilitate communication between the AODT Court and ESR to agree expectations for future reporting and address the differing perceptions on the timeliness and content of the information reported.
- Review the quality of testing in residential treatment against AODT Court pilot design expectations.
- Investigate the quality of alcohol testing required at different stages in the court process to address concerns on the adequacy of twice-weekly breath testing to monitor alcohol use after SCRAM anklets are removed.

Exiting the AODT Court

There is insufficient information to assess the implementation of the termination process for those exited from the AODT Court against what was intended. This is an area for further investigation in the process evaluation.

Strengthening data collection

The lack of completeness and accuracy of data from the JAX data system is a problem for both the pilot and its evaluation. To strengthen the implementation of the pilot, a review of the AODT Court data collection and investigation into the issues identified with JAX is required to ensure the data collection is fit for purpose.

2. Introduction

The Ministry of Justice (the Ministry) commissioned Litmus Limited to undertake formative and process evaluations, and a cost-effectiveness analysis³ of the Alcohol and Other Drug Treatment Court (AODT Court) being piloted in the Auckland and Waitakere District Courts. This document reports on findings from the formative evaluation carried out in November 2013 after the AODT Court's first year of operation.

2.1 Background

The AODT Court pilot is designed to supervise offenders whose offending is driven by their alcohol and other drug (AOD) dependency by providing judicial oversight of their engagement with treatment programmes and rehabilitation support services before they are sentenced. The desired outcomes of the AODT Court pilot are to:

- reduce reoffending
- reduce AOD consumption and dependency
- reduce the use of imprisonment
- positively impact on health and wellbeing
- be cost-effective.

The AODT Court pilot is part of government's *Addressing the Drivers of Crime* work programme. The Drivers of Crime is a whole of government approach to reducing offending and victimisation, with a particular focus on vulnerable people, including Māori (Ministry of Justice, 2011b).

The AODT Court is a key initiative in the Ministry's Statement of Intent 2013–2016 and is expected to contribute to making communities safer by preventing crime and victimisation (Ministry of Justice, 2013). Section 3 of this report details information on the background, development and design of the AODT Court in New Zealand.

Evaluations of initiatives of strategic importance, such as the AODT Court, typically inform the ongoing investment in the initiative and potentially contribute to decisions on expansion to other locations. The AODT Court pilot provides an opportunity to evaluate the drug court approach in the New Zealand context. The planned four-year evaluation enables sufficient numbers of participants to progress through the AODT Court. It allows for a study comparing the cost-effectiveness of the AODT Court with other justice system options that use treatment.

2.2 Formative evaluation of the AODT Court

The first phase of the evaluation is a formative evaluation. The formative evaluation focuses on the implementation of the AODT Court after the pilot has been in operation for one year, to help strengthen and improve the pilot.

³ Litmus has sub-contracted Sapere Research Group to undertake the cost-effective analysis.

The goal of the formative evaluation is to assess how well the AODT Court has been implemented against the agreed design and whether any improvements could be made to help ensure the pilot is effective in meeting its outcomes in the longer term. The objectives of the formative evaluation are to:

1. examine the operation of the AODT Court one year after implementation
2. assess how well the AODT Court has been implemented
3. understand what can be learned from the implementation process and identify any improvements that could be made to the pilot.

The Technical Appendices Report (Litmus, 2014) contains the detailed evaluation questions for the formative review.

2.3 Formative evaluation methodology

Formative evaluation design

The formative evaluation draws on a mixed-method evaluation approach involving immersion visits to each AODT Court and data review. Details of the design are in the project plan (Litmus, 2013).

Fieldwork was undertaken between November and December 2013. Immersion visits took place at each court between 12–15 November in Waitakere and 20–26 November in Auckland.

Observation of the AODT Court

The Waitakere AODT Court was observed on Thursday 14 November and 19 December, and the Auckland AODT Court on Friday 22 November. This included the pre-court team meetings and open court session.

The AODT Court judges authorised this observation. The evaluators were introduced at the start of the pre-court team meeting. Notes were taken during the observation without identifying individual cases or participants.

AODT Court stakeholders and providers

In total, 30 stakeholders and providers⁴ were interviewed and three group discussions held across the two AODT Courts. Some participants were interviewed more than once to collect the information required.

Litmus worked with the Ministry to develop a sample frame that ensured a breadth of participation of stakeholders and providers who are involved or engaged in the implementation and delivery of the AODT Court across the two courts. Table 1 details the number of interviews and group discussions undertaken by provider type.

⁴ Litmus exceeded the contracted expectations to deliver 24 stakeholder interviews plus three group discussions. Additional interviews were identified and included to ensure completeness of data collection.

Table 1: Sample achieved for stakeholders and providers

Stakeholder/provider type	Number
Individual interviews	
Case managers	3
Community Advisory Group individual interview	1
Community Alcohol and Drug Services	2
Community Probation	2
Court staff (including the AODT Court co-ordinator)	3
Defence counsel	4
International expert	1
Judge	2
Police prosecutor	2
Peer support	1
Testing providers	4
Treatment providers	4
Victim Advisor	1
Group discussions	
AODT Court Steering Group (Wellington based)	3 participants
Community Advisory Group	5 participants
Māori community representatives	5 participants
Total number of people	43

The AODT Court co-ordinator provided a list of names and contact details for people in the roles identified. Litmus invited stakeholders and providers to take part in an interview or group discussion during the week of the immersion visit. Further individuals were identified by participating stakeholders and providers.

Face-to-face interviews were held at the workplace of the stakeholder/provider or at the court. Two interviews (and two follow-up interviews) were held over the telephone.

Discussions focused on the early implementation of the AODT Court, how it was implemented, what is working well, not so well and any unintended effects of the implementation. Discussion guides covered the main evaluative areas and were tailored for each role.

All interviews were audio-recorded, and notes were taken during the interview and from the audio recordings. Participants were given the opportunity to review the notes from their interviews. All interviews followed an informed consent process. Evaluation tools can be found in the Technical Appendices Report (Litmus, 2014).

AODT Court participants and their whānau

In total, 19 AODT Court participants were interviewed (Table 2). Three of these interviews included a whānau member or support person. In addition, one separate individual interview was held with a whānau member of a participant who was not interviewed.

Table 2: Sample achieved for AODT Court participants and whānau

Individual interviews	Number
Waitakere AODT Court participants	10
Auckland AODT Court participants	9
Whānau or support people	4
Total number of people	23

Litmus worked with AODT Court case managers to identify potential participants. Case managers approached AODT Court participants to seek their agreement to be contacted by Litmus for the evaluation. Litmus contacted those who agreed to explain the evaluation, what was involved in participating and to ask if they would like to take part. Litmus’ contact with participants was either over the telephone or at the court on the day of appearance.

For ease of accessing participants, priority was given to contacting those who were due to be appearing in the AODT Court during the immersion visits. Care was taken to obtain a mix of AODT participants, based on:

- gender
- ethnicity
- current phase in the AODT Court
- type of dependency
- residential treatment.

All interviews were held face-to-face at the court on the day of appearance or at a safe community location mutually agreed by the participant and evaluator, such as at treatment providers’ premises. Interviews lasted between 15 and 60 minutes. No incentives were given. Transport costs were covered where interviews were not held at the court and where participants were required to travel to the venue.

Discussions with participants and whānau focused on their experience with the referral to the AODT Court, the AODT Court and treatment pathways, the AOD testing and, overall, what had gone well and what could be done better.

All interviews were audio-recorded and notes were taken from the audio recordings. Participants were given the opportunity to review the notes from their interviews. All interviews followed an informed consent process.

The Project Lead briefed the team on interviewing and safety protocols for themselves and participants, including how to manage any disclosures of substance use or offending. See the Technical Appendices Report for the interviewer safety protocols (Litmus, 2014).

Observation of a whānau hui

A Litmus team member was invited to observe a whānau hui initiated by the Pou Oranga for the AODT Court and hosted at Hoani Waititi Marae. The hui included AODT participants and their whānau. It was a celebration and acknowledgement of whānau for their support to their whānau member who was a participant in the AODT Court programme.

The Litmus evaluator observed the process, listened to participants speak of the impact of the AODT Court on them and their whānau, and had the opportunity for informal conversations with some whānau members about their views of the AODT Court. This information contributed to the analysis for this report.

AODT Court administrative data

Litmus reviewed the AODT Court's administrative data to assess the consistency and integrity of the data being collected and recorded during the pilot. Attention was given to completeness, timeliness and fitness for purpose. Data was drawn from the Justice Application Express (JAX)⁵ and Community Alcohol and Drug Services (CADS). Data about the AODT Court is also collected in the Court's Case Management System (CMS). This data was not available for inclusion in this report.

Information was also sought on what data is being collected by New Zealand Police (workforce data), the Institute of Environmental Science and Research (ESR) (drug and alcohol testing data) and case managers (treatment data). Data on New Zealand Police workforce, testing, and treatment can be made available for later stages of the evaluation, as required.

Analysis

A systematic approach was applied to the analysis of the data from the immersion visits, whereby all qualitative interview and observational data is coded and grouped into concepts and categories relating to the overall formative evaluation questions.

Focus was placed on understanding how the AODT Court was implemented, what was working well, what was not working well and identifying any improvements that could be made. Data was initially coded into the following topics, which reflect the broad process of the AODT Court:

- development of the AODT Court in New Zealand
- leadership, governance and management of the AODT Court (including training)
- determining eligibility
- AODT Court programme
- victim engagement
- AOD treatment
- AOD testing
- exit and terminations
- overall strengths and challenges of the AODT Court.

Within these topics, sub-themes were identified. Where AODT Court data was available, it was included in the analysis of each topic. Critical consideration was given to AODT Court participants' experiences of the AODT Court processes.

⁵ A Ministry data repository.

Using feedback from participants and data, an evaluative assessment was made on whether the pilot was implemented as intended (Ministry of Justice, 2011 a & b) and to identify areas to strengthen the ongoing implementation.

2.4 Evaluation caveats and learnings

The Litmus team is confident that this report accurately represents the views and perceptions of stakeholders and AODT Court participants who contributed to the formative evaluation, and is supported by the wider documentation and literature and AODT Court data (where available). The consistency of themes across stakeholders and participants strengthens the findings presented.

In considering the findings of the formative evaluation, some caveats are acknowledged.

- Analysis of the AODT Court data is based on data that could be extracted from JAX in a timely way. There are gaps in what data could be extracted in aggregated form (refer section 12). Other data limitations include missing and inconsistent data and differences in definitions of some variables. The data presented from JAX therefore needs to be treated with caution.
- AODT Court participants interviewed were mostly in phase 1 or 2 of the AODT Court process, which is reflective of these participants' progress through the court. One interview was held with a person terminated from the AODT Court. There is, therefore, limited information on the final stages of the court process and on being exited from the AODT Court from the participant perspective.
- AODT Court participants interviewed were identified by case managers. It is possible there may have been sample selection bias.
- While participants' whānau and support people were included in the evaluation, the voice of whānau is not strong. Priority was placed on achieving participant interviews for the formative evaluation. Participants may not come to court with whānau, choose to be interviewed alone or whānau decline to be interviewed. Further consideration needs to be given to the priority and process for including whānau in the process evaluation.
- Victims were not included in the evaluation. Insights into a victim perspective of the AODT Court were provided by stakeholders only. Further consideration needs to be given to the inclusion of the victim's voice in the process evaluation.
- G4S⁶ was not identified by the Ministry as a main stakeholder for this phase of the evaluation and has not been interviewed. Interviews were held with ESR which has overall responsibility of the testing and subcontracts to G4S. When the formative evaluation was scoped, the Pou Oranga (Māori adviser) had not been appointed. On this basis, the Pou Oranga was not identified by the Ministry as a stakeholder to interview for the formative evaluation. This is an important role in the AODT Court, and it is recommended the role is included in the process evaluation in 2015.

⁶ Provider of the electronic alcohol monitoring anklets, known as SCRAM (Secure Continuous Remote Alcohol Monitor).

2.5 Report structure

The report is divided into the following sections:

- development of the AODT Court in New Zealand
- overview of the AODT Court process
- governance, operational management, training
- determining eligibility
- AODT Court programme
- victim engagement
- treatment
- testing
- exiting the AODT Court
- data collection
- overall views of the AODT Court
- assessing and strengthening the AODT Court's implementation.

Each section describes the main parts of the AODT Court and identifies what is working well and not so well. Information is drawn from all data sources and clearly distinguishes the voice of the AODT Court participants. At the end of each section is a summary of key findings, an overall assessment of the implementation against the intended pilot design, and areas to strengthen the ongoing implementation.

3. Development of the AODT Court in New Zealand

This section provides an overview of the development of the AODT Court in New Zealand.

3.1 Initiation of the AODT Court in New Zealand

Considerable work has been under way across government for some years to address AOD-related harm and to reduce the impact of alcohol and drug use on the community and the justice system. The AODT Court is one of the initiatives emerging from this work, and several concurrent streams of inquiry and investigation have led to its development as shown below.

The judiciary

Over several decades, interest has been growing in therapeutic and problem-solving courts among the judiciary and legal profession in New Zealand. Members of the judiciary and some legal counsel attended international conferences on these topics, including those hosted by the National Association of Drug Court Professionals in the United States. Arising from this involvement, an international expert (a retired judge of the California Superior Court) was invited to New Zealand in 2010 to conduct a drug court⁷ training day for 12 New Zealand judges.

In 2012, funding was obtained from the New Zealand Law Society to hold a New Zealand conference on drug courts, which included international experts. The more than 200 attendees included justice and AOD treatment sector professionals. These international connections have contributed to the establishment of the AODT Court in accordance with known international best practice.

Law Commission

In 2011, the Law Commission reviewed and reported on the Misuse of Drugs Act 1975. The Law Commission report (April 2013) recommended that, subject to a full analysis of the likely cost-effectiveness and the availability of funding, the Government should consider establishing a drug court pilot. The report recommended that the pilot should use a pre-sentence model by way of adjournment and deferral of sentencing. The Law Commission also recommended that a monitoring and evaluation methodology should be developed and implemented as part of the drug court pilot.

The Law Commission was cautious about drawing conclusions about cost-effectiveness from international studies. Given the substantial costs associated with drug courts, it argued it was important that a pilot test the court's relative cost-effectiveness in comparison with other options, such as imprisonment and home detention, which can also incorporate treatment. The Ministry initially calculated the pilot would cost nearly \$30,000 per offender (Ministry of Justice, 2011a).

⁷ Drug court is the colloquial name for alcohol and other drug treatment courts.

Drivers of Crime

The AODT Court pilot has become part of government's *Addressing the Drivers of Crime* work programme. The Drivers of Crime is a whole of government approach to reducing offending and victimisation, with a particular focus on vulnerable people including Māori.

In 2011, to support the Drivers of Crime programme, Cabinet agreed to a \$10 million investment package for AOD assessments and interventions to enable better access to treatment. This investment package included \$1.93 million per year for five years to support a pilot AODT Court for adult offenders in Auckland. There is an expectation that agencies will absorb additional operational costs. Additional funding has been provided from the 'proceeds of crime' and from the Drivers of Crime programme to 'purchase' extra treatment beds.

The full investment package was designed to deliver prevention, early identification and community-based services to young people and adults with mild-to-moderate AOD problems, and intensive treatment to a small volume of offenders with severe AOD problems who go through the AODT Court. A referral to AOD treatment via the justice system was seen as an opportune entry point to help offenders with AOD problems (Ministry of Justice 2011a).

Ministry of Justice

In response to the Law Commission recommendations and the interest expressed by the judiciary, the Ministry undertook an impact and cost-benefit analysis and research review on drug courts (Ministry of Justice, 2012a). In September 2011, a briefing paper was prepared and the Ministers of Justice and Courts gave agreement in principle for the Ministry to proceed with a drug court pilot in the Auckland and/or Waitakere courts (Ministry of Justice, 2011a). The Drivers of Crime funding was confirmed in December 2011.

The contribution of other agencies

The Ministry appointed an AODT Court project manager who consulted and conducted workshops with a range of agency officials including representatives from the Ministry (Courts, Research, Legal Services, Policy, Public Defence Service), New Zealand Police, Ministry of Health, Department of Corrections, Te Puni Kōkiri and the Ministry of Social Development, as well as the AODT Court judges. In consultation with this group, the project manager produced a Design Plan, Project Initiation Document, the AODT Court handbook and other documents for sign-off by the AODT Court Steering Group (Ministry of Justice, 2012a; 2012b).

In addition, the addiction treatment sector in Auckland was highly supportive of the proposed AODT Court due to the willingness of the two court judges to meet with AOD practitioners to understand addiction treatment and recovery.

3.2 Alignment with international research

As a result of the links with US experts and the Ministry's review of research undertaken on the design, the AODT Court pilot aligns with international (particularly American) best practice (eg, National Drug Court Institute, 2012). The model has drawn on 10 components of drug court best practice identified from research by the US National Drug Court Institute (NDCI) (Carey, 2012).

According to the NDCI research review, the top 10 practices for reducing recidivism are (in order of size of effect):

- a programme caseload of fewer than 125 participants
- participants are expected to have more than 90 days clean (negative drug tests) before graduation
- the judge spends an average of three minutes or more per participant during court hearings
- treatment providers communicate with the court or team via email before court
- a representative from treatment attends drug court team meetings
- a treatment representative attends court hearings
- internal review of the data and programme statistics lead to modifications in programme operations
- participants with charges for non-drug offences (eg, burglary) may be admitted
- a law enforcement representative sits on the drug court team
- evaluations are conducted by independent evaluators and used to make modifications in drug court operations.

According to the same study, additional practices that increase cost savings are:

- sanctions are imposed immediately after non-compliant behaviour
- participants have a job or to be in school to graduate
- team members are given a copy of the guidelines for sanctions
- drug test results are available in 48 hours
- drug tests are collected at least two times per week in the first phase.

The rationale for the initiative has also drawn on international research on the effectiveness of drug courts. Internationally, drug courts have shown positive results: reduction in recidivism and re-arrest of offenders; longer periods between arrests; reduction in drug use; and improved general health and wellbeing for the offender and their family (eg, Rossman et al., 2011; Makkai & Veraar, 2003; Rempel et al, 2003; Weatherburn et al, 2008).

3.3 Distinctive features of the AODT Court in New Zealand

The development of the AODT Court has drawn on international research and best practice, while including components that are appropriate and meaningful within the New Zealand context. Distinctive features of the New Zealand AODT Court are:

- the inclusion of Māori cultural practices and support to meet the needs of Māori participants
- the ability of the AODT Court to require participants to attend 12-step meetings (mainly Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) meetings)
- the inclusion of case managers from the health sector and peer support workers
- the AODT Court is a pre-sentence rather than a post-sentence initiative
- the court includes participants charged with driving while intoxicated.

The international expert interviewed for this evaluation believed these distinctive features strengthened the drug court model in the New Zealand context because, although they are seen as good practice, they are not legally possible in some other countries.

Summary

- The judiciary, the Law Commission and the Ministry of Justice with support from the Ministry of Health, Department of Corrections and New Zealand Police have all contributed to the development of the AODT Court, which is part of the Addressing the Drivers of Crime work programme in New Zealand.
 - \$1.93 million per year for five years has been invested to support the pilot of the AODT Court in Auckland and Waitakere District Courts with an expectation that agencies will absorb additional operational costs. Additional funding has been provided from the 'proceeds of crime' and from the Drivers of Crime programme to purchase extra treatment beds.
 - The AODT Court aligns with international best practice. Distinctive New Zealand features are: the AODT Court is a pre-sentence initiative; the inclusion of Māori cultural practices; the inclusion of participants charged with driving while intoxicated; the use of case managers from the health sector and peer support workers; and the ability for participants to attend 12-step meetings.
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4. Overview of the AODT Court process

The AODT Court is aimed at defendants whose offending is driven by AOD dependency. It provides selected defendants, who are facing a term of imprisonment of up to three years, with an opportunity to participate in an AOD treatment programme before sentencing. The AODT Court is a specialist District Court and operates under general legislation and judicial discretion.

Where the AODT Court is not offered the District Court⁸ process is followed. The defendant would be sentenced, likely to be imprisoned, and the sentencing might include AOD treatment components, for example, as special conditions of the sentence or release conditions. Alternatively, the judge may exercise the discretion under s 25 of the Sentencing Act 2002 to defer sentencing to take into account engagement in a rehabilitation programme.

The following overview of the AODT Court draws from the Ministry's handbook and design plan (Ministry of Justice, 2012a; 2012b).

4.1 Assessing eligibility

Potential participants are identified when appearing at the Auckland or Waitakere District Courts and considered against a set of criteria. The intention is to identify defendants who may be eligible for the AODT Court at the earliest possible appearance at the District Court.

Those that are thought to meet the eligibility criteria, and who are interested in participating, undertake a specialist alcohol and drug assessment to determine dependency. The information from this assessment and other information on the eligibility criteria is considered by the District Court judge, who may then make a referral to the AODT Court.

Where a referral is made, the defendant's eligibility is discussed by the AODT Court team at a pre-court team, which the defendant does not attend but is represented by their defence counsel. The views of victims are obtained by New Zealand Police to be made available to the AODT Court at the pre-court team meeting.

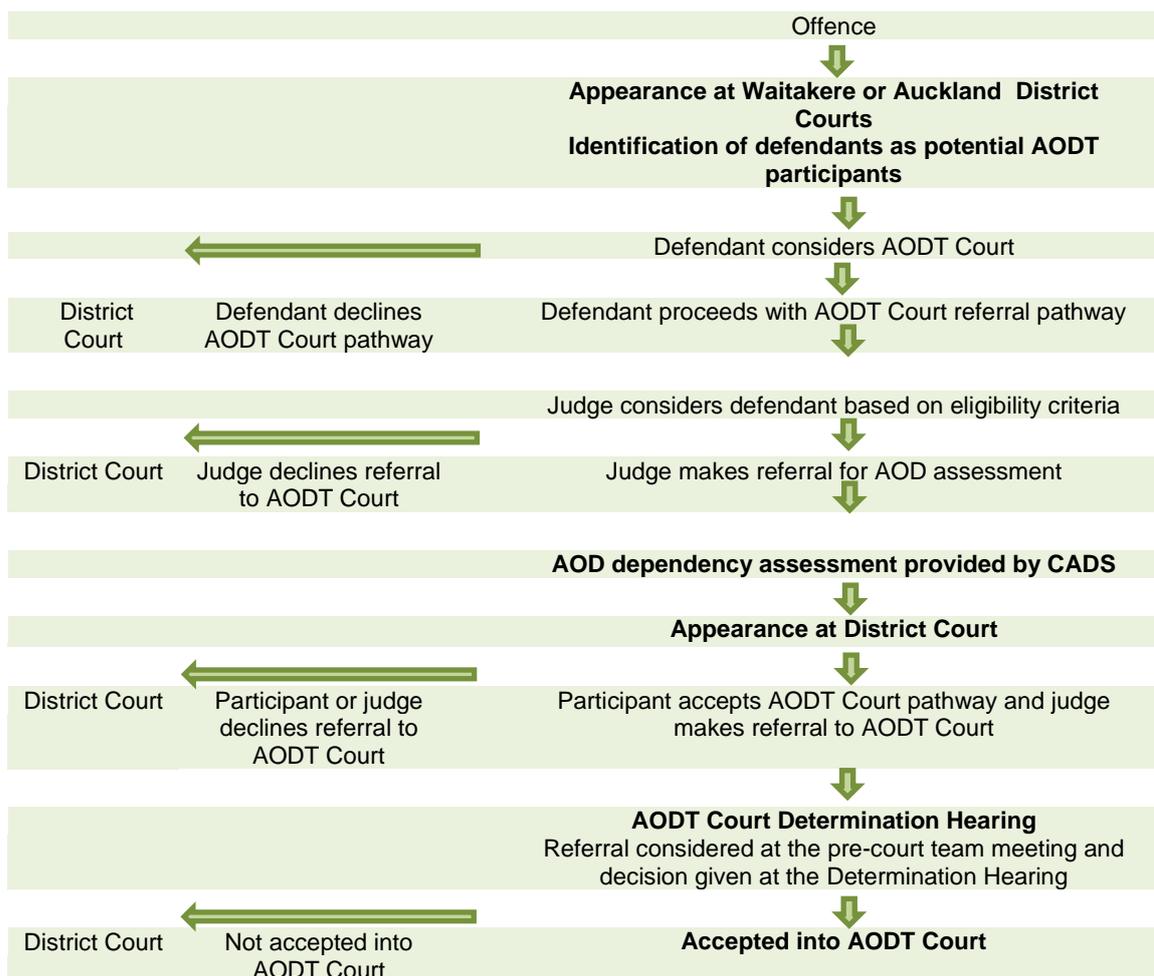
After consideration by the AODT Court team, the defendant appears at the AODT Court Determination Hearing. The AODT Court judge makes the final decision on whether to offer a place, based on the eligibility criteria and in consultation with the AODT Court team.

The judge must make sure the offender understands the commitment required for the programme and the possible sanctions and consequences should the programme not be completed satisfactorily. Pleas of guilty must be entered upon acceptance of a place in the AODT Court, if not already entered.

See Figure 1 for an overview of the eligibility assessment process.

⁸ In this report the term 'District Court' refers to those courts using standard court processes.

Figure 1: Process for acceptance to the AODT Court



Notes: AOD = alcohol and other drug; AODT = alcohol and other drug treatment; CADS = Community Alcohol and Drug Services.

4.2 AODT Court programme

Once the defendant formally consents to participate, an appropriate treatment plan is created based on the individual’s assessed treatment needs and requirements.

Participants are on bail while participating in the AODT Court, although they may be remanded in custody while waiting for entry into treatment.

The length of the AODT Court programme varies depending on the needs of the participant and can last between 12–18 months. The AODT Court programme has three phases. Each phase is expected to last four to six months, and progression requires a written application from the participant. Advancement criteria, including absence of positive tests, attendance at services and programmes, and commitment to living AOD free are also specified. Graduation criteria are the achievement of all requirements and the development of a post-AODT Court maintenance plan.

The length of time for each phase and for the full programme allows sufficient time for ensuring accountability for lapses, for example, by demoting participants to an earlier phase.

Phase 1: Approximately 3–4 months. Expectations of participants include:

- attending AODT Court fortnightly
- reporting to their case manager at least weekly
- undertaking regular and random AOD testing (approximately twice a week)
- compliance with conditions of bail and AODT Court participation
- compliance with the treatment plan.

Phase 2: Approximately 4–6 months. Expectations of participants include:

- attendance, participation and completion of treatment programme(s)
- reporting to case manager or peer support worker fortnightly or as directed
- AODT Court appearances every 3–6 weeks
- compliance with conditions of bail and AODT Court participation
- actively pursuing vocational/educational/personal goals.

Phase 3: Approximately 4–6 months. Expectations of participants include:

- attendance, participation and completion of treatment programme(s)
- reporting to case manager as required
- AODT Court appearances every 4–8 weeks
- compliance with conditions of bail and AODT Court participation
- achievement towards personal goals.

The third phase reflects a period of high expectations evidenced by no offending, no positive AOD tests and proven commitment to securing employment or engagement in constructive activities such as study or training. The third phase is also where restorative justice processes may be included.

Incentives and sanctions

The AODT Court has a system of graduated incentives and sanctions that are delivered by the court. Funding for incentives is provided by Community Advisory Group (CAG) fundraising events. The ultimate sanction is being exited from the programme.

Incentives are:

- verbal praise and recognition in open court
- being moved to the front of the daily 'list' in the AODT Court
- formal recognition of consecutive negative AOD tests
- graduating to the next phase with a certificate of progress
- longer period between court appearances
- assistance with access to personal development, cultural, pro-social, educational or work related opportunities.

Sanctions are:

- verbal correction in court
- appearing at the end of the court 'list' after sitting in court for the whole court day
- a piece of work (i.e. written) focusing on the behaviour which led to the sanction
- apologies in writing or verbally
- increased or longer attendance requirements at a suitable treatment agency
- increased reporting to case manager
- curfew
- more regular appearance in AODT Court
- more frequent random AOD tests
- moved back an advancement milestone phase
- participation in services in and for the community.

4.3 Exiting the AODT Court

AODT Court participants may exit the court through termination or graduation.

AODT Court participants may be terminated from the AODT Court in the following situations:

- further offending (based on type of offending, relative seriousness of the situation and danger to the community)
- deliberate and persistent failure to comply with treatment and/or testing requirements
- violence or seriously threatening behaviour within the treatment setting or in court precincts
- being exited from treatment by a treatment provider due to serious breaches of treatment setting rules
- acting in a manner which causes the AODT Court to conclude that continued participation is untenable.

The judges have recently started to auto-exit attendees 14 days after breach of bail conditions such as leaving residential treatment.

AODT Court participants may choose to withdraw from the programme. If a participant withdraws or is terminated from the AODT Court, they will proceed to sentencing in the normal manner, with the sentencing judge determining the weight to be given, if any, to the AODT Court participation.

Victim Impact Statements are considered by the judge during sentencing. A Victim Impact Statement, usually presented in written form, informs the judge how the offence has affected the victims.

Graduates are AODT Court participants who successfully complete all three phases of the AODT Court programme. The graduates are sentenced by the AODT Court judge.

Successful graduation from the AODT will be taken into account as a significant mitigating factor at that sentencing.

Summary

- The AODT Court is aimed at defendants whose offending is driven by AOD dependency. The AODT Court is a specialist District Court and operates under general legislation and judicial discretion.
 - The AODT Court provides selected defendants, who are facing a term of imprisonment of up to three years, with an opportunity to participate in an AOD treatment programme before sentencing. Where the AODT Court is not offered, the District Court process is followed.
 - Potential participants are identified when appearing at the Auckland or Waitakere District Courts and considered against a set of criteria. The District Court judge refers participants to the AODT Court based on a specialist alcohol and drug assessment and other information which demonstrate they meet the AODT Court eligibility criteria.
 - Where a referral is made, the defendant's eligibility is discussed by the AODT Court team at a pre-court team meeting.
 - Defendants must consent to participate and plead guilty to be accepted into the AODT Court. Participants are on bail while participating in the AODT Court. A treatment plan is created based on the individual's assessed treatment needs.
 - The length of the AODT Court programme varies depending on participants' needs and can last between 12–18 months. The AODT Court programme has three phases. In phase 1 the focus is on intensive treatment and rehabilitation, frequent random drug and alcohol testing and court appearances. In phases 2 and 3, components of phase 1 continue, and there is increasing emphasis on vocational, educational and personal goals with the intent of securing employment, or entering study or training.
 - The AODT Court has a system of graduated incentives and sanctions that are delivered by the Court.
 - AODT Court participants may exit the court through termination or graduation.
 - Graduates are AODT Court participants who successfully complete all three phases of the AODT Court programme. The graduates are sentenced by the AODT Court judge and successful graduation is taken into account at that sentencing.
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5. Governance, operational management, training

This section provides an overview of current AODT Court leadership, governance and management structures. This includes the training and induction processes used in the implementation of the court. Aspects of these structures that work well and aspects that do not work so well are identified. The section concludes by identifying suggested areas to strengthen the ongoing implementation of the AODT Court pilot.

5.1 Governance and operational management

Leadership and governance

The AODT Court Steering Group oversees the pilot. The AODT Court judges are represented on the AODT Court Steering Group by a judge appointed by the Chief District Court Judge.

AODT Court Steering Group: The AODT Court Steering Group is based in Wellington and comprises representatives from:

- Ministry of Justice, District Courts (Chair)
- New Zealand Police, the Police Prosecution Service and the Police Policy Group
- Judiciary
- Ministry of Health, Mental Health Service Improvement
- Ministry of Justice, Policy
- Department of Corrections.

The objective of the AODT Court Steering Group is to ensure the project delivers an AODT Court model in accordance with Cabinet's directive (Ministry of Justice, 2011b) and ensure integration between organisations, oversee the implementation of the court, provide effective project steering and maintain budget oversight.⁹

The main role of the AODT Court Steering Group is to:

- ensure the project's objectives are being adequately addressed and progressed
- act as an escalation and decision-making body for issues that cannot be resolved within the project team
- take an active approach to solutions around costs and requirements of the pilot
- take ownership for the delivery of the pilot and champion the project with staff
- monitor effective stakeholder engagement and change management
- ensure the project's scope aligns with the requirements of the detailed business case and Cabinet decision
- represent stakeholder interests and provide a steering link with sector partners

⁹ Alcohol and Other Drug (AOD) Court Pilot Steering Group Terms of Reference 12 June 2012.

- monitor the project's progress and review risks
- be engaged in, and provide advice on, the development and direction of the pilot evaluation.

When interviewed for this evaluation, the AODT Court Steering Group confirmed it has provided high-level oversight to ensure that what was developed by the design group was consistent with what the sector was looking to achieve. It has provided a forum for operational issues to be discussed, advanced and decided.

Operational management

Performance and Improvement Team: The Ministry's Performance and Improvement Team oversees the day-to-day operation of the pilot.

The AODT Court teams: each AODT Court team comprises the AODT Court judge, AODT Court co-ordinator, case managers, police prosecutor and defence counsel (see section 7).

The AODT Court – treatment provider relationship

The Ministry of Health has a contract with Odyssey House as the lead provider of a comprehensive AOD assessment and treatment service to support the AODT Court pilot. Odyssey House is contracted to form an AODT Court treatment provider network, led by an AODT Court Treatment Network Steering Group (see section 9).

Advisory group

Community Advisory Group: The CAG is a voluntary group of community representatives based in Auckland. According to the AODT Court handbook, the purpose of the CAG is to provide practical support and input to the AODT Court from a community perspective.

The membership was established by the AODT Court judges and comprises 12 community representatives from Victim Support, the New Zealand Society on Alcohol and Drug Dependence, Drink Drive NZ, the legal profession, philanthropic organisations (such as Rotary), treatment providers, the 12-step movement (AA and NA) and Māori and Pacific communities. The group meets as required, around once every two-to-three months.

The group considers its role to be:

- providing support, advice and feedback to the AODT Court judges from a community rather than stakeholder perspective
- community networking and informing its respective networks of the function and purpose of the AODT Court
- fundraising for the participant recovery fund, which funds rewards and any immediate needs of the participants, such as clothing.

The function of the group is evolving as the court evolves. There is variation in the extent to which the CAG considers itself an 'action' group or an 'advisory' group. Some consider the future role of CAG as using networks to respond to challenges and gaps in services that are not within the current scope of the AODT Court team, for example, the provision of housing or clothing. Others consider the role of CAG to be providing advice and feedback.

5.2 Training and induction processes

During the development of the AODT Court, it was acknowledged that training would be required for the core AODT Court team to enable effective delivery and management of new court processes. A need was identified for the AODT Court team to have a thorough understanding of the AODT Court processes, cultural competencies, the nature of alcohol and drug addiction, and treatment options (Ministry of Justice, 2012a). Training was to be delivered at the outset and updated where changes in process or tools occurred.

At the inception of the AODT Court, the Ministry arranged training days for the two core teams together, where a range of experts familiarised them on topics such as the effects of alcohol and substance abuse, treatment and testing. The teams have also visited a number of treatment and testing facilities and attended 12-step meetings.

In the early stages, when the court had few clients, the judges used the time available to arrange follow-up training for the teams. Frequent follow-up sessions have been held with invited speakers on topics such as motivational interviewing, probation, the role of psychologists, the role of the New Zealand Police, ESR and the Secure Continuous Remote Alcohol Monitoring (SCRAM) anklet.

5.3 Strengthening implementation

Based on the feedback from key stakeholders, the overall governance and operational management of the AODT Court are working as intended in the pilot's design. The continuing collaboration and information sharing among the agencies represented in the initiative are seen as a key strength in the pilot's implementation.

Training offered has increased the AODT Court team's understanding of the court and each other's roles. Feedback highlighted that throughout the year there has been ongoing reflection on ways to improve the pilot. The training sessions were also noted as helping to foster good team dynamics.

Governance and operational management challenges

The AODT Court Steering Group was challenged by the pressures of the implementation timeline and the need to receive timely and detailed information on issues and options to make decisions related to implementation. The AODT Court Steering Group would like to see reports provided well before meetings and for the reports to offer greater insight into issues arising at an operational level that require discussion at a governance level.

The AODT Court judges would like to be able to communicate directly with the AODT Court Steering Group. They observed that the structure as it stands provides a circuitous route through officials for issues and concerns identified by the AODT Court team to be raised with the AODT Court Steering Group. Direct communication between the AODT Court Steering Group and AODT Court judges would allow the judges to better outline the context and implications of the issues they need to raise. This would also allow for any operational issues from the AODT Court Steering Group to be responded to immediately.

The Ministry's AODT Court project manager faced several challenges regarding (a) co-ordinating a range of agencies that were under pressure from other commitments, and (b)

achieving consensus on various design issues. Some of the issues debated included whether a guilty plea was needed for entry to the AODT Court, the location of the courts, how drug and alcohol testing would work, achieving a fair and just process, and the composition of the AODT Court team.

The AODT Court Steering Group's role in providing oversight for the pilot will reduce as the pilot reaches a steady state. The challenge raised by the AODT Court Steering Group is deciding at what stage to consider the pilot has reached a steady state, meaning the implementation phase is completed and the pilot is operating as business-as-usual.

The AODT Court team have sought to meaningfully incorporate tikanga Māori into the court process, based on the understanding that knowledge of culture is a significant factor in bringing about change and healing for Māori. However, the strategies to incorporate tikanga Māori into the AODT Court are restricted in the design of the pilot to the role of community Māori representatives and not a design that embeds Māori tikanga in the AODT Court processes. As a result, the inclusion of tikanga Māori into the AODT Court does not appear to be led by senior management responsible for the initiative.

Training challenges

Training and induction, particularly on the underlying research foundations of the AODT Court, is needed for new appointees to the team. It would be useful to have a checklist of important components of training and induction for new appointees.

Stakeholder groups, such as CADS, need to be kept up to date with pilot changes.

Lawyers interviewed requested receiving remuneration for their hours spent in training.

Summary

- The AODT Court Steering Group oversees the pilot. The Ministry of Health has contracted Odyssey House to lead the provision of a comprehensive AOD assessment and treatment service. A treatment provider network is led by an AODT Court Treatment Network Steering Group. The AODT Court judges have formed an Auckland-based AODT Court CAG whose role is evolving.
- The overall governance and operational management of the AODT Court are working as intended in the pilot's design. The continuing collaboration and information sharing among the agencies represented in the initiative are seen as a key strength in the pilot's implementation.
- The AODT Court Steering Group is seeking more timely and informative reporting so they are aware of operational issues that require discussion at a governance level. To provide context, the AODT Court judges are seeking the opportunity to present progress reports and proposals to the AODT Court Steering Group.
- The AODT Court team has sought to meaningfully incorporate tikanga Māori into the court process, based on the understanding that knowledge of culture is a significant factor in bringing about change and healing for Māori. The strategies to incorporate tikanga Māori into the AODT Court are restricted in the pilot design to the role of community Māori representatives and not a design that embeds Māori tikanga in the AODT Court.
- Training has increased the AODT Court team's understanding of the court, the roles of other team members, and fostered good team dynamics. Further training and induction is needed for new appointees.

Evaluation assessment

- The overall governance and operational management of the AODT Court are working as intended in the pilot's design.

Strengthening implementation

- Ensure timely and informative reporting to the AODT Court Steering Group so they are aware of operational issues that require discussion at a governance level.
 - Consider facilitating the involvement of the AODT Court judges at part of the AODT Court Steering Group meeting to provide further context to progress reports and proposals they are putting forward.
 - Clarify the role of tikanga Māori in the design of the AODT Court to ensure alignment between design, governance and implementation. This reflects that the pilot design takes a narrower view of the role of tikanga Māori in the AODT Court.
 - Support ongoing training and induction for new appointees.
-

6. Determining eligibility for the AODT Court

This section describes the process for identifying and determining the eligibility of offenders to take part in the AODT Court, including the AODT Court Determination Hearing. The number and profile of those offenders attending a Determination Hearing, and accepted into the AODT Court is summarised, as is participants' experiences of the process to be accepted into the pilot. Aspects of the process that are working well and ways to strengthen the implementation are detailed.

6.1 Identifying potentially eligible defendants

Overview

Defendants may be identified as being potentially eligible for the AODT Court by any party, including the defendant, defence counsel, duty lawyer, judge or police prosecutor. The decision to refer defendants to the AODT Court is made by the judge.

To be referred to the AODT Court, defendants must be assessed as AOD dependant and meet the eligibility criteria. The matter may be adjourned for three weeks to allow a full AOD assessment to be undertaken by CADS.

After the AOD assessment the defendant re-appears at the District Court, the judge reviews the potential participant against all the eligibility criteria and the AOD assessment report from CADS. Where a referral is made the case is adjourned for the case to appear at the AODT Court Determination Hearing at the next available date.

Eligibility criteria

As set out in the AODT Court handbook, defendants must meet the following eligibility criteria:

Personal

- be a New Zealand citizen or resident
- be aged 17 years and over
- have a residential address
- reside in the court catchment area
- be able to attend programme sessions
- be willing to participate in the AODT Court programme.

Justice

- facing charges at the Auckland or Waitakere District Courts
- be referred by a judge or Community Magistrate
- facing charges for which the sentencing starting point is imprisonment (for a period of up to three years)
- charged with their third or subsequent drink driving offence in the aggravated form for all drink driving charges

- enter or indicate a guilty plea or that early resolution of charges is likely
- have no other charges going through the court that cannot be brought together with these charges
- charged with offending that is driven by AOD dependency, including recidivist drink drivers
- high-risk of reoffending (using the Risk of re-conviction and Risk of re-imprisonment (RoC*RoI) score¹⁰).

Health

- have a moderate-severe substance-related dependency (as per Diagnostic and Statistical Manual of Mental Disorders Fourth Edition (DSM IV))
- be or believed to be using illicit drugs, misusing other psychoactive substances (including alcohol) and this precipitates or perpetuates their offending
- risk of harming themselves, their family and the community as a consequence of using AOD
- does not have a serious medical or serious mental health condition that would prevent their participation in the AODT Court.

Exclusions

- Defendants are excluded from consideration for AODT Court where they face current charges of: sexual offending, arson, serious violence.
- Defendants are excluded from consideration if their only current active charges are breaches of a sentence or court order (or a resentencing application arising from the same).
- Defendants may be excluded from consideration for AODT Court if they have a criminal history of being convicted of sexual offending or arson.

6.2 Alcohol and drug assessment

Overview

AOD assessments are undertaken by the Auckland CADS. The assessments take place at the CADS premises (CADS west or CADS central) or in prison.

The specialist AODT Court assessment team was established at CADS in February 2013 and currently consists of one psychologist, two alcohol and drug specialists and a clinical supervisor/co-ordinator. While there is provision for two psychologists in the team, one psychologist role has not been filled due to the lower than expected referrals for assessment (see below).

¹⁰ The Risk of re-conviction and Risk of re-imprisonment (RoC*RoI) score is used in the AODT Court to identify the medium- to high-risk offenders. At the time information was gathered for this evaluation, AODT participants needed a RoC*RoI score between 0.5–0.9. The RoC*RoI score is not used for applicants with recidivist drink driving offences, as their scores are consistently too low to meet this criteria. In December 2013, the AODT Court Steering Group decided to allow the presiding judges to admit someone with a RoC*RoI score of below 0.5 onto the AODT Court programme, provided this person met all of the other eligibility criteria and that the reasons for admitting this person onto the programme were documented.

Referral letters for assessment are sent from the District Court to the CADS team. The assessments are required to be completed and reports disseminated within three weeks from referral. The assessment is primarily an AOD dependency assessment and includes some screening and assessment of mental health issues. If mental health issues are identified further assessment is arranged.

The CADS team assess for AOD dependencies in accordance with the Diagnostic and Statistical Manual of Mental Disorders Fourth Edition (DSM IV)¹¹. Verified testing screens for depression and anxiety were trialled and found to be inappropriate for people in custody. Most offenders seen in custody screened positive for depression and anxiety. Follow-up diagnostic testing indicated the depression and anxiety was situational and not a long term disorder. CADS have, therefore, discontinued use of the depression and anxiety screening tools.

The CADS team produces a report after each assessment. As per the CADS template, AOD reports include information on:

- AOD use history
- behavioural addictions
- treatment history
- mental health history
- medical history
- defendant history
- family history (eg, cultural background, family substance use and dependency)
- personal development history
- current functioning (eg, work, accommodation, finances and social supports)
- motivation (eg, ability and readiness for the AODT Court and for abstinence)
- risk to self, to others and from others
- protective factors
- AOD diagnosis for dependence and abuse
- client goals
- treatment plan
- recommendations:
 - treatment options
 - cultural input (eg, kaupapa Māori based programme)
 - treatment options if not part of the AODT Court
 - confirmation options have been discussed with the defendant
 - any other needs (eg, individual psychological treatment).

¹¹ The DSM-IV manual is used by health care professionals internationally as the authoritative guide to the diagnosis of mental disorders. It contains descriptions, symptoms, and other criteria for diagnosing mental disorders, and provides a common language for clinicians to communicate about their patients and establishes consistent and reliable diagnoses.

The AOD assessment and recommendation is sent to the District Court to be used as a tool for the judge to decide on a referral to the AODT Court. The AOD assessment is important for determining dependency and therefore meeting the high-needs eligibility criteria for entry into the AODT Court. A positive recommendation from the AOD assessment does not guarantee entry into the AODT Court.

Number of referrals for AOD assessment

Data on the number of referrals from the District Court for AOD assessment is recorded in CMS and is also collected by CADS. CADS data shows 197¹² referrals were received for AOD assessments in one year of the pilot's operation to 31 October 2013: 108 referrals from Auckland, and 89 from the Waitakere District Courts.

The number of referrals for assessment is lower than expected. The CADS team was expecting around 300–400 referrals for assessment per year to reach the target of 100 AODT Court participants.

Of the 197 referrals for AOD assessment, 166 (84%) met the criteria for AOD dependence and were recommended for the AODT Court. This suggests that, while the number of referrals for AOD assessment is lower than expected, appropriate cases are being identified and referred in relation to AOD dependency.

The 31 cases (16%) referred for AOD assessment that were not recommended for the AODT Court had the following assessment outcomes:

- seven did not meet the criteria for dependence and were not eligible
- one was unsuitable for the programme as they were actively engaged in community-based treatment with positive clinical outcomes
- three were recommended for an alternative programme
- eight did not attend the appointment
- two were withdrawn by the District Court before the assessment was done
- 10 were repeat referrals, requests for clarification or updates.

6.3 Determination Hearing

Overview

The Determination Hearing is presided over by the AODT Court judge and attended by AODT Court team members. The Determination Hearing is where the AODT Court judge makes a final decision on whether a referred defendant will be invited to participate in the AODT Court.

¹² The 197 referrals are cases, not people, and include repeat referrals, requests for clarification and updates.

AODT pre-court team meeting

The pre-court team meetings¹³ are held on the morning of the court sitting day (Thursday at Waitakere and Friday at Auckland). Defendants do not attend this meeting and are represented by their defence counsel. The AODT Court team discusses new referrals to the court first, followed by a review of monitoring cases to appear that day.

The team is provided with information about the new defendants before the meeting through a shared workspace or by email by the co-ordinator. The AODT Court team members come prepared with their organisational knowledge about each new defendant being considered.

At the pre-court team meetings the judge leads the team through a discussion on defendants' eligibility to join the AODT Court. In the Waitakere AODT Court, a whiteboard is used to facilitate this process through listing important pieces of information, including:

- criminal history, for example, charges, outcome of charges and breaches
- dependency type
- AOD assessment information
- address
- age
- RoC*RoI score
- whether or not the defendant is currently in custody
- whether the time frame is within the 50-day advisory rule (this rule refers to the recommended maximum of 50-days from offence to acceptance into the AODT Court)
- weighting factors:
 - ethnicity (Māori is prioritised)
 - whether they have dependants (children or adults they are responsible for)
 - public safety issues
 - family violence background.

Cross-sector information sharing

The AODT Court team members share feedback based on their professional expertise and (where relevant) their organisation's history with the defendant to give a complete picture about the defendant being considered. The main focus for New Zealand Police is public safety, defence counsel represent the participant's perspective, and for those who have previous attempts with AOD treatment, the case managers or Pou Oranga may also have background information to share.

Based on the information provided and the discussion by the team, the judge makes the decision as to the defendant's eligibility and suitability for the AODT Court. For those accepted, the defendant's defence counsel and AODT Court defence counsel meet the defendant and explain the details about the AODT Court, what is expected from participating and what to expect at the Determination Hearing.

¹³ See section 7.2 for a description of the pre-court team meetings.

Determination Hearing

As specified in the AODT Court handbook, the judge must ensure the potential participant understands the commitment required by the AODT Court. Pleas of guilty are entered if the participant has not done so already.

The Determination Hearing starts at 1:00pm on the day of the AODT Court. It is attended by the AODT Court team and current AODT Court participants and their support people. The defendant is brought before the court where the judge addresses them directly and may ask questions such as why they want to be part of the AODT Court.

The judge tells the participant whether or not they have a place in the AODT Court. For those who do, the defendant is stood down for the court defence counsel to talk them through the participant handbook (Ministry of Justice, 2012b) and participant agreement (see the Technical Appendices Report, Litmus, 2014). The defendant is brought back into the court later in the day to accept or decline their placement in the AODT Court. Once they have agreed to participate, they are assigned a case manager and, unless they have private counsel, a member of the AODT Court lawyers' team assumes future responsibility for the participant's legal matters.

In some instances, further information may be required before the judge can decide on their acceptance into the AODT Court. In these instances, the defendant is remanded to appear for a second Determination Hearing while further information is sought.

If the AODT Court is not offered (eg, if they do not meet the criteria or the defendant declines the offer) they are remanded into the normal sentencing list.

Who is attending the AODT Court Determination Hearings?

As of 16 December 2013, 158 people were recorded in JAX as having a Determination Hearing. Of those, 85 were in the Auckland AODT Court and 73 were in the Waitakere AODT Court.

Table 3 details the demographic profile of those attending a Determination Hearing for each court and in total across the two courts. It shows:

- overwhelmingly more men than women are appearing (89% and 11% respectively)
- high representation from Māori (42% of attendees are Māori). There appear to be slightly more Māori attending hearings at Waitakere and more Pacific at Auckland
- twelve percent of attendees are Pacific
- the majority of attendees are aged 25–44 years (69%). There are fewer young people (13% aged 18–24), and older people (3% aged 55 and over).

Part of the eligibility criteria for acceptance into the AODT Court is a RoC*RoI score between 0.5 and 0.9.¹⁴ Of those appearing for a Determination Hearing, 75 percent had a RoC*RoI score recorded within range¹⁵.

¹⁴ See footnote 10 regarding changes to this criteria.

¹⁵ Based on the 'RoC*RoI Range' field in the Ministry of Justice *Engagement Report* spreadsheet, and not the 'RoC*RoI number' field.

The RoC*RoI score is not used for eligibility assessments for those facing recidivist drink driving offences. There are, however, five cases of defendants appearing for a Determination Hearing who are not facing drink driving offences and whose RoC*RoI score is not within range (all of these five cases did not proceed to AODT Court).

There are three cases with no RoC*RoI score recorded. It is unclear why no RoC*RoI score has been recorded. If there is no Department of Corrections history, this is recorded as 'RoC*RoI not provided by Corrections'.

Table 3: Demographic profile of those appearing for the AODT Court Determination Hearing

Demographic characteristics	Number and percentage appearing for Determination Hearing					
	Waitakere		Auckland		Total	
	no.	%	no.	%	no.	%*
Total	73		85		158	
Gender						
Male	66	90%	74	87%	140	89%
Female	7	10%	11	13%	18	11%
Ethnicity**						
Māori	33	45%	33	39%	66	42%
New Zealand European	25	34%	29	34%	54	34%
Pacific	6	8%	13	15%	19	12%
Other	9	12%	9	11%	18	11%
Not stated	–	–	1	1%	1	1%
Age						
18–24	9	12%	12	14%	21	13%
25–34	33	45%	33	39%	66	42%
35–44	19	26%	23	27%	42	27%
45–54	8	11%	16	19%	24	15%
55+	4	5%	1	1%	5	3%
RoC*RoI score						
In range	50	68%	68	80%	118	75%
Not in range and facing EBA*** driving offences	20	27%	8	9%	28	18%
Not in range and not facing EBA driving offences	0	0	5	6%	5	3%
No Roc*RoI	0	0	3	4%	3	2%
Roc*RoI not provided by Corrections	3	4%	1	1%	4	3%

Source: Ministry of Justice, *Engagement Report*, extracted 16 December 2013.

* Percentages may not add to 100% due to rounding.

** In Jax participants are entered into as a single ethnicity classification based on New Zealand Police files and CADS reports. It is not known how multiple ethnicities are recorded. In this report, the single ethnicities recorded JAX have grouped into four broad categories.

*** EBA is driving with excess breath/blood alcohol.

Application of the eligibility criteria

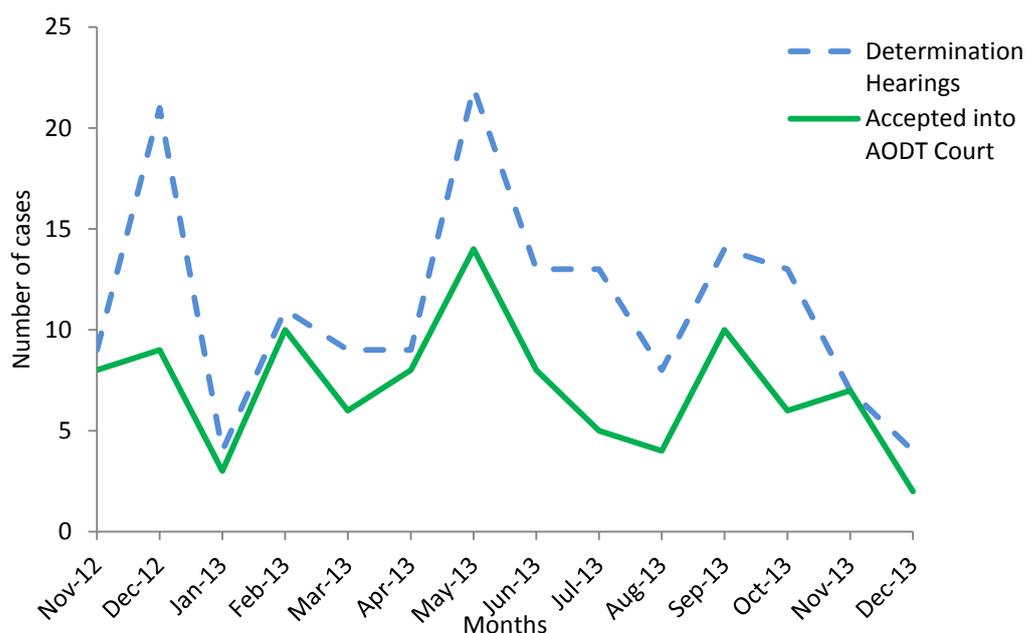
In the main, stakeholders feel the eligibility criteria are being applied, while acknowledging that some criteria require a degree of interpretation. In some instances, this can lead to differing views within the team on a person’s eligibility (see below).

To assess the application of the eligibility criteria beyond stakeholder perceptions, the evaluation requires a complete set of data recording the team’s assessment of eligibility against each eligibility item. Currently, this data is not recorded in a complete and aggregated form. Some information is available (eg, guilty plea, AOD dependency as per CADS assessment, crown prosecutor charges). Other eligibility criteria are more open to discussion and interpretation and are not recorded (eg, address (given defendants can be very transient and live across multiple addresses), ability to attend sessions, willingness to take part, and defining histories of serious violence and sexual offending).

Acceptance into the AODT Court

As of 16 December 2013, 99 people were recorded as being accepted into the AODT Court. Of those, 49 were in the Auckland AODT Court and 50 were in the Waitakere AODT Court. This means 63 percent of Determination Hearings resulted in acceptance into the AODT Court. Figure 2 shows the number of Determination Hearings held and number of cases¹⁶ accepted into the AODT Court over time.

Figure 2: Number of Determination Hearings and number of cases accepted into the AODT Court



¹⁶ Figure 2 is on number of cases not number of people, as one person may have been accepted, terminated, reoffended and accepted into the AODT Court a second time.

There appears to be a variation between the courts in the proportion of defendants appearing in a Determination Hearing and accepted into the AODT Court. The Auckland Court accepted 58 percent of those appearing in a Determination Hearing, and the Waitakere Court accepted 68 percent. It is unclear why there is a difference between the courts.

One possible explanation is greater awareness of the eligibility criteria at the Waitakere District Court. Some stakeholders suggested it may be more difficult to achieve high awareness of the AODT Court and eligibility criteria at the Auckland District Court because it has a greater number of professionals and judges than Waitakere District Court.

Reasons for not accepting defendants to the AODT Court from a Determination Hearing are recorded in an open text format in JAX (Table 4). Explanations were recorded for 46 of the 59 participants not accepted into the AODT Court. The most common reasons are:

- violence
- arrest date is too far outside of the 50-day guideline
- defendant is outside of the geographic boundary
- mental health issues
- amount of time spent in custody or likely short length of sentence compared with the length of the AODT Court.

Table 4: Reasons for defendant being declined entry to AODT Court from Determination Hearing

Reasons for defendant being declined	Number of times given* (n=46)
Violence	7
Outside of the 50-day guideline	6
Defendant is outside of the geographic boundary required	6
Mental health issues	4
Amount of time already spent in custody and/or short length of sentence	4
Gang affiliation	2
Person did not appear for the Determination Hearing	2
Defendant declined	2
Not facing a prison sentence	2
Sentence is likely to be more than three years	2
No testing for dependency type	2
Sexual offending	2
Breach of release conditions and/or warrant for arrest	2
Unsuitable (specific reason not stated)	2
Not AOD dependent	1
No treatment options for the individual	1
Defendant not willing to stop working for length required	1
RoC*RoI out of range	1
New Zealand residency issues	1
Arson	1
Not recommended by CADS	1
Court supervision not needed	1
Lack of motivation	1

Source: Ministry of Justice, *Engagement Report*, extracted 16 December 2013.

* Multiple reasons can be given for one case being declined, each reason is counted here.

Who is accepted into the AODT Court?

Table 5 details the demographic profile of those accepted into the AODT Court. There are no substantive changes in the demographic profile of those appearing for a Defended Hearing and those accepted into the AODT Court. The gender, age and ethnicity mix is essentially the same.

Overall, the number of cases with driving with excess breath/blood alcohol (EBA) offences is similar across the courts (16 at Waitakere and 22 at Auckland). One case has been accepted into the AODT Court where the RoC*RoI score is not in range and the participant is not facing EBA driving offences. The rationale for this acceptance is not known.

Table 5: Demographic profile of those accepted into the AODT Court

Demographic characteristics	Number and percentage accepted into AODT Court					
	Waitakere		Auckland		Total	
	no.	%	no.	%	no.	%*
Total	50		49		99	
Gender						
Male	45	90%	41	84%	86	87%
Female	5	10%	8	16%	13	13%
Ethnicity**						
Māori	25	50%	19	39%	44	44%
New Zealand European	14	28%	16	33%	30	30%
Pacific	4	8%	10	20%	14	14%
Other	7	14%	4	9%	11	11%
Age						
18–24	6	12%	8	16%	14	14%
25–34	25	50%	19	39%	44	44%
35–44	11	22%	15	31%	26	26%
45–54	6	12%	7	14%	13	13%
55+	2	4%	–	–	2	2%
RoC*RoI score						
In range	37	74%	42	86%	79	80%
Not in range and facing EBA driving offences	12	24%	5	10%	17	17%
Not in range and not facing EBA driving offences	0	0	1	2%	1	1%
No RoC*RoI	0	0	0	0	0	0
RoC*RoI not provided by Corrections	1	2%	1	2%	2	2%

Source: Ministry of Justice, *Engagement Report*, extracted 16 December 2013.

* Percentages may not add to 100% due to rounding.

** In Jax participants are entered into as a single ethnicity classification based on New Zealand Police files and CADS reports. It is not known how multiple ethnicities are recorded. In this report, the single ethnicities recorded JAX have grouped into four broad categories.

Note: The data is based on number of cases. It is possible a participant may be counted twice where they have been accepted into AODT Court, terminated, reoffended and accepted into AODT Court for a second time.

6.4 Participant experience

Overall, many participants described the selection process for the AODT Court as rigorous; although some noted they were anxious about whether or not they would be accepted.

Knowledge and understanding of the AODT Court

When the AODT Court was first raised with the interviewed defendants, most had no previous knowledge of the court. The few who had, had heard of it through word of mouth from other offenders. Most commonly, the AODT Court was raised by defence counsel,

who did not always have substantial knowledge about the court. People heard about the AODT Court from a range of places, including:

- defence counsel (AODT and Legal Aid assigned/private counsel)
- New Zealand Police
- judge
- offenders
- probation officer.

Participants' primary sources of information about the AODT Court were the AODT defence counsel and case managers. Some participants referred to the participant handbook before deciding to participate, while others did not identify the handbook as a source of information.

I got arrested and I came through and the lawyer saw the state I was in, like I'd lost like 20kgs and I was fried ... We started talking and she asked if I wanted to go to the drug court and I didn't know what it was and she explained it and how I'd have to go to rehab and be sincere and try and turn my life around, I was quite keen. (AODT Court participant 13)

Yeah, she told me about it and then she gave me a booklet and told me to go and have a look at it and then to tell them what I thought. So I thought about it over the weekend and read the book a couple of times just to familiarise and yeah it sounded good. (AODT Court participant 10)

The handbook, I called it the handy dandy notebook. Um, I just got given a little bit of information from [the] judge. The notebook actually answered all my questions. (AODT Court participant 1)

Yeah, it [the handbook] was really good. It outlined exactly what they expected of you; it was clear. It outlined that there would be rewards and sanctions and what is expected of you in each phase and how long it will probably take. (AODT Court participant 9)

While almost all participants had some information about the AODT Court, there was a varying degree of understanding of the details about what would be involved. Most participants interviewed seemed to have some understanding of the AODT Court when they joined. Participants spoke about their awareness of the length of time involved, criteria for acceptance, that there would be AOD treatment and places were limited.

Before admission into the court, all participants should have read and signed the participant agreement. All participants should have received the handbook. However, some participants reflected they did not have a good understanding of what would be involved and were not satisfied with the information received.

I didn't actually realise the full ramifications, I'd read it [the handbook] but I didn't really understand [the] programme, that I had to come to court every two weeks and all that sort of stuff. (AODT Court participant 5)

No one really explained anything to me. I was like, oh well, this is another opportunity to stay out of jail so why not? But still at the same time I didn't know what was happening. (AODT Court participant 14)

Deciding to participate

Defendants facing sentences shorter than the period in the AODT Court had a difficult decision to make. These participants talked about choosing to participate in the AODT Court because they wanted to make a change to their lives in relation to offending and/or their AOD dependency.

It takes quite a big decision to make this because at the end of the day we could have all finished our sentence by now – that’s where I had to look at what am I going to do when I finish my sentence. I was like ‘well I could resolve my drink driving charge in a few months or I could resolve it through the drug court in a year and a half’. Also because I’d been having a lot of problems with alcohol, tied up with my mental health it was kind of dangerous to my life and I came to this realisation that if I didn’t fix something in this equation then I wouldn’t be alive for much longer, and I needed some rehab and some treatment that was tailored to fit my life – the specifics of my life. (AODT Court participant 11)

A further consideration for defendants was the requirement of a guilty plea before acceptance into the court. While understanding the need to take responsibility, this added to their difficulty in deciding whether or not to participate.

*It wasn’t easy. The first process of it is that you plead guilty, and you might not be accepted so you plead guilty before you even get accepted into the programme, so if you plead guilty and then [are] not accepted you’re f*** up. So that’s taking the first step, taking responsibility and doing something about it, that’s the first challenge. It is tricky, because you might not make [it] but you’ve pleaded guilty. (AODT Court participant 10)*

Uncertainty of being accepted

Participants were aware of the criteria for acceptance into the AODT Court (eg, mental health exclusions, geographic catchment area and likely sentence requirements). Some were uncertain whether they would be accepted by the judge.

The judge didn’t give her decision right away and she said she had to think about it and then she’d give her decision at the end of the day, so my lawyer and I waited, and I wasn’t sure if I was going to get accepted but then she did. Part of the reason was because I have mental health issues and I know in the drug court they don’t accept people with very acute mental health issues, and I had depression and I had been in mental health for that depression. (AODT Court participant 11)

At first they weren’t going to take me because they only take people with serious charges like with 2–3 years’ imprisonment, where my one was really minor so I really had to ask the judge to help me because I really needed some help and I really wanted to do this. At first they were going to say no, that I wasn’t eligible but after I told them I really didn’t know a way to help myself and they accepted me, so I was happy. (AODT Court participant 19)

Evolving attitude towards the AODT Court and justice sector

For some participants there was an evolving process of buy-in to the AODT Court. Some participants acknowledged they initially joined the AODT Court thinking it was an easy alternative to prison. Working through the process, however, participants’ views changed as

they reflected on how they felt privileged to be part of the AODT Court, and realised it was an opportunity to begin a journey towards a better life.

Participants reflected that being part of the AODT Court was a substantial commitment due to the time required for AOD treatment, court appearances, AOD testing and other treatment or interventions. They did not find attending the AODT Court to be an easy option

*I was still in denial and I was still bulls** you know so I was like 'oh, yup that's really good!' but in my mind I was like 'just shut up, give me bail and get me out of here'. (AODT Court participant 14)*

The advantage was keeping me out of jail to be brutally honest; I would do anything to keep out of jail. (AODT Court participant 16)

I was in custody at the time, I got arrested and I was looking at 3–5 years for my crimes. So I thought I was going into that until they introduced me to the drug court. My lawyer at the time just came down and said that I could take this and I asked what it was about and he said it was pretty much 18 months to put your sentence off, 18 months of programmes and then you're pretty much guaranteed community-based sentence at the end, so I said 'hell yeah, I'll take the 18 months over the 5 years'. At first I just looked at it like a get out of jail free card and I was just like 'yeah, I might just do this', but then as I went on I thought I might just carry on like this because I could see all the bros doing what they were doing and going in again and they just look...that must have been how I used to look, off my face and everything...I want to turn my life around now, not when I'm 50 or 60. Plus for my kids and my partner. (AODT Court participant 3)

Participants commonly spoke of wanting to make a change in their life. They had reflected on a life of criminal offending, repeated drink driving offences, AOD dependency and, in some cases, gang lifestyles and abusive family relationships. The participants were at a point in their lives where they wanted to change. The AODT Court offered an opportunity for reflection and change.

*I turned 30 and had that birthday in jail, and that broke me, that was like my rock bottom and I was just like 'f*** this I need to do something with my life'. Then the drug court thing came up and I thought 'yeah, this is going to be tough but I'm going to make a go of it'. So yeah, that policeman...that was the first time I had heard anything about it. He didn't know much about it either I don't think, but once my lawyer came in and discussed it I knew what it was and everything. I think I was looking at about three years or something inside, so I had the choice for that or the drug court. (AODT Court participant 9)*

A new perspective on the justice system

For some recidivist offenders, the idea of the justice system being something that can help was a foreign and welcomed concept. Reflecting back, participants are now excited about what is considered a unique opportunity to receive help to address the cause of their offending in a system that, in their past experience, had only punished.

From my path when I was young and stuff watching the Police take my parents away and so I sort of grew up with that chip on my shoulder because I didn't understand and I sort of always fought the system. But then the system came back and said 'hold on this isn't working' and then sort of helped out, I was thrown back by that. I thought my reasons were valid and I always fought and

then became that bully but this court here reaches out to people who want to change. (AODT Court participant 13)

They tell you all your charges, the prosecutor stands up and names 80 or 90 something charges and he says that they were all related to me using and he doesn't blame me for being a criminal but it was just me being an addict and my addiction controlled my habit, and that shocked me itself. Then he applauded me for actually applying to the drug court and wanting to make a turn in my life and I was shocked by that, and then the judge said yeah he's right, your drug using and drinking has led you to all these crimes. I was just really shocked, I felt real little, like I wasn't even in myself and I was looking at myself just thinking that this isn't usually the place where you get told that stuff, you usually get told that you're a bad man for the crimes you've done and you deserve jail. It's really different. (AODT Court participant 18)

One whānau member also reflected on their new perspective of the justice sector.

You don't get chances within the Police system, we know first-hand. Too many times these offenders are put into one category and then thrown in jail and they don't get the resources to try and do better for themselves, they don't get the chance to try and get better because they're only seen on pieces of paper what they've done and why they're there. No one until now has actually gone behind the scenes and said 'well why he is an offender and what can we do as a system to try to stop it', and the only thing for someone using and addicted, especially on meth, is to try and recover them. Once recovery comes in everything kind of falls into place because once you recover you don't need to find the money or the resources to feed that habit so the whole lifestyle changes, the person changes. (Whānau member)

6.5 General feedback from stakeholders

Delivering of AOD assessments within the three-week reporting time frame

The CADS team reports that it has, by and large, been able to report back to the AODT Court on AOD assessments within the three-week time frame. There are also instances when assessments are requested in a faster period which the CADS team is able to accommodate. A substantial increase in referrals may make the three-week (or more immediate) reporting period more difficult to achieve with the current staffing, particularly for assessments that need to be done in prison.

50-day advisory rule

The AODT Court is guided by a 50-day advisory rule. The AODT Court handbook states a maximum of 50 days is recommended between the offence (or arrest) and acceptance into the AODT Court (Ministry of Justice, 2012b).

Stakeholders generally agree that this is a useful guideline for the court, recognising that the close proximity to the offence is more likely to lead to better outcomes. The 50-day advisory rule is used as a guideline, not a strict rule, recognising there may be opportunities for change or 'teachable moments' outside this period. The court recognises the importance

of identifying points in time when people are contemplating change, which may or may not fall within the 50-day window.

That is an advisory rule, it is a helpful indicator of future success but it would be wrong to exclude someone just because they're outside of the 50 days... you must remember what the 50 rule's about, it's about the window of opportunity... The key concept here is that when an individual has a serious arrest or a breach, they are at a point where it should be very obvious to them that things are not going well in their lives. If you can catch them at a time where they can see that something needs to change, they are more likely to be able to change their behaviour and their lives... You should never disqualify someone just because they're outside of the 50 days, particularly if you look at what are the other motivations for them. (AODT Court team member)

Discussion of new referrals at the pre-court team meetings

The time spent in considering and selecting defendants in the pre-court team meeting is considered a very important and valuable part of the process. The discussion of new referrals in the pre-court team meeting was, on the whole, thought to work well (with the exception of the application of the eligibility criteria on defendants with violent histories, discussed below). Stakeholders noted good information sharing across a multi-disciplinary team, and the team members being well prepared for the meetings.

I think the way we do it with the whiteboard and everything for the determinations is good because then you can see it, putting the photo up as well so then we know who we're talking about. The Determination meetings are good, because we have the report file from CADS, then the case managers input into it as well and we'll go through the weighting factors, and I think that's all okay. That's really all that we need, and if there is something missing then it's put off for it to be covered, and we do that all the time. If there's something missing or something not right about it then we put it off before we make a decision, so we do take our time. This process is really important. We're determining someone's future, and the deciding factors as to whether they can turn their life around. It's where we can get together and share our views on someone, disagree, agree, I mean what better process? (AODT Court team member)

The role of the Department of Corrections in pre-court team meetings

As the AODT Court is targeting high-risk and high-needs offenders, in many instances, the defendants being considered for AODT Court have histories with Corrections Community Probation AOD teams. These teams work slightly differently from other Community Probation officers, in that they have smaller case loads, spend more time with each offender working closely with them on matters such as housing, getting to appointments and working with their families.

At this stage, the information provided by Corrections is limited to the RoC*RoI score and some background information when requested. Some stakeholders felt the inclusion of information from the Community Probation AOD team may provide another source of useful information for considering a defendant's suitability for the AODT Court. The involvement from Corrections was considered during the AODT Court design phase and decided against as the AODT Court is a pre-sentence process and the cost to Corrections of being involved was thought to outweigh the benefits.

Time required from non-AODT Court defence counsel

Consideration has been given to the length of time required at court by non-AODT Court defence counsel for new referrals. Scheduling of cases to ensure (where possible) new defendants are seen at the start of the pre-court team meeting and at the start of the Defended Hearing at 1:00pm is one strategy used to define and restrict the time required of non-AODT Court defence counsel at court. The court continues to be mindful of this issue.

Selecting appropriate defendants for the AODT Court

On the whole, stakeholders felt that the right people were being accepted into the AODT Court. Learning who to accept within the eligibility criteria has been an evolving process. Over the course of the AODT Court implementation, the teams have been discussing and developing their understanding of who the right people are, reflecting and learning from the early participants. For example:

- Should the court target those most likely to be successful? (For example, if the younger people are not at a life stage to want to change, should the court accept them?)
- Should the court accept the hard end of the high-risk and high-needs group? (For example, those with violent histories.)

Given the high-risk and high-needs group that the AODT Court is targeting, there is an acceptance that not all of those referred will successfully graduate from the AODT Court (the exit process is discussed in section 11).

The teams have learnt the importance of defendants having a good understanding of what will be required of them when participating in the AODT Court, including the length of time involved, the phases of the court, the impact on employment (where relevant), drug testing requirements and frequency of court appearances. The more defendants understand what is involved the more likely they are to continue past the first few weeks.

One of the things that I think has proved to be extremely useful is how much work we do on pre-selection... there's quite an elaborate process but I think it's useful because we don't want people coming in and then two minutes later say 'I didn't realise it would be this amount of work and this amount of scrutiny and testing and everything'. Early on there was a case with [name] and [we] learned a lot from that case because I think we hadn't really explained to [name] as well as we might have what was involved. So they came into the court and within a couple of weeks got cold feet and wanted to opt out, and I think that was quite a useful experience for us because it gave us a chance to really review our practice around that. (AODT Court team member)

Participants' understanding is also important from a defence counsel point of view, as defendants need to plead guilty to potentially serious offences.

They're looking at guilty pleas with quite serious charges, so if there's anything we're mindful of, it's not rushing them into it as well. So then we'd pick them up and go through any questions they have about the handbook, run through the contract again and the thing is that every paragraph is read to them and then we pause – we make sure that they know, and we explain to them that this is probably harder than serving time because it's a wrap-around service. (AODT Court team member)

Defendants' motivations to participate in the AODT Court

Stakeholders hold the general view that defendants are often ambivalent at the stage of the Determination Hearing, and their primary motivations for participating in the AODT Court are to avoid prison or that AODT Court will be easier than prison. Some defendants may see the AODT Court as an opportunity for a better life and recognise their need for support; although this is not thought to be common at the Determination Hearing stage.

Participants' external motivation to join the AODT Court is not considered a barrier to acceptance, as this can change through the course of the AODT programme. Developing engagement and buy-in to the AODT Court is part of the process.

Those who remain externally motivated by prison avoidance, or who misunderstood and believed that AODT Court would be easy, are thought to be those who drop out or are terminated relatively early in the process. It is difficult for the AODT Court team to determine which people are likely to develop buy-in overtime and to continue.

Even if they are phoney with it initially, they start coming around, and that's an amazing part of it. Like the guy that I met with this morning, he's new and he just looks at me like 'yeah, whatever. I know better'... And they might not get it to begin with, and it might take a while because it goes against what they know and what they're used too. So we give them leeway there, but the transformation is amazing, and once they start building up momentum they're fine. Some, though, haven't taken so well. We can't predict who's going to be successful and who's not. There are some people here that I would have thought would have run a long time ago, that are still here. (AODT Court team member)

Some of them come in because this sounds better than prison, even though we know that it's actually harder than prison, but they're often externally motivated to begin with. We know from the research that it doesn't matter. As long as they'll commit to it then whatever gets them in the door, because you can work on their motivation once they're in. As long as they come into it with their eyes open and they commit. You've got a bit of leverage with them, then you can start working with them and we actually find that you see a shift – the ones that stay, you see them go from being externally motivated to being internally motivated, and it's absolutely fascinating. There's a saying that sobriety finds them. Sometimes we get participants that have been around for some time and they say 'I'm doing this for me now', and it's fantastic because they get that life is different. (AODT Court team member)

6.6 Strengthening implementation

Based on the feedback from key stakeholders the overall process for identifying defendants and determining eligibility requires further strengthening.

Key issues with the identification and assessment of eligibility

Assessing eligibility

There are suggestions that referrals may have been accepted that did not meet all of the eligibility criteria, for example, using a relative's address to be within the geographic

catchment area and accepting those unlikely to be facing a jail sentence. Due to a lack of data collection, the evaluation is unable to assess the application of the eligibility criteria at the Determination Hearing.

Feedback from the AODT Court Team highlights a lack of clarity and agreement on the eligibility of offenders with violent histories. Acceptance of people with violent histories is problematic for finding appropriate treatment for participants. It is also problematic for New Zealand Police who are responsible for public safety. If a violent offender absconds, this puts the community at risk from someone who would otherwise be in prison.

Offenders with violent histories are the most commonly debated in the AODT Court pre-court team meeting and is the area where team members are most likely to have differing opinions on acceptability. Currently, there is a lack of process to review disagreements about whether an offender is eligible or not.

Valuing professional judgement

On the whole, stakeholders generally viewed the members of the AODT Court team to be working effectively together with a shared vision and commitment to the AODT Court. There are some concerns about respecting the professional expertise of each team member. In some instances, it is considered inappropriate for team members to be voicing an opinion on a matter that is outside their professional scope. Some team members are also concerned their voice is not heard in discussions assessing eligibility.

Feedback to the AOD team

The AOD assessment team has limited contact with the AODT Court and does not receive feedback on the outcome of cases assessed. Providing feedback on cases to CADS, particularly on the case outcomes (ie, whether or not they were referred to and accepted by the AODT Court), would be useful as it would allow the CADS team to:

- improve its understanding of the AODT Court, the process and the eligibility criteria and continue to develop the AOD reporting template
- offer follow-up meetings (where possible) with those not accepted into the AODT Court to facilitate access to treatment as soon as possible

Risks with the identification and assessment of eligibility

Number of referrals from the District Court

A risk has been identified with the low number of referrals from the District Court. Around 300–400 cases were expected to be identified from the District Court to reach the target of 100 people participating in the AODT Court per year. As of December 2013, there were 197 referrals for AOD assessment.

Stakeholders suggest the following explanations for the low referrals:

- insufficient awareness of the process and criteria for referrals into the AODT Court, including low awareness amongst visiting judges from other courts
- competing views as to the value and effectiveness of the AODT Court
- reluctance to continue referring defendants after earlier referrals, thought to meet the eligibility criteria, were rejected

- a possible lack of motivation for defence counsel to refer their clients, who are frequently appearing in the District Court, to the AODT Court as this involves handing over to another defence counsel.

The perception among stakeholders is that awareness of the AODT Court process and criteria is increasing as the pilot develops and as people have direct contact with the AODT Court. This is not reflected in any consistent increase in the number of people appearing for Determination Hearings (Figure 2). The following activities have been undertaken to increase awareness:

- meetings with defence counsel
- meetings with the duty lawyer supervisor
- seminars
- advertising in law magazines
- AODT Court co-ordinator introducing the AODT Court to defence counsel around the Auckland and Waitakere District Court.

Summary

- AOD assessments are undertaken by the Auckland CADS. The number of referrals for AOD assessment is lower than the expected 300 to 400 referrals. In the first year of the pilot's operation, 197 referrals were received by CADS for AOD assessments.
- There are indications that appropriate defendants are being identified and referred to CADS. 84% of referrals for AOD assessment by CADS meet the criteria for AOD dependence and are recommended for the AODT Court. CADS are seeking feedback from the AODT Court team on the selection outcome of defendants they recommended for the court.
- As of December 2013, 158 people had attended a Determination Hearing at the AODT Court. Of these, 99 people (63%) were accepted into the court (49 at Auckland and 50 at Waitakere).
- The evaluation was unable to assess the application of the eligibility criteria in participant selection at the Determination Hearing as there is no central record kept of this information. Feedback from the AODT Court team highlights a lack of clarity and agreement on the eligibility of offenders with violent histories, and a lack of process to review disagreements about whether an offender is eligible.
- The most common reasons for not accepting offenders to the AODT Court from a Determination Hearing include: violence, living outside of the geographic boundary, mental health issues, the amount of time spent in custody or likelihood of a prison sentence of less than 18 months.
- Before joining the AODT Court, participants had varying degrees of understanding about what would be involved in taking part in the programme, and some were dissatisfied with information received about the AODT Court. Participants described the selection process for the AODT Court as rigorous; although some noted they were anxious about whether or not they would be accepted.
- Participants' attitudes to the AODT Court tended to evolve over time. Most commenced the programme thinking it was as a way to avoid prison and an easy option. Through their involvement in the programme, participants realised that to remain in the AODT Court required substantial commitment from them and it offered an opportunity for change.

Evaluative assessment

- The overall process for identifying defendants and determining eligibility requires further strengthening.

Strengthening implementation

- Determine the feasibility of using a checklist to record and provide evidence that participants met the eligibility criteria at the Determination Hearing.
 - Investigate the feasibility of establishing clear criteria for offenders with violent histories.
 - Develop a process to review eligibility decisions where there is disagreement within the AODT Court team on whether a potential participant meets the defined criteria.
 - Establish a feedback loop between the AODT Court and AOD assessor to create greater understanding of the rationale for acceptance and not acceptance into the AODT Court.
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7. AODT Court programme

This section covers the expected operation of the AODT Court programme, and its actual implementation as described by stakeholders and participants. Aspects of the AODT Court programme considered include the role of the AODT Court team, pre-court team meetings, court hearings, monitoring and advancement through the three phases of the AODT Court.

7.1 Roles of the AODT Court team

The AODT Court team consists of the AODT Court judge, the case manager, the court co-ordinator, the defence counsel and the police prosecutor. From October 2013, te Pou Oranga (a Māori adviser) has been appointed to join the teams of both Auckland and Waitakere AODT Courts. Each of the roles are considered in turn.

AODT Court judge

The AODT Court handbook sets out the primary role of the AODT Court judge, which is to:

- work with and lead a multi-disciplinary team to create the best chance of participants succeeding in treatment without reoffending
- hold participants accountable for their offending by providing the opportunity for them to access the most appropriate treatment and care for AOD dependency
- sentence those participants who successfully complete the AODT Court programme in accordance with the Sentencing Act 2002.

The judges from both courts spoke of their strong relationship with participants and the AODT teams. Stakeholders spoke of the importance of the consistency of the judge, including the consistent appointment of a substitute judge to fill in for the AODT Court judges when required, in forming relationships with participants and the team. Participants spoke highly of the judges, recognising that they were firm but cared about their progress.

She's awesome. She is Awesome. I got kicked out of ... and I was close to tears when I was telling her. I felt like I had let her down because she's put so much into us and she cares. She's got a passion for it and for us. (AODT Court participant 10)

Talking to me like I was a human being, and they had concern for me which doesn't happen in normal court, and you can talk to the judge and she really cares and you don't really see that much in the system ... Only judge I've got respect for ... You can't fake it, you go there and try and fake it ... you can't. (AODT Court participant 13)

When the judge says 'hey, you're doing well, I'm really proud of you and you're flying the drug court flag really well' then boom, you're on a high and I'll come back here and I'll be on a buzz and things go well – it's keeping me up rather than down. (AODT Court participant 9)

A whānau member also praised the judge's role.

She's amazing, she has heart, she takes care of the family as well – feedback from the family. She doesn't just sit there and question the participant but she takes the time out to acknowledge the participant's family and looks deeper and beyond the criminal charges and what she sees right now and for the past six months she's been travelling with us. She didn't know [name] before he came, but she knows him enough now to see that potential ... I like her, she's compassionate – she's hard, she's still a judge ... but at the same time she listens to your case and takes it into consideration. She's very good at her job. (Whānau member)

Both of the judges spoke of needing to be seen as fair and impartial with each participant, while at the same time showing compassion and empathy. It was important to model pro-social behaviours and keep communication appropriate and constructive. How to train judges is an issue for the future because the role is specialised and requires a degree of knowledge. As suggested by some stakeholders, judges may benefit from receiving independent expert supervision.

AODT Court case managers

According to the AODT Court handbook, the case managers are expected to co-ordinate specialist AOD treatment and other services for participants, retain an overview of their treatment programme and report to the AODT Court on their progress. The case managers are also responsible for wider needs assessment to support rehabilitation and ensure there is a continuing care plan on exit from the court programme. They are employed by the lead treatment provider, Odyssey House.

The case managers described their role as relaying information between the treatment provider, the participants and the AODT Court team. They create a treatment pathway for new participants, identifying their short- and long-term goals and treatment providers that will help them achieve those goals. This involves liaising with the provider, giving them information, including the CADS assessments, and negotiating dates for treatment. They provide progress reports on treatment and testing on each participant appearing on court sitting days. They also help participants with accessing support, for example, from Work and Income New Zealand (WINZ) and within the community. The work also involves managing issues such as positive AOD tests.

A clinical manager has recently been appointed to manage and provide clinical oversight and support to the case managers and peer support workers. This role also contributes an expert voice on treatment and liaises with the treatment providers.

Case managers draw support from their team, the clinical manager and the independent supervision arranged for them.

The participants interviewed consistently appreciated the support, accessibility and responsiveness of the case managers. One said:

The case manager has been awesome. She's been beside me from when I've been crying to when I'm in pain, to where I'm in hardship or finding things more difficult ... she's actually showed me how to look at what I'm capable of doing, not what they're expecting from me but what I can actually give back ... to community

service. And I've never done that before, I've always just taken. (AODT Court participant 8)

[The case manager is] very supportive and really very helpful. In the beginning, like the first few months, you're very vulnerable and you feel like leaving and you're complaining and venting a lot. So there was a time that every time my case manager came to see me ... before she was even through the door, I was complaining about the place and the people and wanting to get out and everything. So they pretty much help you to talk and to take one day at a time and they keep saying positive stuff. (AODT Court participant 19)

The size of the job and expected case load are a difficulty. Currently, caseloads are 18 to 20 participants, while it is expected that case workers will work with 25 participants at full strength. Case workers have been working overtime and are looking at ways of working more efficiently, such as reducing visits to participants in treatment, asking participants to visit the case worker or updating by phone. The team has worked on reducing the length and streamlining the content of their case reports to the wider team.

There is a need to be clear about the scope of the role so that it does not expand to providing therapy, social work or a 24-hour service.

For some case managers from a treatment background, the court environment is a new experience and requires training and time to achieve a level of comfort.

When working in a multi-disciplinary team, the treatment expertise of the case managers is not always recognised, and other members' views on treatment sometimes override the case managers' expertise.

AODT Court co-ordinator

The AODT Court co-ordinator is a Ministry employee. At the outset of the pilot, there were two AODT Court co-ordinators, one in each court, working 0.5 full-time equivalent (FTE) each. There is now one co-ordinator working 1 FTE across both courts.

Initially, the AODT Court co-ordinator's role was intended to be administrative. Currently, the AODT Court co-ordinator is expected to co-ordinate specialist services, manage relationships with the judiciary, professional service providers, legal practitioners, prosecutors, Victim Advisors, court users and community groups and ensure that all relevant information is distributed to team members through the Department of Internal Affairs shared workspace website. They are required to provide information on the AODT Court to court users and maintain the AODT Court database.

The court co-ordinator has an important role in managing the flow of information between external stakeholders and the AODT Court team. This includes information on drug testing. When a positive test or evidence of an anomaly is received from ESR, the court co-ordinator notifies the team. The co-ordinator also records decisions from the court session and manages the follow-up communication of those decisions. There is also relationship building with organisations such as the New Zealand Prisoners Aid and Rehabilitation Society. Fundamental to the role is ensuring systems work and are improved, for example, managing a recent review of the bail form.

The workload for the court co-ordinator is heavy and will be overwhelming when the caseload increases to its maximum. As there is one person in this role, there is no back up

when the co-ordinator is absent. Because the court registry officers have been provided from existing staffing levels, the co-ordinator has needed to become involved in file management, particularly in the Waitakere Court, where there is no registry officer dedicated to the AODT Court. The judges and court staff believe there is a need for more capacity in the co-ordinator role and a dedicated person at each court.

Police prosecutors

The police prosecutors represent the New Zealand Police and the community in the AODT Court. They ensure that public safety is a primary focus and bring any information that may impact on this to the notice of the court. Prosecutors are also expected to inform the court of the victims' views. They are to provide intelligence on participants, reporting on any violation of which they are aware. Prosecutors also have a role in reviewing participants for eligibility and are required to maintain a non-adversarial role and ensure compliance with the legislation. There is one dedicated prosecutor in the Waitakere AODT Court, while in Auckland there are five rostered prosecutors.

The police prosecutors interviewed described the role as very different from the usual adversarial approach. They noted the need to adjust to balancing their adversarial role with wanting to support the participant to address their AOD dependency. For example, what is seen in the AODT Court as a 'lapse' is technically a breach of bail for which police would usually be seeking return to custody. Instead, the AODT Court hands down sanctions agreed by the team. In these decisions, police need to balance the interests of public safety with the progress of the participants.

Police prosecutors noted that they need to think through the ethical implications of managing and sharing privileged information. For example, police in the team are privy to information from lawyers and treatment providers that they would not ordinarily be given. Also they need to decide whether to share information when participants are associated with an active investigation.

Police prosecutors can sometimes feel too much emphasis is placed on the needs of the participant and would like more consideration from the AODT Court team of public safety. For example, relatively serious offenders are placed in treatment programmes with no curfew conditions.

Prosecutors tend to take a hands-on role when participants abscond from treatment, and thus break their bail conditions, and often personally request a unit to apprehend absconders as soon as possible to reduce the likelihood of more offending.

Police prosecutors interviewed found it rewarding that participants who had previously come to police attention on a regular basis had stayed out of trouble after becoming involved in the AODT Court. Stakeholders observed the powerful impact on participants when police praise and encourage them during the hearing.

The international expert observed that the rotation of prosecutors in the Auckland AODT Court was not good practice as time and experience in court is required to understand the subtle balance with the non-adversarial role of treatment courts; commenting that ideally the role would be filled by one consistent individual, as in Waitakere. Others believe there is benefit in rotating prosecutors to ensure they do not get 'captured' by the participants.

Defence counsel

A small team of defence lawyers provides services which are broadly part of the duty lawyer scheme. These lawyers are intended to advocate for and represent participants using a collaborative and non-adversarial approach and ensure their rights are protected. They advise on legal options, treatment options, programme conditions and sentencing outcomes.

A team leader in each court location allocates lawyers to participants, oversees participants during court sitting days and liaises with the lawyers, keeping them informed on their non-attending days. Working with participants who have pleaded guilty, collaborating with police prosecutors and supporting clients through the treatment process differs from the usual defence lawyer role. While lawyers in the team have experience in therapeutic or problem-solving courts, they still had to undertake considerable learning about the AOD treatment process.

Lawyers are contracted for 10 hours per fortnight with a current caseload of seven participants.

Over the development of the AODT Court, the defence counsel has been encouraged to become more engaged in the AODT Court processes by introducing and updating the court about their clients at the hearing.

Counsel interviewed spoke of the benefits of the consistency of having a fixed group of lawyers who are building expertise over time and developing good rapport and trust with participants.

Like other team members, counsel also noted the tension between protecting participants' interests and protecting their wish to being drug and alcohol free. At times, participants' rights are not protected as they would be in the conventional court, for example, being sanctioned for something they do not agree with.

While not all participants felt they had regular contact with their lawyer, most spoke positively about the support their lawyer gave. Examples are:

She's good ... I don't meet with her every time I come to the court but I see her most of the time. If things are going on, like not so long ago I had the Police summon me to go to court and to witness against my co-offender, and I contacted my lawyer straight away so I don't have to do that, so I'm really grateful that I don't have to deal with that ... going against him and the people he knew was very dangerous for me and my recovery. (AODT Court participant 7)

Well you're allocated a lawyer – which is good because he always reminds [you] when you have to go in and he's always asking if there's anything he can bring up with the judge or help with and so that's brilliant – he's out to bat for you. It's [a] total different system, they're there to help you and the judge wants you to succeed, she really does. (AODT Court participant 16)

Based on discussions with key stakeholders and participants, defence counsel are undertaking their role as intended. Feedback from defence counsel highlights that their role is being expanded and that inefficient processes are impacting on their time, specifically:

- There have been expectations from the AODT Court team that counsel will work outside of the courtroom doing what they see as social work. As a result defence

counsel are providing more time than the 10 hours per fortnight allocated. While some see this as part of the unique role, there is some resistance from others to take on the additional duties.

In the early stages of the pilot, two Public Defence Service (PDS) lawyers who were assigned to the court withdrew because they could not manage the caseloads with the additional expectations being laid on to this role. Legal Aid Services lawyers have taken over the caseloads with supervision from the PDS team leader in each court.

- Defence counsel can have down time during the court proceeding. The evaluators observed four lawyers present through the full pre-court team meeting and court session. Finding a way to schedule counsel attendance to the times their clients are being discussed in the pre-court team meeting and in the court session would free up time which could be contributed to expanding their caseloads.

Pou Oranga (Māori adviser)

The Pou Oranga (Māori adviser) was a new role established in October 2013. The Pou Oranga gives advice on how to engage with Māori participants and works alongside the team and participants to ensure that kaupapa Māori aspects are included in the court process and treatment plan.

The role is intended to make the court more appropriate and meaningful for Māori participants. The person in the role has had a similar role in the treatment and recovery process and is well engaged in the community. He supports both the judges and respective AODT teams, giving guidance on appropriate responses to Māori. He brings knowledge of Te Reo and tikanga Māori, and opens and closes court sessions with karakia. He also works with Māori participants. A whānau member said:

Now that [Māori adviser] is there, I think the cultural aspect is really there.
(Whānau member)

Court registry officer

The court registry officer is responsible for case progression and providing judicial support. They receive and process files, take court, enter data into the CMS, manage scheduling and respond to requests from the judge relating to the case, for example, investigating outstanding fines or charges laid in other courts. Court services managers in each court are collaborating to achieve better consistency in the support that judges receive from the registry.

AODT Court team

The AODT Court team participates in pre-court team meetings on the morning of each sitting day and in the AODT Court hearings. The team considers reports and shares information on each participant appearing on that sitting day.

The interdisciplinary approach brings a variety of skills and perspectives to the table and helps the judge in making decisions. The team works collaboratively toward the same outcomes. The consistency of team membership leads to familiarity with cases and contexts thus improving decisions and saving time. Established lines of communication mean there can be a timely response when there is an issue, such as a positive AOD test.

The individual review of each of the roles above emphasised that the therapeutic model of the court, compared with an adversarial court model, changes the traditional interaction and flow of information between roles in the AODT Court team. For each member there is a fine balance between protecting participants' legal interests, balancing the interests of public safety, managing and sharing privileged information, and working towards the participant's wish of being drug and alcohol free. Both justice and health stakeholders referred to the challenges in working through what information they can and cannot share with the team. The guidance from professional supervisors becomes critical for these considerations.

In the main, the AODT Court team is learning how to work effectively together. In seeking to strengthen implementation there is a need to ensure the contribution of team members, based on their areas of specific expertise, are heard and valued. In this context, an occasional team debrief would be beneficial.

For the AODT Court case managers, the AODT Court co-ordinator, and defence counsel their role is expanding beyond its intended focus to the detriment of their capacity to manage full caseloads. In part this reflects that some issues identified at meetings are not clearly allocated to a specific AODT Court team role, for example, ensuring participants have appropriate social supports to take part in the AODT Court. Noting this uncertainty, several team members observed that the appointment of a social worker would be helpful to deal with accommodation, income, educational and vocational issues. It would also free up case managers' time while giving participants 'time intensive' relationships.

7.2 Pre-court team meetings

AODT pre-court team meetings start at 8:30am on each AODT Court sitting day (Thursday at Waitakere and Friday at Auckland). The purpose of the pre-court meeting (in addition to discussing potential participants as described in section 6) is to monitor the participants' progress by sharing information among the team. In practice, the session is also used to help the judge decide how to respond to breaches of bail conditions, to reach consensus about the next steps in each participant's programme and to discuss wider policy issues raised by individual cases.

The judge reads the list of participants who will later appear at the hearing to ensure all team members have the relevant reports from case managers on treatment, drug and alcohol testing, community service and other issues relating to each participant. The judge then leads a monitoring discussion on each participant, beginning by briefly summarising information about the participant and issues to be considered at the hearing, including their stage in the AODT Court process, any applications to move to the next phase, any breaches since the last hearing and days of abstinence.

The judge then invites the case manager, defence counsel or Māori adviser to summarise progress since the last hearing. The subsequent discussion on the case can cover aspects such as progress in treatment, testing issues, family issues, support from other services, such as WINZ, transport issues, community service, police information, and accommodation.

In cases where conditions have been breached, considerations such as seriousness, likelihood of escalation, public safety and fairness for victims are discussed. The decision whether to apply sanctions or terminate involvement with the AODT Court takes into

account how best to ensure there are opportunities for learning, referred to by the judge as a 'teachable moment'.

The judge may ask specific team members to undertake actions relating to a participant and then summarises the discussion and indicates the proposed course of action in each case, including particular messages that will be conveyed, next steps and next appearance.

During the session observed by the evaluators, issues raised relating to individual participants led to reflections on wider policy and practice, such as dealing with drug and alcohol dependency within the family, problems with the testing regime, funding for services and safety in prison. Frequent reference was made to the need to draw on international best practice on these issues.

The meeting ends with an update of information on cases considered earlier in the meeting, for example, on treatment availability for a participant from the case manager or new police information on a participant from the police prosecutor.

Based on discussions with stakeholders and observations, the AODT pre-court team meetings are working as intended. Stakeholders referred to the good preparation, communication, information sharing and collective commitment to the participants in pre-court team meetings. Understanding of the different perspectives and roles played by each professional in the team had grown over time. Stakeholders reported that the sharing of information strengthens the participants' sense that they are being closely monitored.

The lengthy duration of the pre-court team meeting and the amount of time and detail spent on discussing each participant was a problem for most of the team members interviewed, particularly as they all needed to see clients or carry out administrative work during their lunch breaks. Suggested solutions were to have more work done outside the meetings, reduce the detail discussed, prioritise cases so that those that were tracking well received less time, allocate time per case and break times, and to ask the court registry officer to remind the team to keep to the time allocated.

The extent to which information could be shared and to what extent the participant should be informed about information shared in the meeting was also an ongoing issue for most of the professionals present at the pre-court team meeting. There is a need to weigh up what is confidential, what is legally privileged and what is in the participants' interests to share with the group.

7.3 AODT Court hearings

This sub-section covers observation of the hearing process, whānau involvement, meeting Māori cultural needs, data on participants in the AODT Court in December 2013, incentives and sanctions and advancement phases.

Feedback from stakeholders, participants and the court observation indicates that the process of the AODT Court hearing is consistent with the pilot design.

The box below documents the observations of the AODT Court in operation.

Observation of an AODT Court hearing process

The hearing begins at 1:00pm with the AODT Court team seated in a semi-circle facing the judge's bench. The judge enters, invites the Pou Oranga to begin with karakia and then the judge gives a mihi in te reo Māori. She welcomes participants and their whānau, as well as kuia and kaumātua from Ngati Whātua who are in the public gallery.

The first defendant is applying for admission to the AODT Court and is admitted from custody. After an introduction from the defence counsel, the judge addresses the candidate:

This is a hard road where you choose to confront your addictions and the issues your addictions have been masking ... The alternative is imprisonment ... We ask for your honesty and genuine and lasting commitment to your recovery. We offer the support of an extraordinary team ...

The candidate is stood down to discuss the participant agreement with their lawyer. Returning to court later in the list, the participant hands the agreement to the judge who signs it and says: 'welcome to Te Whare Whakapiki Wairua', asks the candidate to make a promise to 'say no' to drugs and alcohol, and remands the new participant in custody to work with the case manager on a treatment plan.

As each of the following participants appears for monitoring, the judge welcomes them, acknowledges any positive progress, including the number of days of abstinence, and invites all present to applaud. She employs a mix of encouraging and stern communication as appropriate. Examples of encouragement include:

You seem to know what you need to do and you're doing it.

You say that not drinking is less stressful than drinking. That is a very exciting thing to have realised.

We are absolutely committed to walking with you on this journey.

Examples of more stern communication are:

There are no more excuses. Get your life organised. If you put a foot wrong it will be an exit from this court. Are you ready for the challenge? You have support at home, our support and your abilities.

There has to be a sanction. It has to be a severe one... we know what you're capable of. You are one of the kindest most compassionate people. I am hugely saddened.

The atmosphere is intense and participants and whānau weep at times. Frequent acknowledgement is made of the whānau who are present and at times they are invited to speak. Other supporters include treatment support buddies who have accompanied the participant to court, Friends of the Court¹⁷, peer support workers and 12-step support people.

Each participant brings a record of community service on a pink card and a record of 12-step meeting attendance on a purple card, which is handed to the judge for review and endorsement of the effort, if appropriate. Members of the team are at times invited to comment on progress or future options. Before concluding with each participant, the judge sums up the next steps, outlines any new conditions imposed and gives final messages of encouragement. At the conclusion of the hearings, the Pou Oranga closes the session. Participants were observed staying at AODT Court after their appearance, as well as watching cases before their own appearance. Not all participants stayed the whole session.

¹⁷ Volunteers who support defendants and their families at court.

The presence of participants and whānau in court creates a feeling of community and provides participants with models of success, learning and support. The open court is treated as a teaching and community-building activity, and the judges shape the court day to produce messages for the whole group. Acknowledgement of progress or reprimand from the judge and team are powerful reinforcers.

Participants had mostly positive reactions to the court hearing.

- It is humbling

At first, it's really daunting because it's so different, the judge is there and she addresses you as a person and [the] same as the court, you've got the lawyers and counsellors and support people sitting there but then everyone claps for you and it's supportive, and it's just different – it's humbling. (AODT Court participant 10)

- There is strength and support from others

I think it's good. Every time we go there we sit at the back of the court and everyone's there so we hear everyone else's story and there's some sort of strength there and support and it's really good. Even if it's not about you, it's about someone else you still connect [with] and you pick up everything from that person and it's quite different; it's good. It makes it easier, because when you go back after court you've got that energy to carry on, and everything is sort of explained. Like when you're in rehab, you have your ups and downs and everything, but when you're [in] court you have a breather and hear other people's stories, and everything sort of fits in and then when you go back you're refreshed and you can carry on. Being around the same people that are like me. (AODT Court participant 13)

- It is very different from the conventional court

It's good. This one here is a lot better than normal District Court. In District Court you get in the box or whatever but this one here they welcome you and they acknowledge you – your clean time or the good things that are going on. If I'm slacking in places, they sort of explain that I need to ... but not in a harsh way. They encourage well, and they're not hard – they're not soft either, but yeah. You feel like you want to be here but with other courts you don't want to go. (AODT Court participant 7)

- It is encouraging

Even coming from jail I would get excited about coming into the court and everything because it's a buzz, people clap for you and your achievements and it's not scary – it's so respectful. I've never had a judge and a police officer and case managers and a whole courtroom clap for me just because I'm so many days clean, it gives me this loving feeling and the motivation and the judge says that she's proud of me and how far I've come rather than 'Mr ... you're not doing well you can now stand down'. It's [a] complete flip side of normal court. (AODT Court participant 9)

Other participants reported that their participation was more routine and not particularly meaningful.

It's just part of it, I'm not too fussed by it. It's just become part of my routine and also it gives me something to do. (AODT Court participant 3)

Similar to the pre-court meeting, there is a need for better time management in the AODT Court hearing. All team members interviewed believed that both the court session and time spent on each case was too long. The judges are guided by research that shows spending three to seven minutes with each participant gives optimal efficacy, but they frequently spend longer. Stakeholders suggested similar solutions to those outlined for managing the pre-court meeting time: more work done outside the meetings, reduce the detail discussed, prioritise cases so that those that were tracking well received less time, allocate time per case and break times, and to ask the court registry officer to remind the team to keep to the time allocated.

Some participants also spoke of the long wait for their appearance because they were all asked to attend at the same time. Some were concerned about the impact on their work time. The court also uses the wait time as a sanction for those not performing.

Some team members felt that there was too much intimate and private information, such as matters relating to participants' whānau, disclosed in open court.

Both stakeholders and participants mentioned the small size and consequent crowding of the courtroom was a problem.

7.4 Whānau involvement

Some AODT Court participants are supported by family members at court appearances, while others are not for a variety of reasons. Some participants do not have family actively involved, may not wish to have their family involved, or may use alternative support networks.

Stakeholders generally saw whānau participation in hearings as a positive. It helps whānau understand the commitment their family member has made, for example, to attending many AA meetings, and provides an opportunity for the judge to give them ideas on how to support their family member and to support the level of honesty that is expected.

Involvement in the court had facilitated reconciliation for some participants with their families, and children in particular. This gives participants additional motivation for continuing with recovery. The judges welcome families, including small children, into the court.

Participants spoke of the benefit of family support at the hearings:

My mum's been by my side ever since I cleaned up – very proud and very thankful for the court. I had her here with me last week and she was in tears, she was very proud. (AODT Court participant 7)

[My family have] been supportive. They're really happy about the court; they think it's a really good thing especially with the SCRAM bracelet and seeing me not drinking and stuff ... A lot of changes, there aren't the arguments at home because everyone's happy that I'm not drinking because I used to drink every day. (AODT Court participant 17)

A family member said:

I think just in the sense you know he's doing well, it makes you really believe that it was a good choice and not just for the family but the judges' decision to put him in there, and just that realisation that we're not alone in this stuffed up situation and there are other people going through the same thing. (Whānau member)

There are difficulties for participants who do not have family support when they see other participants with a high level of support. Other difficulties are created when families and friends are users themselves, although by coming to the AODT Court they may see a possible pathway to their own abstinence.

7.5 Meeting Māori cultural needs

Both judges spoke of the importance of a core component of an AODT Court in New Zealand, being cultural appropriateness around engaging with Māori. Both have a commitment to forging relationships with local iwi and developing knowledge of language and protocols. The AODT Court CAG observed that knowledge of culture is a significant factor in bringing about change and healing for Māori.

Some Māori participants are reconnecting with their culture, for example, by doing community work at the marae. Stakeholders believe Māori participants feel comfortable in the AODT Court, for example when they speak in both te reo Māori and English. It was however acknowledged that younger Māori unfamiliar with marae protocol and the Māori world may not be comfortable with tikanga.

Attendees at the Māori provider hui (a group discussion with Māori treatment providers) conducted for this evaluation observed that good, strong and positive relationships with the AODT Court judges and case managers were very important. There was strong support for both judges and their work, in particular, the Waitakere AODT Court judge's foresight and vision in building a strong relationship with Hoani Waititi Marae.

To support the work of the Auckland AODT Court judge, it was felt by participants at the Māori provider hui that there is a need to build strong relationships with the Auckland Māori community, for example, with Ngati Whātua. Some work in this area had begun, where a kuia and kaumātua from Ngati Whātua recently sat in on the Auckland AODT Court. At the Māori provider hui, it was suggested that the Ngati Whātua representative who was present could provide support and guidance to the court on developing relationships with the local iwi.

Attendees at the Māori provider hui also observed that tikanga in the AODT Court is at its infancy stage¹⁸. Judges invite persons in the court to conduct karakia, which take place at the start and end of each open court sitting. Karakia have recently been introduced into the pre-court team meeting as well. The use of Te Reo and acknowledgement of whānau at hearings was observed in the court by the evaluators. Those at the hui said:

[It's] about time that we tried something new, although this is practised overseas... [we are] glad for any changes in the status quo that might find better traction... this thing is happening for Māori it's incredible, it's amazing that

¹⁸ As noted in section 5.3 focus and the strategies to incorporate tikanga Māori into the AODT Court are not explicit in the design of the pilot.

something has finally come, that could work for our people, could work for a part of Aotearoa. (Māori provider hui)

Participants said:

We do the karakia and we sing songs and now they've got the cultural adviser there as well who can kōrero with you if you need help in the cultural aspect. Also throughout this process they've allowed me to attend functions and hui and go to things that are cultural and they've been supportive ... There are not a lot of cultural people there – my lawyer and [the Māori adviser] are Māori and that's all I know of in the Auckland court. I did have a Māori peer support worker ... and that was good because me and him did a lot of pushing for the hui and that, it was real good. It was good to attend stuff like that, not just to get out of treatment but at Higher Ground we were only doing it twice a week so to get out and do it for the whole weekend was good. (AODT Court participant 18)

Well, I'm European Pākehā, so I'm learning a bit of Māori through the process. At the beginning, they say a prayer so that's good to learn that and yeah it's great, all my cultural needs are met. (AODT Court participant 16)

Islanders born overseas with English as a second language, they'd probably find it a bit harder, but I find it quite easy. (AODT Court participant 14)

A whānau member appreciated support from Māori at the court:

For us it's okay because we're both, I've got both Māori and Pākehā family so I'm dealing with both sides ... having someone like [whāea] to intervene is perfect because she makes the family and the children feel welcome and there's Māori counsellors that are available. (Whānau member)

Attendees at the Māori provider hui viewed participants' relationships with AODT case managers and peer support workers as essential. There is sense of reciprocity in supporting each other for the benefit of the participant. It was a concern that there are currently no Māori AODT Court case managers and peer support workers. There was a strong desire for current AODT Māori participants to eventually become peer support workers to fill this gap.

Attendees at the Māori provider hui observed that 'physical change can create a whole cultural change'. The Waitakere AODT Court judge had suggested a 'koru' shape layout, where participants and court staff all sit at the same level thus removing the current 'hierarchical' layout. This was explored when the court was being developed and the decision was made that this could not be accommodated physically for a courtroom used for AODT Court hearings once a week.

The Māori provider group would also like to see kaumātua and kuia sitting next to the judge when Māori participants are appearing. Rationale for this was not discussed¹⁹.

¹⁹ Feedback from the Māori evaluator suggested the following interpretation. Kaumātua are the figureheads for Iwi and as such hold the mana of their Iwi. The judge is the figure head in the court room. By having them side by side puts them at the same 'level' as the judge. On the marae, it is the kuia and kaumātua who practise or set down the tikanga and lores of the marae. Iwi look to them for guidance and support of what is 'tika' or 'right'. As such their presence in court beside the judge would perhaps have more meaning for the offender who may feel 'whakamā' or embarrassed that they have broken a law. The offender may seek to take things more seriously by complying with the judge's instructions.

There was a strong desire by the Māori provider hui attendees for Te Kooti Rangatahi model²⁰ to be explored in relation to the AODT Court operating on marae. The Māori provider hui felt this model was successful in reducing recidivism, and considered the marae to provide an appropriate Māori setting which may help to reduce reoffending.

What happens people come with their family they go through a whakamana process. They are welcomed and acknowledged as being part of this tribe this iwi, those strengths of those people we are reminded of. They are brought into a place where their language is heard, their tupuna are there. Then we will go into the whare kai and we will break bread together. Now, you go to the court, and you and your grandmother will go through the metal detector. Yeah, there's your welcome. None of you are trusted, even your grandmother. And search the baby too! ... (Māori provider hui)

Attendees saw kuia and kaumātua on marae as important role models. They felt that an AODT Court on marae would help Māori reconnect with tikanga.

Tuakana Teina – role modelling – watch our kaumātua, that's where we are heading, that's how it's done ... Māori respond to what is real – 'I'm going to follow you'. Why not use those intrinsic values on-goingly for our own, bring them back in, follow the tuakana... that is tikanga, from people following ... that is the tikanga displayed in Te Kooti Rangatahi ... (Māori provider hui)

7.6 Participation in the AODT Court

It was expected that the AODT Court would cater for around 100 participants each year, with up to 50 participants in each court at any one time. This number ensures that the court operates on one dedicated AODT Court day in each location each week.

This has been achieved with the number of people accepted into the AODT Court (99 participants had been accepted as at December 2013). The number of people who have remained in the pilot is lower than target, with 73 current participants (Table 6). Further work is required to ensure the court reaches the target of 100 participants at any one time.

There are benefits to a slow start. As stakeholders noted, smaller numbers allowed more time to be spent on each case as the system developed.

Tables 6 and 7 detail the demographic profile of those in the AODT Court as at 16 December 2013. The profile is similar to those accepted into the AODT Court (Table 5 section 6.3).

²⁰ Te Kooti Rangatahi locates part of the Youth Court process (monitoring of Family Group Conference plans) on a marae.

Table 6: Demographic profile of those currently in the AODT Court as at December 2013

Demographic characteristics	In the AODT Court					
	Waitakere		Auckland		Total	
	no.	%	no.	%	no.	%*
Total	36		37		73	
Gender						
Male	33	92%	32	86%	65	89%
Female	3	8%	5	14%	8	11%
Ethnicity**						
Māori	17	47%	11	30%	28	38%
New Zealand European	11	31%	13	35%	24	33%
Pacific	4	11%	10	27%	14	19%
Other	4	11%	3	8%	7	10%
Age						
18–24	5	14%	7	19%	12	16%
25–34	16	44%	11	30%	27	37%
35–44	9	25%	12	32%	21	29%
45–54	5	14%	7	19%	12	16%
55+	1	3%	0	0	1	1%

Source: Ministry of Justice, *Engagement Report*, extracted 16 December 2013.

* Percentages may not add to 100% due to rounding.

** In Jax participants are entered into as a single ethnicity classification based on New Zealand Police files and CADS reports. It is not known how multiple ethnicities are recorded. In this report, the single ethnicities recorded JAX have grouped into four broad categories.

Table 7: RoC*RoI scores for those currently in the AODT Court as at December 2013, who are not facing EBA driving charges

RoC*RoI score	Currently in the AODT Court					
	Waitakere		Auckland		Total	
	no.	%	no.	%	no.	%*
Total	21		18		39**	
0.3			1	6%	1	3%
0.5	6	29%	4	17%	10	26%
0.6	9	43%	7	39%	16	41%
0.7	4	19%	4	17%	8	18%
0.8	2	10%	2	6%	4	8%

Source: Ministry of Justice, *Engagement Report*, extracted 16 December 2013.

* Percentages may not add to 100% due to rounding.

** Data is for current AODT Court participants who are *not* facing EBA driving charges.

7.7 Incentives and sanctions

The AODT Court handbook gives examples of appropriate incentives and sanctions to be handed down in court hearings (see section 4.2 for the list of incentives and sanctions).

The judges described the programme as based on behavioural modification so that there are rewards for achievement of goals and progressive consequences for breaching conditions. The AODT Court team recognises that complete abstinence is a long-term process, and lapses in sobriety are part of the process to recovery. The aim is to create intermediate goals that are more achievable and to use the learning opportunities created by lapses. Incentives and sanctions give the court a tool for enforcing and rewarding attendance in the programme components.

Most of these guys have spent a lot of time in prison and they're used to failing and things but all of a sudden, smoking a joint or something becomes a really big deal for them and that's fantastic because we can say to them 'well, look how far you've come – this actually matters to you, you want to get your clean time and you want to carry on this new pathway and you've got a sense of what recovery could be like', so it's very powerful and there's a lot to be learnt from that. (AODT Court team member)

Participants have seen the benefit of both the rewards and the sanctions.

I had \$100 and I had a gift voucher for Repco and they paid for a gym membership. The gym one was for when I lapsed, and then I picked up and was doing well so it was for doing well after what I'd been through. The Repco voucher was for completing 100 AA meetings – some people have done more, I was doing like four or five a week but now I'm doing every day. (AODT Court participant 17)

I've had penalties for missing a urine test I had to do a few hours of work, and I've driven without a licence and I've been sanctioned but I haven't slipped up by taking drugs. I think one of the good things I take into consideration is that when I'm at court is that I don't lie to them – I could take drugs and then say 'oh, I'm clean', but I find that hard and I think honesty is a big part of it. I used to lie before but I don't think it's truly me. (AODT Court participant 15)

The ultimate penalty was being returned to prison. Participants could be sent to prison for brief periods when bail conditions had been breached, but this did not necessarily mean that the participant was exited from the court. Participants frequently spoke of prison as a deterrent.

It was pretty much just surrender to the programme, because I didn't want to go back to what I was doing. So every time I had a thought about jumping the fence or going to use drugs, all I saw in my head was jail bars so it was pretty simple – that's how I looked at it. (AODT Court participant 7)

One stakeholder, who spent time in both the Waitakere and Auckland AODT Courts, believed that there were differences between the courts in the criteria for sanctions and rewards, for example, a positive drug test may receive a sanction of a weekend in prison in one court, while in the other a participant may receive applause for being honest. The evaluation is unable to assess whether or not incentives and sanctions are being used consistently across the courts.

The number of incentives and sanctions

The number of incentives given in an AODT Court is recorded in JAX and produced in the Dashboard Event Statistics Report. The report shows 322 incentives have been given in the AODT Courts as at 16 December 2013. This is an indicative figure and should be viewed with caution.

Similarly, there have been challenges recording the number of sanctions. The Dashboard Event Statistics Report shows 55 sanctions have been given across the two AODT Courts. Again, this is an indicative figure. It is likely to be an underestimation, as the report also shows there have been 64 positive AOD tests.

7.8 Advancement phases

The AODT Court handbook sets out milestones where an overall review of a defendant's progress signals advancement across the three phases within the AODT Court. At the time of the formative evaluation, participants are moving into phase 2, only one participant had entered phase 3, and there have been no graduates. The evaluation was unable to assess the length of time participants were in each phase and therefore consistency with the pilot design.

Participants were aware of their progress through the phases.

In the beginning, you have to report to the court every week, when you've just entered because you're still vulnerable so they keep a close eye on you to see how you're doing. Because you're new to the programme and everything so it's good because they see you weekly, but when you move to phase 2 then you start going fortnightly and then [the] longer you stay in the programme the more the judges start trusting you and stuff. (AODT Court participant 19)

Yeah, I can't wait to move into phase 2 so I can start working, because I'm not allowed to work yet and I can't support me or my family and I tried to tell them last week and they understood but it's important that recovery is only about recovery, so it's sort [of] like suffer until I make it to phase 2. (AODT Court participant 3)

One participant suggested that more information be made available about the criteria for promotion to each phase so that participants knew what they needed to work towards.

The number in each phase over time

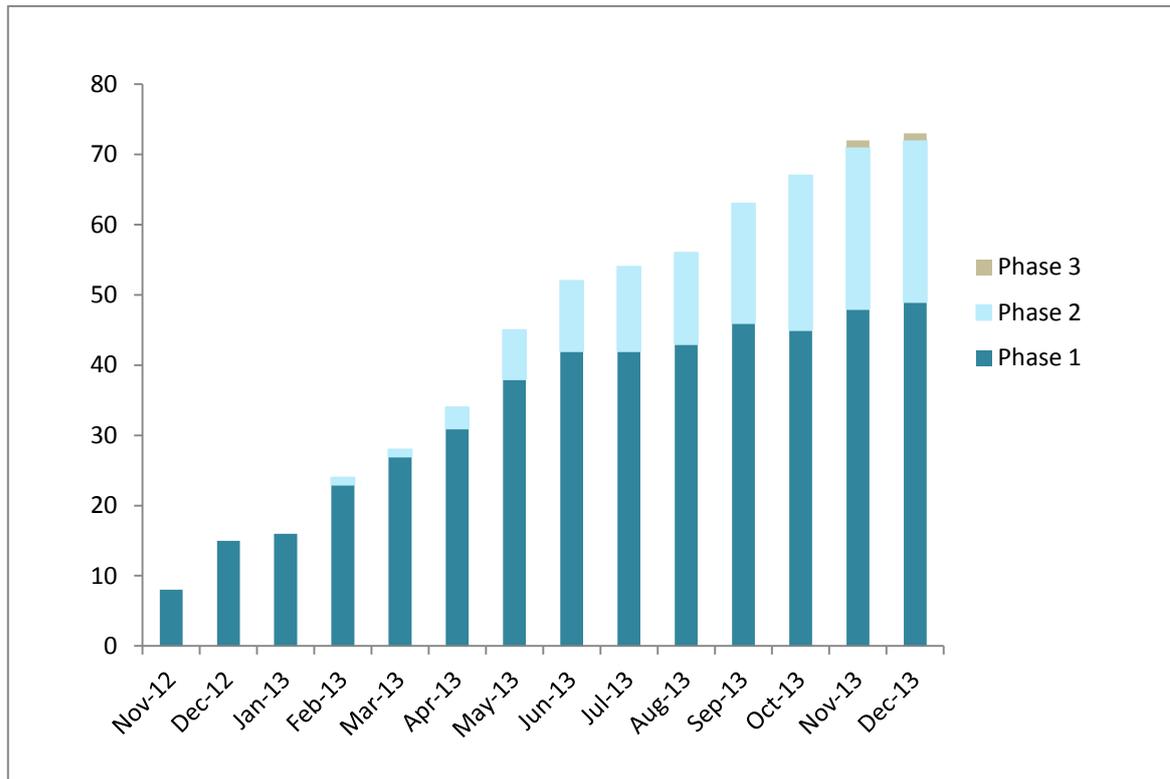
As of 16 December 2013, there were 73 people in the AODT Court recorded in JAX.²¹ Of those, there were 37 people in the Auckland Court and 36 in the Waitakere Court. The majority of AODT Court participants were currently in phase 1:

- 49 people in phase 1
- 23 people in phase 2
- 1 person in phase 3.

²¹ Based on JAX data reported in the Ministry of Justice Engagement Report and the Dashboard Phase Statistic Report, extracted 16 December 2013.

Figure 3 shows the growth of participation in the AODT Court over time for each of the three phases.

Figure 3: Number of people in each phase by month



Source: Ministry of Justice, *Dashboard Report: Phase Statistics*, extracted 16 December 2013.

Summary

- The AODT Court team consists of the AODT Court judge, the case manager, the court co-ordinator, the defence counsel and the police prosecutor. The AODT Court team participates in pre-court team meetings on the morning of each sitting day and in the AODT Court hearings. The AODT Court team considers reports and shares information on each participant appearing on that sitting day.
- The AODT Court team is learning to work effectively together, in particular managing their roles and the new ways of communicating in a therapeutic court. Participants gave positive feedback on all roles within the AODT Court team.
- The AODT Court team shows good information sharing and collective commitment in the pre-court team meetings and court hearings. The team noted that care is needed to respect and value the contribution of all team members based on their areas of specific expertise and to manage the balances between judicial and therapeutic processes, particularly with regard to information sharing.
- For the AODT Court case managers, the AODT Court co-ordinator, and defence counsel, their role is expanding beyond its intended focus to the detriment of their capacity to manage full caseloads. In part this reflects that some issues identified at pre-court meetings and in court hearings are not clearly allocated to a specific AODT Court team role, for example, ensuring participants have appropriate social and financial supports to take part in the AODT Court.
- The court session is a powerful teaching and community-building activity. Participants had mostly positive reactions to the court hearing describing it as humbling, strength-based, supportive, and encouraging.
- Both the pre-court team meetings and court hearings are becoming too long as caseloads increase.
- At December 2013, 99 participants had been accepted into the AODT Court, with 73 current participants. Further work is required to ensure the court reaches the target of 100 participants at any one time (50 in each court).
- Participants and whānau appreciated the use of tikanga Māori in the AODT Court; although the Māori provider hui believed that the use of tikanga is in its infancy.
- There is some evidence from participants that the incentives and sanctions contribute to modifications in their behaviour
- Participants are working through the three phases of the AODT Court with most in phase 1. The evaluation could not assess the length of time in each phase.

Evaluative assessment

- Based on the feedback from stakeholders, while the AODT Court team roles are working together as intended, the scope of the AODT Court case managers, the AODT Court co-ordinator, and defence counsel roles are expanding beyond what was originally expected which is impacting on their capacity to manage increasing case loads.
 - Based on discussions with stakeholders and observations, the AODT pre-court team meetings and court hearings are being undertaken as intended in the pilot design, although time management is becoming an issue.
-

Strengthening implementation

- Review the scope of the AODT Court case managers, the AODT Court co-ordinator, and defence counsel roles and responsibilities to address their current expansion and ensure they can complete their expected tasks within their current FTE and expected caseload.
 - Determine where the responsibility for addressing participants' financial and social needs (eg, their accommodation and income) to take part in the AODT Court lies.
 - Consider an occasional team debrief to discuss implementation and the tensions inherent in roles, communications and relationships within a therapeutic court model.
 - Strengthen time management practices to reduce the length of the pre-court team meetings and AODT Court sessions.
 - Calculate, as data becomes available, participants' phase duration.
-

8. Victim engagement

This section covers victims' involvement in the AODT Court process, identifying what was intended and what is being delivered. The section concludes by identifying suggested areas to strengthen the ongoing implementation of the AODT Court pilot.

8.1 Overview

As per the AODT Court handbook, victims and people affected by crime committed by an AODT Court participant are able to take part in the AODT Court process by:

- attending AODT Court hearings
- being kept informed about the defendant's progress through the court
- providing their views to the court (via the Victim Advisor, New Zealand Police or a support person)
- attending sentencing
- applying to the court to read their Victim Impact Statement at sentencing
- choosing to be involved in a restorative justice conference with the defendant
- being informed about the reparation or financial restitution to which they may be entitled
- being advised of any financial help to which they may be entitled.

The inclusion of the victim's voice in the AODT Court is the same as in other courts, through the New Zealand Police and Victim Advisors. The Police Prosecution Service's role in criminal courts includes ensuring that victim information and views are provided to the court.²² While the legislation provides that a Victim Impact Statement is given to the judge at sentencing, the AODT Court model involves delayed sentencing as a result victims wait for a longer period before their views are heard. The views of the victim may be made available at the bail hearing stage, which in the AODT Court could be seen as the Determination Hearing.

8.2 Victim's voice in the AODT Court process

Victim's voice in the Determination Hearing

The AODT Court handbook states that police prosecutors have the role of informing victims of defendants being considered for the AODT Court before the Determination Hearing. The police prosecutor is expected to present victims' views at the pre-court team meeting before a decision is made on whether a defendant is accepted into the AODT Court.

²² Victims' Rights Act 2002, sections 17–22.

Overall, it seems representation of the victim's voice at this stage in the AODT Court process has not been done well. To date, feedback suggests the police prosecutor's role in consulting victims has not been consistently delivered.

Some police prosecutors are unclear when in the process victims can be involved. In other instances, there are concerns regarding the lack of time available for the police prosecutor or officer in charge of the case to contact all victims in the time between a referral from the District Court and the Determination Hearing. This is particularly difficult when cases involve multiple victims. As the caseload has increased, it seems these challenges have resulted in the victim's voice being lost in the Determination Hearing process.

I recall from the outset we were told quite firmly that after the CADS assessment has been made when AODTC is first flagged as an option, it would be held for one to two weeks to canvas for victims' views and things like that and that has not been done. There's just no time to do that ... So basically the victims' views in the determination phase are pretty much non-existent. (AODT Court team member)

The first point of contact is at the Determination Hearing, and [the] police try and contact the victims and try and see what their views are. It used to happen a lot when we started, but it doesn't seem to be happening as much as it used to. (AODT Court team member)

Victim involvement in AODT Court

The role for Victim Advisors in the AODT Court is essentially the same as it is in other courts. The first contact Victim Advisors make with victims is when the defendant is in the District Court. Victim Advisors make contact with victims (by letter or phone) from which victims can opt to be kept informed of developments in the court.

Victim Advisors inform victims of the progress of their case through the AODT Court and ensure victims understand the court's specialist nature. They provide information on victims' rights, support services available to victims and how they can participate in the AODT Court. Victim Advisors or the police prosecutor may present the victim's views in AODT Court sittings as appropriate.

Victim Advisors update victims on defendants' involvement in the AODT Court, from beginning to end, if the victim has chosen to be kept informed. To date, there has been minimal involvement of Victim Advisors in the AODT Court because few victims have asked to be kept informed about the defendant's progress through the court.

Victim involvement in restorative justice

The appropriateness and timing for restorative justice in the AODT Court process is guided by the AODT Court judge. The appropriateness of timing of the restorative justice is likely to be affected by the participants' stage in the assessment process and the form of treatment the participant is receiving.

The court processes are evolving as participants move through the AODT Court phases. As some participants are nearing phase 3, the processes for victim involvement in restorative justice are beginning to be thought through.

The restorative justice phase is in line with the 12-step programme and is considered an important part of the AODT Court process. Stakeholders generally agree that phase 3 of the AODT Court is the most suitable time for participants and victims to be involved in restorative justice processes. By this phase, it is expected participants will be able to better engage with victims, and victims will be able to see the participant's development.

Phase 1 is very heavily focussed on treatment, phase 2 is more behaviour and relationship building and things, phase 3 is the phase where we want to start looking at restorative justice, and we've only got one in phase 3 so we're moving toward that ... We felt it was more important to engage with the victim when they [participants] have made really significant progress, so they've actually got someone who's sober and reflective who can meet with you and apologise ... Actually apologising face to face, and it will be a hugely important part of their recovery. It's absolutely definitely on the radar now, but we have waited. (AODT Court team member)

Stakeholders comment that including restorative justice processes in phase 3 of the AODT Court will mean that victims who are interested in taking part will experience a delay between the offence and the commencement of the restorative justice process. An alternative view is for a decision to be made about a participant's capacity to participate in restorative justice processes irrespective of the actual phase they are in.

Summary

- Overall, victims' voices are not well represented in the Determination Hearing process.
- The involvement of Victim Advisors has been minimal as few victims have asked to be kept informed.
- The court processes are evolving as participants move through the AODT Court phases. As some participants are nearing the third AODT Court phase, the processes for victim involvement in restorative justice are beginning to be thought through.
- The intention of the AODT Court is to introduce restorative justice processes into phase 3 of the court process. For victims however, this may be too late in the process, given there will be a long delay between the offence and phase 3.

Evaluative assessment

- Victim involvement is not working as intended in presenting victims' views for the Determination Hearing process. In other areas, the processes for victim involvement are still to be developed.

Strengthening implementation

- Determine how victim involvement can be achieved as intended in the Determination Hearing.
-

9. Treatment

This section covers the relationship of the AOD treatment providers with the AODT Court, treatment readiness, treatment programmes and other programmes and services. Each of these areas is examined in terms of what is working and not working.

9.1 AOD treatment provider relationship with the AODT Court

The Ministry of Health has contracted with Odyssey House as the lead provider of a comprehensive AOD assessment and treatment service to support the AODT Court pilot. Interventions are to be provided to participants referred from the AODT Court and determined to be eligible for the service, based on comprehensive assessment by the provider.

Odyssey House is contracted to form an AOD Court treatment provider network, which is a collaboration between Odyssey House, Higher Ground and the Salvation Army.

In addition to services from the three main providers, the network has a flexible funding pool to provide a dedicated recidivist drink driver programme and complementary intensive AOD treatment options from alternative providers as required. It also has links to a range of other services such as mental health, employment, education, social work, family, housing, medical and dental care, as well as community groups and services that will be part of the broader support sustaining participants once they exit the AODT Court.

Role of Odyssey House

- Lead contract holder
- Employs a project manager to implement and monitor the pilot, co-ordinate the network, establish the AODT Court Treatment Network Steering Group, and develop an operational manual and model of care
- Employs four case managers (with professional registration requirements)²³
- Provides four residential therapeutic community beds (one dedicated, three flexi funded)
- Purchases further complementary AOD treatment and other services on behalf of the network.

Role of Higher Ground

- Provides four dedicated residential therapeutic community beds and access to a further two beds through flexi funding
- Provides an after-care programme for those who have completed a residential programme
- Provides after-care accommodation.

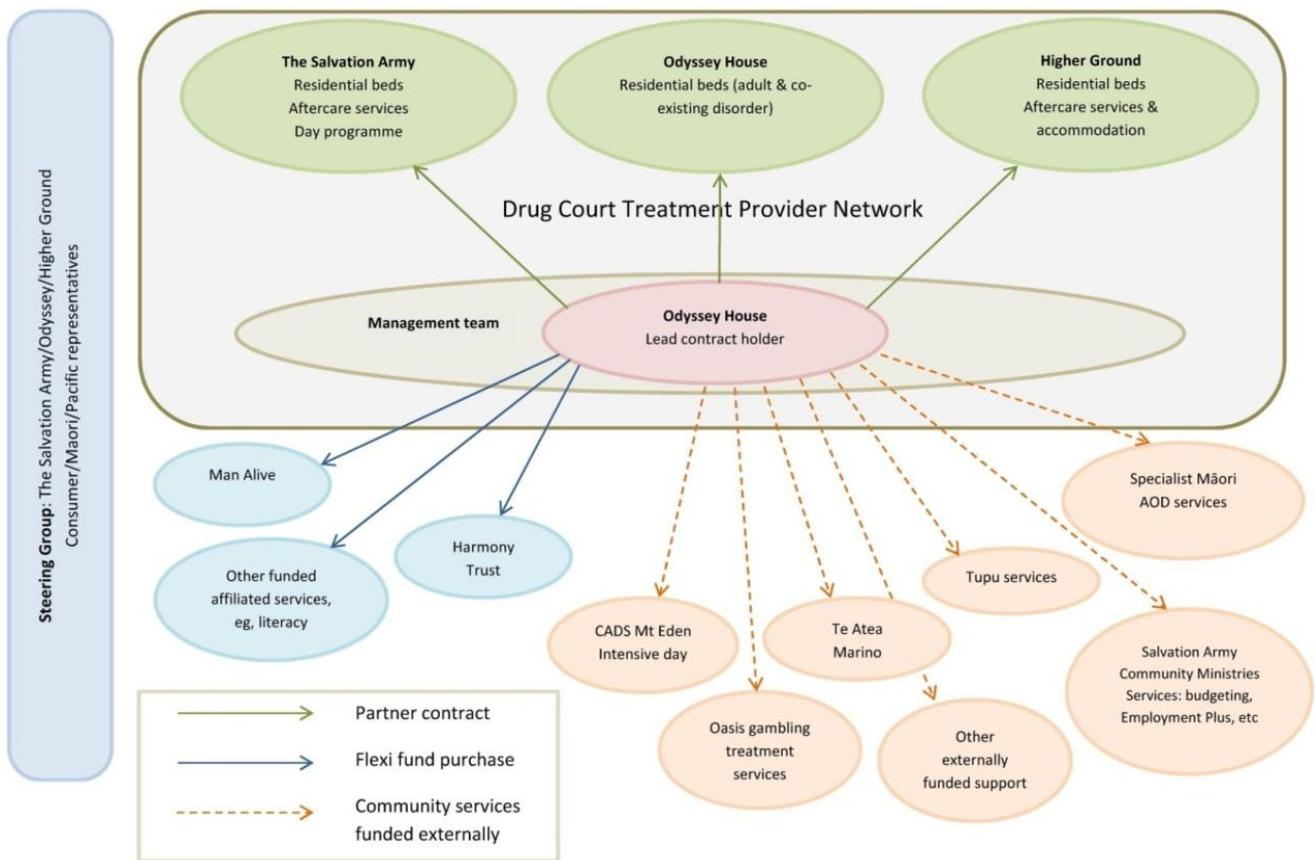
²³ The clinical employees must be either AOD practitioners registered with the Addiction Practitioners' Association Aotearoa-New Zealand or mental health practitioners who meet the requirements of the Health Practitioners Competence Assurance Act 2003 or the Social Workers Registration Act 2003, including the requirements for a practising certificate, or they will have met the registration requirements within one year of their employment in this service.

Role of the Salvation Army

- Employs four peer support workers
- Provides four dedicated residential beds and access to a further two beds through flexi funding
- Provides an intensive day programme
- Provides an after-care programme.

The intended service linkages are shown in Figure 4.

Figure 4: AODT Court service linkages²⁴



Note: AOD = alcohol and other drug; CADS = Community Alcohol and Drug Services.

The contract between the Ministry of Health and Odyssey House sets out several quality requirements, including provider quality standards, professional registrations, cultural competencies, ongoing training and a development and performance appraisal.

The AODT Court case managers (see section 7) are essential for ensuring day-to-day liaison between the AODT Court and treatment providers. Oversight of the clinical aspects of the contract is provided by the AODT Court Treatment Network Steering Group (intended to consist of the directors of each network partner and Māori, Pacific and consumer

²⁴ Prepared by Odyssey House for the agreement of 28 November 2012 between the Ministry of Health and Odyssey House Trust.

representatives). In practice, an operational treatment provider group meets regularly and the Treatment Network Steering Group, which includes the AODT Court judges and other agencies, has met around three times in the first year. Those involved observed that these arrangements were working effectively in addressing issues as they arose. One member said:

We've been able to give feedback to the judges and the judges have been able to give feedback to us and the case managers; it's a multi-disciplinary meeting so we've all been able to see each other's points of view and hopefully plan better ways of doing things. There's always going to be teething issues so it's just working through those. (Treatment provider)

It's been good to have that communication, because certainly with some clients the system has worked really well and with others it hasn't worked as well, and it's been good to discuss those difficulties, and those meetings have been helpful and supportive and I think that's important. It hasn't been people pointing blame, it's very much been an 'okay, this is a pilot, let's see what we can do better' and looking at these are the things we're doing well, let's do them better and these are the things that we're not doing very well so let's see if we can change them. (Treatment provider)

9.2 Treatment readiness

In the early stages of the AODT Court, several participants did not complete their treatment programmes, and participants' lack of preparation for treatment was thought to have contributed to this. The treatment programmes commonly have pre-admission groups, which intended participants attend from the community for several weeks. Pre-admission groups and which introduce the idea of treatment, the model used, some of the language used and the treatment centre environment.

Most AODT Court participants do not have the opportunity to attend these groups as they often move to the treatment centre directly from custody. The programme admissions staff can spend one hour with participants in prison giving them information about the programme. A treatment provider explained the challenges of moving from a prison environment into a treatment environment:

I guess the challenge for them is the difference between [the treatment programme] and prison, and this is a conversation we have with them to say [the treatment programme] is the opposite of prison in the sense that in a prison you have to work hard to get out but at [the treatment programme] you have to work hard to stay. In prison, you don't show your emotions to others, otherwise you become vulnerable but at [the treatment programme], you need to show your emotions and you need to become vulnerable to change ... It's hard for them in allowing themselves to be vulnerable because they think that if they let their defences down then they become weak, and that's not what they've been trained to do in their previous life. (Treatment provider)

CADS has developed a treatment readiness programme for AODT Court participants who are held on remand in prison²⁵. These participants have either joined the AODT Court and

²⁵ Data on how many AODT Court participants spent time in custody, and the length of time, while waiting for treatment or accommodation is available from CMS. Figures are not able to be provided in time for this report.

are waiting to be placed in a programme, or have been exited from a programme and been returned to custody until another programme becomes available. The aim of the treatment readiness programme is to maintain participants' motivation, prepare them for treatment by reiterating what is expected of them, and build skills that will help them in treatment, for example, emotion regulation, distress tolerance, self-awareness and effective communication. Those in custody are also encouraged to attend AA and NA meetings in prison. The treatment readiness programme is 2.5 hours per week and had been under way for only a few weeks as at November 2013.

The treatment providers observed that participants who did better within their residential programmes had previously lived in the community with an organisation such as Wings Trust, which has pre- and post-treatment beds and a therapeutic structure where they can get used to working in a group environment. Ideally, participants would have time to participate in other programmes before engaging in the residential programme.

In the early stages of the pilot, AODT Court participants arrived in programmes with few practical supports such as benefits or bank accounts or in some cases clothing. The programmes do not have staff to help with these needs, which are best addressed before participants start a programme. Having an exit plan before starting is also good practice.

9.3 AOD treatment programmes

Treatment options are tailored to meet participants' needs, based on the treatment needs identified by CADS' AOD assessment and the case managers. During their time in the AODT Court, participants tend to be involved in several residential and outpatient programmes²⁶.

Bridge programme (Salvation Army): An eight-week residential or day programme with an educational focus and a recovery church, that is suitable for drink drivers. Stage one is an outpatient group held twice a week for clients²⁷ to prepare for treatment and become familiar with the service. New clients have a pōwhiri incorporating waiata, and haka is incorporated into the graduation. A kaumātua is also there to provide support. The Salvation Army has also developed a 90-day non-residential programme for eight AODT Court participants. A participant who gained a great deal from the Bridge programme said:

I learnt really valuable skills [at the Bridge programme] – how to manage emotion, the nubs of my addiction – what, when, why, where, how – relationship strategies and dealing with co-dependent relationships, dealing with family members and for me most importantly, spirituality. At the Bridge programme I learnt that if I keep myself and my inner core strong, I can deal with anything on the outside (AODT Court participant 11)

Odyssey House: An 18-month programme with 38 male and 14 female beds and a family centre with 10 beds and catering for up to 19 children. The assessment of referrals takes into account the need to achieve the right mix of clients (see section 9.5) in the programme.

²⁶ See section 12 for what data is available on the number of participants in residential treatment and the number in non-residential treatment.

²⁷ 'Clients' is used to refer to all those receiving treatment, not just the AODT Court participants.

The programme is described as habilitative, and it works in depth on social skills and communication. It is a mutual self-help programme delivered through group work with input from peers and based strongly on role modelling. It is a progressive programme with four levels. Level three and four clients have responsibility for those at lower levels. Work in the garden, kitchen or looking after others is a significant part of the programme. Clients leave once they have employment so that they are self-sufficient and have the support of pro-social people. There is a fortnightly group for those who have left the programme and a community dinner once a month.

A participant described the programme:

It's a long programme ... There are four levels of groups and you're encouraged to share about your issues and they're run by other people [on the programme] and when you're open and honest they can see what you need to work on and things; it's a therapeutic community. It's really good, and also the more you move into the levels the more you learn and you get more respect and the privileges are good. Like from level one to level two, you can get your own music like the radio or something and get to have your own shampoo from the shops. Then level three you get a day pass with one of your peers. (AODT Court participant 19)

Higher Ground: An 18-week residential programme that works on core issues such as criminal behaviour and personality disorders. Programmes are based on the 12-step recovery principles, incorporating the spiritual dimensions of honesty, open mindedness, willingness, faith, hope, respect and generosity as the foundations of healing. The programme emphasises that clients need to take individual responsibility for their recovery.

New clients are welcomed with a pōwhiri. There is a whānau group incorporating waiata, haka, learning about spirituality and how to connect with culture. A noho marae is held, and past clients are encouraged to take part. A Pacific cultural adviser is a member of the clinical team. There is also a support house for aftercare. A participant said:

Being part of the whānau group at Higher Ground has opened a lot and what I lost a lot of connection with; it's brought it all back. I feel quite empowered by that sense of being Māori again, and having that connection back because over the years I've just had nothing to do with it. (AODT Court participant 18)

Te Ara Hou: A six-month Māori residential programme in South Auckland that helps participants develop a strong sense of identity to replace negative criminal behaviour. The staff work to reconnect clients with their whānau, and clients and staff become whānau to them.

CADS Intensive Outpatient Programme: Provides evening sessions with a pre-entry programme of two sessions a week for four weeks and three evenings a week for the full programme which lasts eight weeks. There is a long-term recovery focus with continuing care groups. The involvement of family/whānau is encouraged.

Man Alive: Offers 'Living Without Violence' and 'Te Ara Taumata Ora' programmes which encourage men to take responsibility for their violence and understand there is no excuse for abuse. Participants work in a group of 16 men with two facilitators, once a week for 2 and a half hours. One-to-one counselling is also offered. Trained facilitators help men to take responsibility for their actions, learn how to avoid and manage conflict, have positive relationships, create safety strategies in their home, and deal with personal issues.

9.4 Participants' feedback on treatment

The AODT Court participants have a lot more support than non-AODT participants on treatment programmes from their case managers and regular appearances at court. The court is able to give input to endorse what the treatment provider is trying to achieve. Participants are being monitored closely by the court and encouraged constantly, and the frequent testing is a good motivator for abstinence.

Participants reported receiving the following benefits from treatment received through the AODT Court.

- A strong support network

I always rave on about that Bridge programme because I met amazing people there, I've developed a really strong network of peers as well as the facilitators and even though I've graduated I can go there and speak to them and approach them at any time. It's like a support network ... Plus the content of what is taught and the way they taught it – it got to me, I got it ... (AODT Court participant 11)

- Honesty for the first time

In the beginning it [Odyssey House] was hard, but as time went on it became better and better. In the beginning I used to call it [a] rehab centre but now I find myself calling it home and people look at me strangely and people who are new to the programme are like 'what?' But it's been my home for the last 10 months ... To be honest this is the first treatment I've been in all my life that's really worked for me. I've stayed honest with myself and I've done a Bridge programme three times before but the whole time I was using – I was never honest so I felt like I was cheating myself ... this is the first programme that I've done honestly and hard. (AODT Court participant 19)

- A release from the past and a strategy to prevent relapse

Waitakere Bridge Programme ... My first week I was so hardened about it, I was going 'what the heck is this?' But the second, third week I was going 'wow' ... the only thing blocking me was my past, and that healing process was when I started speaking out. And that speaking out was pretty hard for me to speak out because I've always been shut away, always been told not say anything, I was told not to cry and that was the biggest thing – I cried. Once I cried, I felt I was releasing a lot from my mind, a lot of hurt out and once I let out all that hurt I was feeling really good, each day and when it came to the end of my programme I didn't want to leave ... I still go over my folio papers that I have, with my thoughts, feelings and actions just to check where I am and I karakia every morning which is a lot of help, which we have in spiritual lifting, we have a prayer meeting and it actually took me back to my koro where I was brought up ... My turning point was there, and I grabbed it with both hands and now I can have better actions, I can talk about it, I'm not going to drink, not going to use, not going to be violent, no road rage, I've had the odd moments and all that but it's just little things now, whereas before it would just creep in like that and I'd just go pick up a drink but this time I can say 'hang on, deep breathing, take a moment, it's going to pass', and I can go to an AA or NA meetings. (AODT Court participant 2)

- Rehabilitation

But this place has been really good for me and they like cut you up into a million pieces so you can be put back together in the right way and they pull out your

deepest darks bits and incidences and all of that, it helps. (AODT Court participant 9)

Many participants gain benefits from a mix of programmes and services.

There's been Higher Ground, Wings Trust, which is for people who have been in treatment or are going to treatment, Man Alive, NA and AA meetings and that are pretty much it at the moment. I've got a Man Alive counsellor and a counsellor from Wings Trust so if something's happening out here and I'm not feeling right then I can go and see him, or if I wake up and feel like using I can go and see him just to talk about it whatever. (AODT Court participant 7)

For AODT Court participants, treatment is not without its challenges. Feedback from participants indicate a period of adjustment to treatment regimes which can involve disruptive behaviour and absconding.

Participants' find it difficult adjusting to treatment regimes: Some of the challenges for participants included: learning to share in group sessions and trusting others, taking advice from others in a similar position, the intensity of the programme, not having access to a gym, having little time and intimacy with a partner, family not being included in outings and rules such as no smoking.

Opening up. I've spent years keeping my mouth shut, and even just being a man – it's hard. Then sitting there in front of people you don't know, to open up and trust them with your feelings, it was really hard for me and I've really only just done it today and I've been here for four months ... It's hard to take advice from someone that's like me because who are they? But I found that today in the group I told them that and they were all like 'wow' and had real love and concern, it was good. (AODT Court participant 13)

When they [partners] come in for visits you're only allowed one kiss and cuddle and they come and sit down next to you but you're not meant to touch them and she's quite emotional so a little bit of support is huge, especially when you've been married for such a long time. (AODT Court participant 13)

When you come in here it's all no smoking, even outside so I've stopped smoking as well. In the beginning it was tough, but I sort of pre-prepped myself because I knew it was a no smoking place so I'd already decided to stop smoking. I was smoking up until the last day before I came here, but since then I haven't. I'm using some pills the doctor gave me and I've got patches too. (AODT Court participant 14)

For me, it was finding the balance between me and my family. Being with my family and being in recovery – I find I get the two mixed up and when they say recovery should come first but for me my family comes first. (AODT Court participant 15)

Some AODT Court participants have been disruptive: In the early stages there were instances where AODT Court participants were threatening or intimidating to other members of the community. While they were discharged early, the effect of this behaviour is disruptive and unsettling to other people in the treatment programme, and it takes the community's focus away from their work. When people are making changes in their lives they are vulnerable, and when they are threatened they tend to regress. The providers find that there is a significant workload when AODT Court participants are admitted and

discharged in a short amount of time and this happens more frequently with AODT Court participants than other clients.

AODT Court participants tend to know each other from previous institutions or programmes and from being together in court. While this can have benefits, in some cases, it can create a negative power base within the treatment programme, and the rest of the community can become silent and afraid to talk. These people tend to drop out or are discharged, but they can cause a lot of disruption in the community until then.

Several have absconded or discharged themselves from programmes: It has taken time to develop a clear process for dealing with those who abscond or are discharged. The treatment provider contacts the AODT Court case manager who informs the AODT Court team by email. The police prosecutor and defence counsel decide whether the participant needs to be taken into custody and, if so, the participant appears on the next court sitting day. If the participant wants to stay in the AODT Court and otherwise seems to be making progress, the AODT Court will continue to work with them; otherwise they may be exited from the Court. The treatment providers emphasise that discharge from a treatment programme is not a failure and that it can be a learning experience leading to admission to another programme or a return to the original programme. One participant described the desire to abscond.

I think in the beginning I was pretty much fighting the programme because I was just thinking negative all the time but once you stop doing that then everything gets better. Because I see the programme differently where in the beginning I was like 'oh, this is like prison!' and complaining to the judge but I see everything happens for a reason. When I see the new ones come in I see myself back in the day and I just laugh. Some of them don't go through and come all the way because that's the time really that you're going to stay or go. (AODT Court participant 19)

Perceptions of special treatment: Other treatment clients can develop a perception that AODT Court participants on their programme get special treatment. AODT Court participants are released to attend court whereas other clients in the early stages of their treatment may not leave the premises. AODT Court participants are also getting a lot of positive feedback and encouragement from the court, and have greater access to resources, such as visits from the AODT Court case manager, counselling, rewards from the court and help with transport. They have a package of care that other programme clients do not have, and programme staff need to be aware of and manage this.

9.5 Strengthening implementation

The AODT Court and the treatment programmes are well integrated. Treatment programmes appreciate receiving extra support for their AODT Court participants from the AODT Court team. They get feedback from the team and, if there are problems, they liaise with the case managers. Members of the AODT Court team attend programme graduation ceremonies. Treatment providers have also sat in on court sessions.

Stakeholders outlined a number of treatment issues that were more pronounced for AODT Court participants than for other treatment clients.

A shortage of beds: Stakeholders spoke of a shortage of treatment beds to be able to place participants in a programme that best meets their needs. They said placing someone in a programme just because there is a place available can be setting them up to fail. Stakeholders recalled some participants waiting on remand in custody for several months for an appropriate treatment programme, but it is important to be able to engage a participant in treatment while their motivation is high. Demand is increasing for treatment for offenders because the other courts are providing more opportunities for offenders to rehabilitate post-conviction and pre-sentence. A participant spoke of the challenges of waiting in custody for a place in treatment.

I kind of want to say to get people out of jail faster, but I'm not sure if that's coming from the right place. You get into the court but then you still might be sitting in jail for a month or two months waiting for a bed in rehab, so I would kind of like there to be more communication throughout the rehabs and more beds in the rehabs because, for me, jail just wasn't a good place to be and it just brings you down and down and down and down. Even like a drug court facility, instead of a jail as such so they could go there while they're waiting so they can get away from those negative influences that are in the jails, which are massive – it's just a whole dark negative culture and for someone who's trying to make something of themselves and of their life, to be in that environment it's really hard. (AODT Court participant 9)

There is a wide range of services. However, feedback from stakeholders and participants indicate not all AODT participants' needs are met specifically.

Challenges for women: One female participant spoke of the challenge of being on an all-male (including facilitators) programme. Stakeholders said that programme components to help women deal with histories of sexual abuse and trauma are also needed.

A need for treatment facilities for specific cultural groups: Stakeholders would like to be able to offer Māori and Pacific participants treatment facilities specifically for their cultural group, including residential facilities. While there is one Māori-focused cultural treatment facility in South Auckland, Te Ara Hou, it has a limited number of beds and no beds dedicated to AODT Court participants. It is also a long distance from both courts, and there is no formal agreement that frequent drug testing will be carried out.

A need for programmes to address criminal behaviour: It would be helpful to have extra programme components that address underlying criminal thinking as some participants continued with criminal behaviour even when their dependency on substances was being addressed. Stakeholders believed that the incorporation of a cognitive behavioural programme into treatment would help with engagement and potentially improve outcomes.

Need to achieve the right mix of participants in treatment programmes: The treatment programmes have limited places for participants from the AODT Court because too many high-risk and high-needs participants can tip the balance in therapeutic communities. Aspects considered in ensuring programmes have the right mix of clients are the presence of any challenging behaviours, the presence of any known associates among the participants and any concerns about client safety.

A need for community-based treatment and accommodation options: Stakeholders spoke of a need for an AODT Court-dedicated treatment programme that is aligned to people with offending backgrounds and criminal behaviour and where participants can return following a lapse.

Stakeholders also reported that many AODT Court participants need accommodation within the catchment area that is sober and safe. Participants should not be put in residential programmes just because they need accommodation. Placement should be made on the basis of the CADS', case managers' and other treatment experts' assessments.

9.6 Peer support workers

The AODT Court handbook states that peer support workers are responsible for engaging and retaining AODT Court participants in the treatment pathway and for helping them to build and maintain support for their recovery. They report on participants' progress to the AODT Court case manager who has the overview of the treatment programme. The peer support worker is expected to actively encourage and support completion of the treatment plan, needs assessment, continuing care plan and any court-directed activities.

Two peer support workers are employed by the Salvation Army and are required to have:

- a lived experience of recovery from AOD issues
- current or past use of AOD services
- completed or be enrolled in peer support specialist training
- a demonstrated understanding of a recovery approach in AOD services.

Peer support workers have caseload of 15 at one time, which is seen as realistic but caseloads are tending to exceed 15.

The peer support workers try to meet with newly accepted participants within a week of their admission to the AODT Court. They aim to engage with and reassure the new participant, clarify with them what admission to the AODT Court means and clear up any misconceptions. Peer support workers pick participants up from custody when they are released on bail, transport them to obtain their Steps funding from WINZ, visit them around two weekly while in treatment, support them at court, family group conferences and at the Family Court, and also become involved in supporting them when crises arise.

Peer support workers reported that the positive aspects of their role were seeing small changes in participants' lives and participants taking the first steps in what might be a long path to recovery.

As with other roles in the AODT Court, there is an issue with the peer support worker role expanding beyond its intended scope and their capacity therefore to undertake all expected tasks was highlighted, specifically:

- The court has expected that peer support workers will support and encourage participants who are not engaging, manage community work requirements, help participants with their administrative tasks, and transport participants to shopping and banking. Peer support workers do not see these activities as part of their role and believe they could not fulfil all of these tasks for their caseload within their work time. They prefer to support participants in taking responsibility for these tasks.
- Peer support workers have been asked to cover for case managers when they are unable to meet with participants. They do not believe they are qualified to take on the case manager role.

9.7 12-step programmes

12-step programmes are an integral part of the AODT Court programme, although they do not come within the formal contract with the Ministry of Health. The international expert interviewed believed that a strong predictor of a sustained, mature recovery or remission from dependency is participation in 12-step meetings: the more meetings per week, the better the outcomes of abstinence. Other stakeholders also observed that participation in and support from AA and NA for the AODT Court is a strength of the AODT Court programme in New Zealand.

Participation in 12-step meetings helps participants learn how to engage with people, build relationships and then integrate back into the community. The 12-step community will also stay alongside the participant after they have exited the AODT Court programme. AA and NA provide a network of services that are available at no cost to the justice system.

I know the 12-step meetings are massive for a lot of them, they become part of a new community so they've started to see people with years of experience, or they're walking into meetings and seeing people that are ex-old gang members that they used to know and seeing them living fantastic lives with jobs or businesses and things like that. So that's quite fundamental. (AODT Court participant 9)

Participants reported the following.

- The meetings are a good reminder of how far they have come.

It keeps me grounded again – going to a meeting or going to a group it's like 'oh, yeah that's right you've been there before and you don't want to go back and do it all again'. (AODT Court participant 18)

- The meetings keep them occupied so there is less time to fall into bad habits.

I do meetings every day because I'm on a 90/90 plan, that's because I chose it, it means a meeting a day for the next 90 days. So that's what I'm doing at the moment. I think it's good, it's great. Keeping busy is one of the best things. (AODT Court participant 1)

- The meetings provide a lot of support.

Definitely going to regular AA meetings and stuff [keeps me on track]. You just sit for an hour and talk about life and how it's going and drinking and things like that. It's just a room full of support really, and sometimes there's like 30 people there. (AODT Court participant 8)

- There is some competition between participants to see who could reach 100 meetings first.

Some stakeholders pointed out that involvement in the AODT Court has been challenging for AA and NA. For example, the AODT Court has asked that AA and NA sign cards to confirm the participant's attendance at meetings and this challenges their principle of anonymity.

9.8 Other programmes and services

Participants are offered the opportunity, or are required as part of their bail conditions to participate in, other rehabilitative programmes while they are part of the AODT Court.

A need for safe supportive accommodation

Most stakeholders spoke of a significant need to access well supervised, AOD-free community accommodation in a supportive and safe environment. Reflecting this, a relevant person in the AODT Court needs to build relationships to access existing suitable community accommodation. There have been instances of participants relapsing while living in boarding houses, flats or with family where people were using alcohol and other drugs. Suitable accommodation would enable more AODT Court participants to do pre-treatment courses and outpatient treatment programmes.

Wings Trust is an organisation that provides such accommodation. It is an abstinence-based residential support service for men and women in recovery from addiction. The service consists of six houses for up to 36 clients and an office in central Auckland with five staff providing pre- and post-treatment support for a period of up to four months. There is an emphasis on 12-step-based recovery.

The service provides an introduction to treatment and a safe place for clients planning to enter intensive residential treatment. Wings Trust also provides a transition back to the wider community for those participants exiting such programmes.

Several AODT Court participants had been accommodated in Wings houses, which provided safe, supportive accommodation following release from prison, lead in time for those preparing for residential programmes, accommodation for those completing community-based programmes, or continuing care for residential programme graduates. A participant said the accommodation helped them to stay on track after treatment.

I've done a lot of treatment and I fly through it, but when I get back into the community I have problems. So this new one at the Wings you're just living in a community where everyone is treatment based so I'll still be going home and stuff but staying with those people, the right people instead of staying with my friends and stuff who get me down, you know. (AODT Court participant 17)

In November 2013, the AODT Court Treatment Network Steering Group was in the process of contracting with Wings Trust to provide additional dedicated beds for AODT Court participants. Stakeholders thought that, aside from this service, there was an ongoing need for more beds and longer term accommodation.

Need for other programmes and services

Stakeholders referred to the need for other programmes and services, such as psychological interventions, support around family issues, literacy skills training and employment advice.

Participants mentioned taking several other programmes and courses such as yoga classes, meditation groups, drink driving programmes, anger management, parenting programmes, women's groups and gamblers groups. They also needed to fit in their chosen non-user activities, such as bike riding, art, reading or studying for a driver's licence.

Summary

- The Ministry of Health has contracted with Odyssey House as the lead provider of a comprehensive AOD assessment and treatment service to support the AODT Court pilot.
- An AODT Court treatment provider network has been established which is a collaboration between Odyssey House, Higher Ground and the Salvation Army.
- Good integration exists between the AODT Court and the treatment programmes, and the governance arrangements are working effectively.
- Participants who have been accepted into the AODT Court and are in custody awaiting treatment are not able to take part in the existing treatment preparation sessions. This lack of preparation can make their adjustment to treatment more difficult.
- There is a limited range of treatment types available in the pilot region and as a result it can be difficult to place participants in a programme that best meets their needs. Gaps identified in the existing treatment types are community-based treatments with accommodation options, residential treatment options, treatment facilities that meet the specific needs of women and of specific cultural groups, and programmes to address criminal behaviour.
- Participants interviewed were in the main positive about their treatment programmes as they offer a strong support network, and a strategy to prevent relapse. Treatment is not without its challenges with participants noting the need to adjust to treatment regimes. This adjustment can initially involve disruptive behaviour and absconding from the treatment programme.
- Peer support workers are responsible for engaging and retaining AODT Court participants in the treatment pathway, and for helping them to build and maintain support for their recovery. The peer support workers' role is expanding beyond its intended scope and thus impacting on their capacity to undertake all expected tasks.
- There is a significant need to access well supervised, AOD-free community accommodation in a supportive and safe environment. The relevant person in the AODT Court needs to build relationships to access existing suitable community accommodation. The Wings Trust may be contracted to provide additional beds for AODT Court participants.
- Participation in and support from AA and NA in the AODT Court is a strength of the AODT Court pilot as 12-step meetings help participants learn how to engage with people, build relationships and then integrate back into the community.

Evaluative assessment

- Treatment pathways and relationships are working as intended, although there are a number of implementation challenges to accessing timely treatment services that best meet participants' needs.

Strengthening implementation

- Consideration by the AODT Court Steering Group and the AODT Court Treatment Network Steering Group to determine whether there are any solutions to the identified gaps in treatment types.
 - Review the scope of the peer support workers' role.
-

10. Testing

This section covers the processes and participant experience of AOD testing in residential treatment facilities and in the community. It identifies what is working well with the testing, and concludes by identifying suggested areas to strengthen the ongoing implementation of the AODT Court pilot.

10.1 Overview

All participants in the AODT Court are required to undergo regular and random AOD testing through all phases of the AODT Court programme. Test results are used to assess participants' progress through the court and whether their treatment needs to be modified. Clean times are reported in the monitoring hearings with incentives delivered for the number of days clean. Positive tests can result in sanctions being imposed. Testing results are also considered when assessing whether a participant should graduate or be exited from the AODT Court programme.

The Ministry of Health contracts ESR to manage the testing. ESR subcontracts G4S for the SCRAM anklets (which allow for 24-hour monitoring of alcohol consumption) and B Safe Consultancy for the drug testing and alcohol breath testing in the community. ESR has overall responsibility of the testing provided. Its role includes:

- oversight of the delivery of the testing and ensuring adherence to testing protocols
- providing training and resources
- managing the data and reporting
- responding to any issues identified by the testers or AODT Court team
- reporting to the Ministry and Ministry of Health.

Substantial work has gone into the establishment of the AOD testing for the AODT Court. While many aspects of the testing could be drawn from existing testing programmes, some new and innovative approaches have been developed specifically for the AODT Court, for example, developing a process for informing AODT participants when they are required for the random testing (see below).

The AOD testing processes are still evolving as ESR and the AODT Court team learn what does and does not work well. Where possible, ESR is looking to international best practice to inform the process and design of the AOD testing with modifications implemented to fit the New Zealand context.

10.2 AOD testing processes

Alcohol testing

Alcohol is tested through SCRAM anklets and breath testing. The court has 30 SCRAM anklets available, so only selected AODT participants are constantly monitored for alcohol consumption.

Others are tested through breath testing, which is done in conjunction with the drug testing twice weekly. Given the short length of that time alcohol can be detected in the body, twice-weekly breath testing does not allow for comprehensive coverage.

Drug testing

Drug use is tested randomly twice a week using a urine test.²⁸ For those in residential care, the testing is done by the treatment providers, who also determine the testing times and randomisation.

For those in the community, drug testing is done at two clinics (Penrose and Henderson). Two nurses are involved in delivering the community drug testing, one to do the testing and one to co-ordinate the participants when they arrive and record their information (including, for example, who is being tested, date and time of the test, result of the test, and participant declarations of recent use). An additional person attends the clinics held on weekends for crowd control as the waiting area can get busy.

AODT Court participants in the community are required to call a 0800 number every day between 8:00am and 10:00am (including weekends and public holidays) to find out if they are required for drug testing that day. The testing is done over a period of two hours from 10:30am–12:30pm.²⁹ The testing is done in the order in which people arrive, with each person taking around 10 minutes.

The test is not an observed test. The participants take the test in a room with the door ajar and the nurse or treatment provider outside the door. Participants are checked for hidden samples.

The initial drug test is done using a urine testing cup, which gives an immediate result of either negative or not negative³⁰. Samples for not negative results are couriered to ESR for lab testing to determine if the test is positive and what it is positive for.

Use of the instant urine cups for drug testing is working well as only not negative samples need to be couriered for lab testing. Before this, all samples had to be correctly packaged, labelled and couriered for testing. This was problematic for residential care providers because it required more time and training to deliver accurately.

10.3 Positive tests

Where a test is positive, or there are issues with the sample collected, for example, the participant is unable to provide a sample or the sample is cold (which suggests the sample is not their own as they should be warm), ESR informs the AODT Court co-ordinator who liaises with the case managers and the rest of the team about any contextual matters that may account for the issue with the test, and whether a sanction should be imposed. Based

²⁸ The AODT Court handbook states a range of drugs are tested for including cannabis, opiates, cocaine, benzodiazepines and amphetamines.

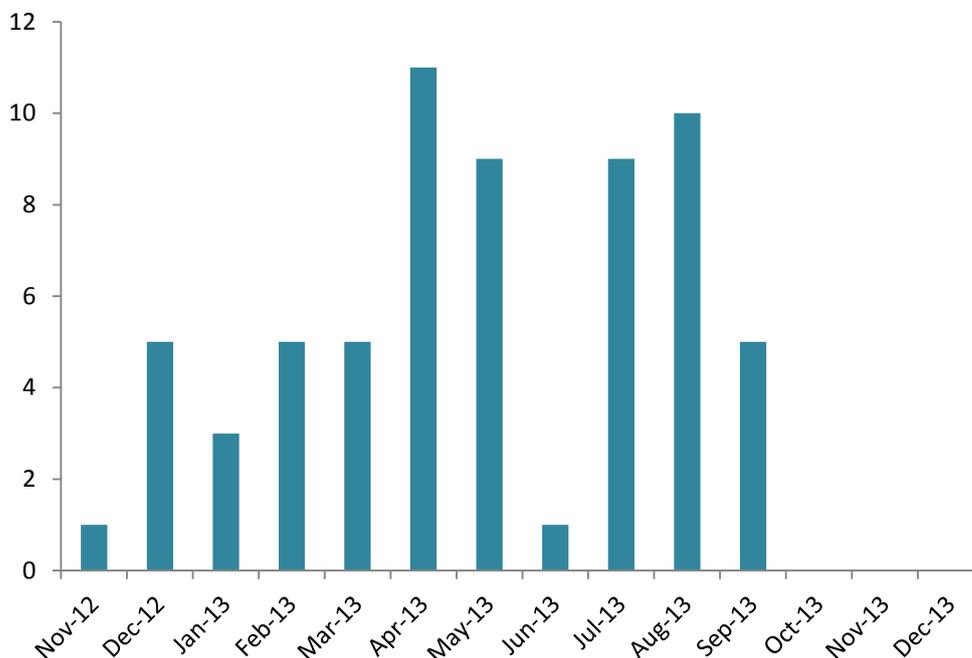
²⁹ The block of time allocated for testing will increase as the AODT Court reaches full capacity.

³⁰ 'Not negative' is the term used for results of the initial drug test to identify that further testing is needed. A not negative result does not necessarily mean a positive drug test.

on the information from the team, the judge makes the final decision on bringing the participant to court and any sanctions.

Sixty-four positive test results had been recorded in JAX as at 16 December 2013. This is likely to be an underestimation as data has not been entered for October, November and December 2013 due to a lack of capacity. Figure 4 shows the number of positive tests over each month of the AODT Court.

Figure 4: Number of positive test results by month



Source: Ministry of Justice. *Dashboard Report: Event Statistics Report*. Extracted 16 December 2013.

10.4 Participant experience

Many participants reported testing helped motivate them to stay sober, particularly in the early stages of their participation with the AODT Court. Some also considered the negative result as positive reinforcement.

I think if I didn't have the SCRAM bracelet I would have walked and gone back into drinking but I knew something was grounding me. It's strange, because the SCRAM bracelet really grounds you. (AODT Court participant 19)

I don't enjoy it as such, but it's a brilliant back up to know that you can never pick up drugs ever again because you've got that urine testing to come. At the beginning it seems like that's the only thing that helped save me, whereas now I've got that learned behaviour. (AODT Court participant 1)

Participants also recognised the testing as a way to establish honesty with oneself and trust with the AODT Court. Removal of the SCRAM anklet was considered a sign of trust between the court and the participant.

It's awesome, it's gotta be there because you can't get your life sorted out when you're going to start cheating so you've got to follow that random testing and you've got to stay honest with yourself. I know I am. (AODT Court participant 2)

You're monitored really closely; even at the stages where I am they know what's going on. You do two tests a week, and you also have a SCRAM bracelet, I don't have one now because it's been taken off, which is a reward for trust I guess. (AODT Court participant 8)

The testing was viewed as a way to keep the rules of the AODT Court clear and top of mind. Participants with SCRAM anklets were mindful of the sensitivity of the test and the need to be vigilant in using products that may contain alcohol.

At Wings they did the testing for me, but on the weekends when I was at Wings I had to ring a 0800 number and go to testing. I had to do that every weekend but it only fell on a couple of weekends I was there so that was sweet. Once I'm out of here I'll have to do that every day and I think that's probably a good thing because it keeps people aware of the rules and the expectations, rather than if there was no random testing then people could start slipping and thinking they could get away with things. (AODT Court participant 9)

Challenges for participants

The most commonly identified challenge with AOD testing was getting to the community-based clinics for the drug tests. Some participants commented on the inaccessibility of the clinics. While acknowledging the provision of hop cards,³¹ having to use multiple and irregular buses can mean getting to the test can take hours.

I've got to catch two buses to go there if no one can give me ride, so there was one that I missed. It's not a problem really, if someone's able to give me a ride then it's over in 20 minutes, but otherwise it takes me two hours one way, because the buses are infrequent. (AODT Court participant 11)

While all understood the purpose of the testing and appreciated the need for it to be random, some expressed frustration at the inconvenience of it, the inability to plan around it and the impact on other activities (eg, community service and work). By and large, however, the benefits of the AOD testing were thought to outweigh the inconvenience.

My only small personal grumble is that I'm in the court from drink driving, alcohol has been my issue. I've never been a drug user it's just not part of my landscape and of course that testing is very much for drug and pharmaceuticals rather than alcohol – we've got the bracelet to cater for that ... I just don't see any way around it, it has to be there. There has to be some monitoring, there can't be a trust-based environment. (AODT Court participant 12)

I just had a talk to [case manager] about when I start my volunteer work because if I have to do testing then I won't be able to do my voluntary work, so she's talked to Bridge to see if I can do the testing there the days I have voluntary work and that would really solve the issue for me. (AODT Court participant 11)

³¹ Hop cards are used in Auckland for public transport.

10.5 Strengthening implementation

Overall stakeholders considered the AOD testing to be a very important, yet problematic area of the AODT Court process. For the AODT Court, testing provides reliable information about AOD use. Stakeholders also recognise the importance of the testing in providing a deterrent for the participants.

The SCRAM bracelets are amazing, they have become a really important part of treatment, they've become a treatment tool as well as a monitoring device and it's taken us all by surprise. The number of participants that put their success down to their bracelets – and I think it's because they know they can't get away with a sip, and for an alcoholic the moment you start, you're gone. So they know they can't lie their way through this one so it's become a fantastic treatment tool.
(AODT Court team member)

Given the different ways in which testing is delivered (residential treatment, community treatment and SCRAM anklets), it is helpful for the court to have one central point of contact through ESR for all testing information and queries, rather than multiple lines of communication.

Issues with delivery as intended

Timeliness and content of the AOD information reported to the AODT Court

There appear to be differing views on the quality and timeliness of information provided to the AODT Court. ESR believe it is responsive and provides good-quality information.

ESR provides monthly reports to the Ministry. Real-time information is accessible to the AODT Court co-ordinator through a shared interface with ESR called E-Screen. E-Screen is checked daily by the co-ordinator to identify participants with failed AOD tests. Information on E-Screen includes:

- participant information (eg, name, National Health Index (NHI) number and court)
- disclosure of use
- date and time sample was provided
- results from cup tests
- test results from the lab (including types of substances tested positive for)
- date and time test results were confirmed.

Overall, the AODT Court team is not satisfied with the communication and flow of information on AOD testing. Members from the AODT Court team reported challenges with not receiving sufficient and timely information on testing. The following issues have been identified:

- errors in the information recorded on E-screen
- errors in the lists of people not attending drug testing
- lack of information on whether participants were asked to disclose AOD use
- lack of information on whether a disclosure was before or after the test
- clarification is not given when SCRAM results are not conclusive

- information on positive lab tests results is not available as quickly as required by the court to inform court processes and interactions with participants.

Testing in residential treatment

Residential treatment providers regularly provide AOD testing for their residents. The testing requirements for the AODT Court participants are different and more frequent from what providers regularly provide to other clients. While ESR provided training to treatment providers, the delivery of the drug testing in operation is not under ESR quality assurance protocols. Testing in residential facilities is thought to have improved over time. However, questions remain over randomisation of the tests and the accuracy of the record keeping. There are also concerns that participants are not being consistently breath tested at every drug test.

Treatment staff noted a lack of clarity among some staff on the testing processes and protocols, and raised concerns about the time required to do the tests and associated recording.

Community-based testing locations

The community-based drug testing clinics, particularly the Penrose clinic, are not in easily accessible locations for participants. Stakeholders identified the impact of this as:

- potentially interrupting activities the participants are engaged in
- creating additional travel costs
- creating unnecessary stress and pressure for the participants.

For participant convenience, stakeholders noted a preference for testing to occur near treatment providers. While a move in locations for the community testing is being considered, some stakeholders are not satisfied with the speed in which this issue is being addressed.

Broader challenges with the current testing regime

In addition to the issues identified with the intended implementation of the AOD testing, some broader challenges have been raised with the AOD testing regime.

Adequacy of the tools for alcohol testing

Several concerns have been raised about the alcohol testing. Stakeholders reflect that there is currently no adequate way of monitoring alcohol use after SCRAM anklets are removed.

While not all participants require the SCRAM anklets, having 30 available for the 73 current participants means the court has to make trade-offs on who wears the anklets and whether to accept new referrals with alcohol-related offending if no anklets are available. Stakeholders generally feel twice-weekly breath testing is inadequate monitoring for the AODT Court where offending is alcohol driven.

Testing coverage

The current drug testing does not include 'designer drugs'. Some stakeholders raised concerns about this and felt it is an area that should be considered for testing.

Challenges inherent to AOD testing in the community

There are several challenges for the nurses in the community testing clinics, including:

- managing participants when they are angry or anxious about testing, particularly those new to the AODT Court
- participants newly released from prison arriving for testing and not being on the testing list
- participants bringing inappropriate items, such as knives, with them
- managing the number of people when whānau and children come to testing
- participants unable to pass urine.

Strategies have been developed to address these challenges, such as the introduction of a crowd control person on weekends when the clinics can be busy, the introduction of plastic bins for participants to leave all their items in, and employing strategies to manage and calm people when they are anxious or agitated. These challenges are inherent to this role and will continue, requiring ongoing review and development of strategies in response.

Summary

- Drug use is tested randomly twice a week using a urine test at two community based clinics and at residential treatment locations. Stakeholders reported that the use of the instant urine cups for drug testing is working well as only not negative samples need to be couriered for lab testing.
- Alcohol is tested through Secure Continuous Remote Alcohol Monitor (SCRAM) anklets and breath testing. The AODT Court has 30 SCRAM anklets which allow for 24-hour monitoring of alcohol consumption. Concerns have been raised about the adequacy of monitoring alcohol use after SCRAM anklets are removed.
- Stakeholders consider the AOD testing to be a critical area of the AODT Court process. Testing provides reliable information about participants' AOD use and also acts as a deterrent to taking drugs.
- The majority of participants are positive about the AOD testing. Many participants reported that testing helped motivate them to stay sober, particularly in the early stages of their participation with the AODT Court.
- There are three main issues with the AOD testing: 1) Differing perceptions between the AODT Court and the testing providers on the timeliness and content of the information reported; 2) Queries about the consistency of testing delivered against agreed protocols in residential treatment facilities; 3) The location of community-based testing sites due to the distance participants must travel to be tested.

Evaluative assessment

- There is a lack of clarity on whether the AOD testing is implemented as intended as questions have been raised over the process and quality assurance of testing.
- It is clear from both stakeholders and participants that the AOD testing is a critical part of the AODT Court and helps to establish honesty with the court, and provides a motivator for sobriety in the initial stages.

Strengthening implementation

- Facilitate communication between the AODT Court and ESR to agree expectations for future reporting and address the differing perceptions on the timeliness and content of the information reported.
 - Review the quality of testing in residential treatment against AODT Court pilot design expectations.
 - Investigate the quality of alcohol testing required at different stages in the court process to address concerns on the adequacy of twice-weekly breath testing to monitor alcohol use after SCRAM anklets are removed.
-

11. Exiting the AODT Court

This section covers the process for exiting the AODT Court through termination or graduation. As no participants have graduated, it details the number and profile of those participants terminated to date and provides reflections on pilot implementation. The section concludes by identifying suggested areas to strengthen the ongoing implementation of the AODT Court pilot.

11.1 Termination from the AODT Court

Participants can be terminated from the AODT Court due to a number of situations (refer section 4.3). When exited, an exit hearing is held and a report prepared.

After the exit hearing, the case is returned to the District Court for sentencing. A Termination Report is provided by the case managers. These reports are likely to take different forms depending on when the participant exits the programme. In general the reports include the following information:

- details of the support structures in place for this participant
- what treatment has been completed
- what treatment is still ongoing
- details of the Relapse Prevention Plan
- reason for termination (i.e. completed or removed and the reasons why).

The progress made in the AODT Court may be taken into consideration as a mitigating factor by the District Court judge in sentencing the defendant. Victim Impact Statements are also presented at this point.

11.2 Graduation from the AODT Court

As the AODT Court is only just over one year into the pilot, there have been no graduations. Participants graduate when they complete all three phases of the AODT Court. An exit hearing will be held at the AODT Court where the person is sentenced by the AODT Court judge, and a graduation ceremony will be held with the defendant's support people and whānau to mark the successful completion of the programme.

A Termination Report will provide information to those supporting the participant after graduation from the AODT Court. Details of information in the report are listed in section 11.1. The first graduations are expected in March–April 2014.

11.3 Number of cases terminated from the AODT Court

In total, JAX data shows that, of the 99 cases accepted into the AODT Court, 26 (26%) had been exited³² as at December 2013.³³ Figure 5 shows the number of active AODT cases against those exited over time.

While not directly comparable, international information on exit numbers has been sought to provide context for what may be expected. In a review of 37 evaluations of drug courts between 1999 and 2001, Belenko (2001) reports that completion rates (successful graduations) from drug courts are around 47 percent. This suggests that, on average, 53 percent of participants do not complete.

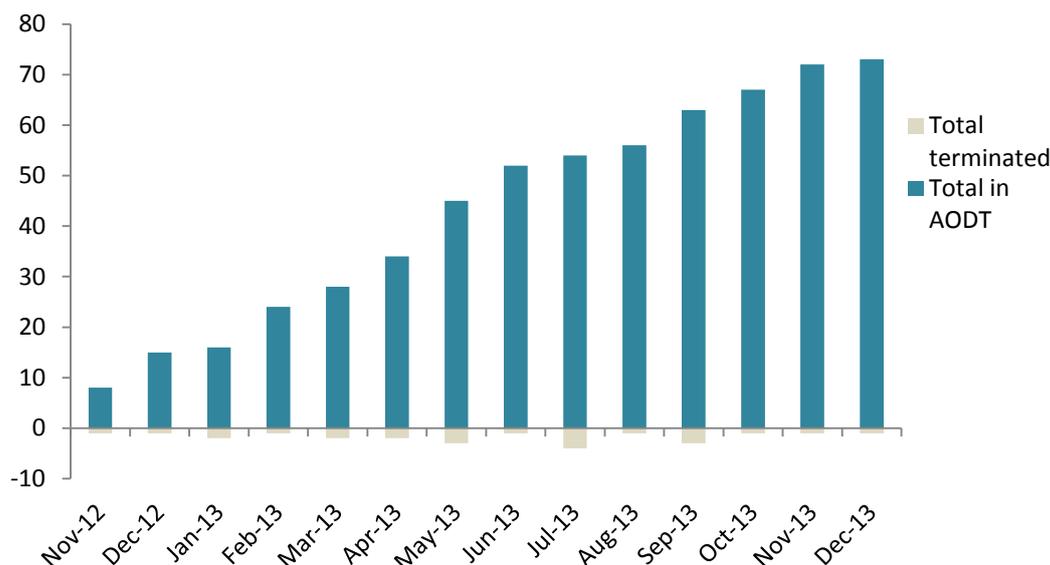
Anecdotal feedback from an international drug court judge interviewed suggests more recent figures have a higher success rate with around 43 percent of participants not completing, depending on the extent to which the court is exclusively accepting high-risk and high-needs participants.

It is too early to determine what the termination rate will be for the New Zealand AODT Court. While initial indications suggest that the termination rate looks acceptable in the context of international figures, other factors will need to be considered such as differences in eligibility and termination criteria. Some stakeholders felt there were cases retained in the AODT Court that should be exited (discussed below).

³² There are inconsistencies in the JAX data because the Dashboard Phase Statistics Report states 24 cases have been terminated. There are inconsistencies across the figures for the total number in the AODT Court, the number in each phase, the number completed in each phase and the number terminated. Further interrogation of the individual data is required to resolve this. The inconsistencies are a result of a flaw in JAX which does not capture all possible termination scenarios.

³³ These figures are indicative and should be viewed with caution as the pilot is still in its early stages.

Figure 5: Number of cases in AODT Court and number of cases terminated over time



Source: Ministry of Justice, Dashboard Report: *Phase Statistics*, extracted 16 December 2013.

Who is terminated from the AODT Court?

Tables 8 and 9 detail the demographic profile of those who have been exited from the AODT Court. Those exited are more likely to be Māori, aged between 25 and 34 years, and to have a RoC*RoI score of 0.6 or 0.7.

There are three cases where a RoC*RoI score is not recorded, but it is recorded as being in range. These cases are from early in the AODT Court development³⁴.

At this stage, the numbers are too small to compare in a meaningful way between courts or to compare against those who have been accepted and are currently in the court.

³⁴ This may be explained by a change in data collection. Stakeholders noted that in the early development of the AODT Court, eligibility by RoC*RoI score was collected as being in range or not in range, and the actual scores were not collected.

Table 8: Demographic profile of those terminated from AODT Court

Demographic characteristics	Terminated from AODT Court	
	no.	%*
Total	26	
Gender		
Male	21	81%
Female	5	19%
Ethnicity**		
Māori	16	62%
New Zealand European	6	23%
Pacific	0	0
Other	4	15%
Age		
18–24	2	8%
25–34	17	65%
35–44	5	19%
45–54	1	4%
55+	1	4%

Source: Ministry of Justice, *Engagement Report*, extracted 16 December 2013.

* Percentages may not add to 100% due to rounding.

** In Jax participants are entered into as a single ethnicity classification based on New Zealand Police files and CADS reports. It is not known how multiple ethnicities are recorded. In this report, the single ethnicities recorded JAX have grouped into four broad categories.

Table 9: RoC*RoI scores for those terminated from AODT Court, who are not facing EBA driving charges

Total with RoC*RoI score	Terminated from AODT Court	
	no.	%*
Total	21**	
0.5	2	10%
0.6	6	29%
0.7	8	38%
0.8	2	10%
Not stated	3	14%

Source: Ministry of Justice, *Engagement Report*, extracted 16 December 2013.

* Percentages may not add to 100% due to rounding.

** Base is 21 as the RoC*RoI score is recorded here for participants who are not facing EBA driving offences.

11.4 Defining success

The AODT Court team expect that there will be a reasonable number of terminations from the AODT Court, given the high-risk and high-needs group targeted. The terminations are considered in two categories:

- those who abscond and/or are terminated soon after joining the AODT Court
- those who work through the programme, but do not make it to the end.

Reflection on those who terminate early from the programme has helped the AODT Court team to identify who to accept within the eligibility criteria and what support and information needs to be provided to ensure defendants understand the extent of what will be involved (section 6).

Stakeholders recognise that success of the AODT Court is not restricted to the number of graduations, and terminations are not necessarily failures if the AODT Court has started a person's pathway of recovery.

The people who drop out of drug court still do better than had they never been referred, so that's the other point that's really important. With this work, we don't think we're winning or losing based on the number of graduations we get, and obviously we want to get as many graduations as possible, there's no doubt about that, and there's no doubt that the likelihood of a good outcome increases with someone actually graduating from court. But there's a saying that goes 'every day in treatment is a good day', so there are a lot of gains to be made by this group ... They're tough cases and they're people that are otherwise failing. They're people for whom we don't have good outcomes, so you have to take that as your starting point. (AODT Court team member)

11.5 The AODT Court exit phase

Given that the first graduations are expected in March–April 2014, the processes for graduation and support after graduation were still being developed as at December 2013.

As the AODT Court team are beginning to plan for the development of this phase of the AODT Court, stakeholders identified the following factors that are being considered:

- ensuring participants do not fear the completion of the AODT Court programme
- ensuring participants continue successfully without the structure, monitoring and support of the AODT Court
- ensuring ongoing connection with relevant treatment and support services
- clarifying roles and responsibilities for helping participants find employment, particularly as there may be barriers of stigma for participants
- establishing processes for an ongoing connection with the AODT Court (eg, a forum for AODT Court graduates to stay connected, opportunities to visit the court and opportunities to mentor or buddy new AODT Court participants).

11.6 Strengthening implementation

While the AODT Court generally tries to keep people engaged in the programme, there is a difference of opinion on when a participant should be terminated where there is not a clear breach. Some stakeholders felt there were cases that were afforded too many warnings and were not demonstrating sufficient progress (eg, lack of acceptance of AODT Court and treatment requirements as perceived by the stakeholders) to warrant their ongoing inclusion in the programme. Their preference was for such cases to be terminated.

Views differed on the sentencing imposed after termination from the AODT Court. A concern was raised about sentences given that did not involve a prison sentence. It was felt that the originally intended prison sentence should be imposed. The concern was whether the shift in sentence may lead to defendants joining the AODT Court with a view to withdrawing and receiving a community- or home-based sentence. Others, however, reported that the original sentences are largely upheld where little time is spent at the AODT Court, and for those who spend more time in the court this is appropriately included as a mitigating factor in sentencing after termination.

Some stakeholders felt more could be in place to support the AOD recovery of participants terminated from the AODT Court. One suggestion was the inclusion of a discharge plan to ensure those terminated know where they can go for treatment and help. This is also an opportunity to discuss relapse prevention and early warning signs.

Summary

- There are two ways a participant can be exited from the AODT Court: termination or graduation. As the AODT Court is one year into the pilot, there have been no graduations as no participants have reached this stage.
- In total there have been 26 terminations from the AODT Court from the 99 cases accepted (26%). It is too early in the pilot to make a judgement on the termination rate. Initial indications suggest the rate looks acceptable compared to international figures. However, there are wider contextual factors that will need to be considered in making comparisons such as eligibility and termination criteria.
- The AODT Court team expects there will be a reasonable number of terminations from the AODT Court, given the high-risk and high-needs group targeted. There is recognition that terminations are not necessarily failures and the success of the AODT Court is not restricted to the number of graduations.
- Some stakeholders felt more could be in place to support the AOD recovery of those who are terminated from the AODT Court.
- Stakeholder opinions vary on when someone should be terminated from the AODT Court and whether appropriate sentences are imposed on those terminated. Some stakeholders felt there were cases that were afforded too many warnings when they were not demonstrating sufficient progress through a phase of the AODT Court.
- Given that the first graduations are expected in March–April 2014, systems to support those graduating from the court are starting to be considered and developed.

Evaluative assessment

- There is insufficient information to assess the implementation of the exit process against what was intended as:
 - there is insufficient information collected on participants who have been terminated from the pilot (data on reason for termination is not well recorded in JAX, and further qualitative interviews are required with those who have not successfully completed the programme³⁵)
 - it is too early to make a judgement on the termination rate
 - no participants have graduated from the pilot as this time.

Strengthening implementation

- Investigate the extent to which terminated participants require further support for AOD recovery after termination from the AODT Court, for example, consider the feasibility and appropriateness of developing a discharge plan for terminated participants.
-

³⁵ It is recommended that the involvement of terminated participants is considered for inclusion in the process evaluation.

12. Data collection

12.1 Data sources

There are multiple sources of data collected and recorded for the AODT Court, including:

- The Ministry's CMS³⁶
- AODT Court administrative data in JAX (the Ministry's data repository)
- CADS data on AOD assessments
- ESR drug and alcohol testing data
- Case managers' treatment data
- New Zealand Police workforce data collected for the AODT Court roles.³⁷

Data on all those considered for AODT Court at the District Court is recorded in CMS. The AODT Court JAX database starts from the point a defendant appears for a Determination Hearing³⁸, and follows participants through the AODT Court pathway. At this stage of the evaluation, the focus on the data collection has been on the JAX data system.

12.2 Data limitations on the AODT Court pathway

The following list presents data limitations on key parts of the AODT Court pathway³⁹ in this report.

- **Eligibility criteria:** There is a lack of data collection on the eligibility criteria to evaluate the application of the criteria.
- **Time spent in custody:** The number of people and length of time, spent in prison after acceptance into AODT is recorded in CMS. Data was not available to be included in this report.
- **Phase duration:** Data is collected in JAX on the length of time spent in each AODT Court phase. Data in the Dashboard Duration Statistics Report is difficult to interpret due to a lack of clearly specified data variables which indicate the average time spent in a phase.
- **Incentives:** The number of incentives given is recorded in JAX and produced in the Dashboard Event Statistics Report. The definition for what to record as an incentive has been interpreted differently (eg, in some instances, clapping is recorded as an incentive, while in others it is not). If the full list of incentives from the AODT Court handbook is used as the definition for the data collection, the number of incentives recorded is thought to be an underestimation.

³⁶ CMS data was not available for inclusion in this report.

³⁷ Data on New Zealand Police workforce, ESR testing, and case managers treatment data was not available for the formative evaluation. It is hoped that this data will be made available for the process evaluations as required.

³⁸ There was previously some confusion how to define a referral to AODT Court, and consequently there are some entries in JAX that have not had a Determination Hearing.

³⁹ This is not an exhaustive list and other data limitations may be identified.

- **Sanctions:** The recording of sanctions in JAX is also thought to be an underestimation of the actual number given. The Dashboard Event Statistics Report shows 55 sanctions granted and 64 positive AOD tests across the two AODT Courts. Even if a sanction is not appropriate for all positive tests, this is still thought to be low considering there are other reasons for sanctions. Further investigation is required to determine whether (and if so why) this number is low.
- **AOD testing:** There are some issues with the interface between E-screen and JAX. As intended, data is entered manually into JAX. While there are some validation rules, some data entry errors are not picked up.
- **Reasons for exiting:** Reasons for exiting are recorded in JAX as 'termination type' (ie. graduated, did not graduate, exit as failed to appear, never admitted⁴⁰). There is limited aggregated data on reasons for termination. There is an open text field for recording discharge notes, which have been entered for five of the 26 cases terminated. Further information is recorded on individual case files.
- **Sentences:** Type and length of sentences given to people exited from the AODT Court is recorded in CMS. Data was not available to be included in this report.
- **Treatment data:** No figures are included in this report on treatment (including treatment received, residential or community-based treatment, or the length of time between acceptance into AODT Court and treatment onset) as there are limitations with the aggregated data in JAX. For example:
 - of the 99 cases accepted into the AODT Court, there are 39 dates entered for starting treatment. The definition of 'treatment' is not considered to be defined clearly enough to enable full use of this field.
 - aggregated JAX data files does not allow for recording multiple treatment services within one service class.

Treatment information is collected and recorded by case managers, the majority of which is recorded in individual case files. The only information recorded in a centralised place is: who is in the AODT Court, when they were referred, and where they are currently receiving treatment. Case managers are looking at ways to improve the accessibility of their information.

12.3 Issues with the JAX database

Problems have occurred with both inputting data and obtaining reports from the database, resulting in gaps in the data reported for the evaluation. Issues with JAX seem to have occurred due to insufficient systems and workforce capacity for ensuring data quality.

Overall the main data challenges are:

- incomplete and unclear data definitions which have resulted in inconsistency in interpretation and data entry across the courts
- limited ongoing user training to accompany use of the database
- inability to access all the data collected in aggregated form

⁴⁰ Having 'never admitted' in this field is a source of confusion, and the intent of this code is unclear.

- insufficient rules loaded into JAX to ensure data accuracy, consistency, and completeness.

There are also concerns regarding the reliability of the data outputs. The AODT Court co-ordinator is keeping an Excel spreadsheet to monitor cases due to difficulties experienced in using JAX. These data files show different numbers for some variables, such as the number of Determination Hearings (158 recorded in JAX and 181 in the court co-ordinator's Excel files). While the Excel files are not the official data source, it is unclear why or how this inconsistency has arisen.

Summary

- At this stage of the evaluation, the focus on the data collection has been on the JAX data system. Problems have occurred with both inputting data and obtaining reports from JAX resulting in gaps in the data reported for the evaluation.

Evaluation assessment

- The issues identified with the AODT Court data have serious implications for the integrity, consistency and efficacy of data recorded for the pilot, and will have implications for the pilot's evaluation if not resolved.

Strengthening implementation

- A full review of the AODT Court data collection and investigation into the issues identified with JAX is required to ensure the data collection is fit for purpose.
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13. Overall views on the AODT Court

This section presents stakeholders' and participants' views on the overall value of the pilot and its place in justice and health systems.

A new and positive way of working

Stakeholders welcomed the introduction of the AODT Court pilot. It is a new and positive way of working with offenders whose offending is driven by AOD dependency. The initiative appears to be increasing both justice and health professionals' understanding of dependency based offending.

An effective justice/health partnership

The partnership between justice and health is seen as an organisational culture change which is generally positive for both sectors. The AODT Court is well aligned with the justice sector strategic direction, particularly with the Ministry's vision of people-centred justice services that deliver better outcomes for New Zealanders, New Zealand Police goals of reducing crime and road crashes, and the Department of Corrections' goal to reduce re-offending. The pilot aligns with the Ministry of Health commitment to working collaboratively across government, including contributing to the Drivers of Crime programme. However, it is counter-intuitive to the Ministry of Justice goal to improve case timeliness.

A highly committed team

Both stakeholders and participants spoke of a high level of commitment, a desire to succeed and the high degree of enthusiasm of the AODT Court team. Team members find the work very satisfying and fulfilling because they are working with a highly effective team and seeing positive change in participants.

Having 'twin' courts has allowed collaborative mutual learning and reflective practice. This has led to the approach being refined in an on-going way to make the court more efficient and relevant to participants.

Meeting Māori cultural needs

The Māori provider hui observed that the AODT Court and mainstream treatment providers have to some degree implemented tikanga Māori protocols, for example, pōwhiri and karakia. They thought that this is a work in progress and there needs to be more emphasis on Māori working with Māori to reconnect Māori with their whānau and tikanga.

Managing public perceptions

Stakeholders commented that as the initiative is non-adversarial court process, it is important that public perceptions are managed in relation to this. The pilot is under media scrutiny and stakeholders need to be prepared should the media highlight a serious crime has been committed by an AODT Court participant. Further, the need to emphasise to the general public that the AODT Court is not an easy option for offenders was also raised.

Wider effects

Stakeholders mentioned that there are signs that the conventional courts are increasingly using the Sentencing Act 2002 provisions to monitor offenders in treatment before sentencing. Some believed that this shift follows the example provided by the AODT Court.

Potential equity issues

Potential equity issues in applying considerable resources to this small group of high-risk and high-needs offenders was alluded to by some stakeholders. This could be compared negatively with the limited treatment resources available to others with dependencies and court resources available for other offenders. It will be important to be able to justify the additional resourcing in terms of cost-effectiveness.

Health and wellbeing outcomes

Stakeholders thought that it would be difficult to measure participants' health and wellbeing outcomes. Treatment programmes are trying to do this by following up clients before, during and after completion of programmes, however this is limited by high attrition from their samples. A difficulty in measuring health and wellbeing outcomes will lead to difficulty in establishing cost-effectiveness based on health outcomes.

Participants making changes to their lives

Participants who were interviewed and who are still in the AODT Court said they are making the most of the opportunity and support they had been given and that their lives had changed:

I've never ever done something like this in my life. I mean, usually ... I'll do a major stuff-up in my life and usually I'll just go back the same old. This time I just picked myself back up again and said 'oh look, I'm not going to start all of this all over again because this is what I really want'. I think we learn too that there's a lot more goals in life in that you know, the harder you work then you can work towards those goals. It is part of this programme, everything I do now is part of this programme, I just thank God for this programme. Honestly it's amazing.
(AODT Court participant 1)

It's a tough programme, by supporting me and by giving me the benefit of the doubt and giving me that second chance. I gave them my word too, the judge and the court and everyone and I said I'm not going to let you down, you've put a lot of time into me and I really respect that and so I'm not going to let myself down and let them down. I feel really honoured to be a part of it. (AODT Court participant 9)

Strengths outweigh challenges

All of those interviewed for this evaluation believed the strengths of the AODT Court far outweighed the challenges arising from implementation.

14. Assessing and strengthening AODT Court's implementation

This section responds to two objectives⁴¹ of the formative evaluation: to assess how well the AODT Court has been implemented, and to identify key learnings and improvements that could be made to the pilot. It draws from the evaluative assessment at the end of each section together with the suggestions to strengthen implementation of the pilot to achieve its desired outcomes.

Overall the actual implementation of the AODT Court pilot has broadly followed the intended pilot design as specified in the AODT Court handbook, although areas for strengthening implementation were identified across the pilot pathway.

Governance, operational management and training

The overall governance and operational management of the AODT are working as intended in the pilot's design. The continuing collaboration and information sharing among the agencies represented in the initiative are seen as a key strength in the pilot's implementation. Areas to strengthen implementation are:

- Ensure timely and informative reporting to the AODT Court Steering Group so they are aware of operational issues that require discussion at a governance level.
- Consider facilitating the involvement of the AODT Court judges at part of the AODT Court Steering Group meeting to provide context to progress reports and proposals they are putting forward.
- Clarify the role of tikanga Māori in the design of the AODT Court to ensure alignment between design, governance and implementation. This reflects that the pilot design takes a narrower view of the role of tikanga Māori in the AODT Court.
- Support ongoing training and induction for new appointees.

Determining eligibility

The overall process for identifying defendants and determining eligibility requires further strengthening. The evaluation was unable to assess the application of the eligibility criteria at the Determination Hearing as there is no central record of this assessment. Feedback from the AODT Court Team highlights a lack of clarity and agreement on the eligibility of offenders with violent histories, and a lack of process to review disagreements about whether an offender is eligible. On this basis there is a need to:

- Determine the feasibility of using a checklist to record and provide evidence that participants met the eligibility criteria at the Determination Hearing.
- Investigate the feasibility of establishing clear criteria for offenders with violent histories.
- Develop a process to review eligibility decisions where there is disagreement within the AODT Court team on whether a potential participant meets the defined criteria.

⁴¹ The third objective of examining the operation of the AODT is contained in the previous sections.

AODT Court programme

While the AODT Court team roles are working together as intended, the scope of the AODT Court case managers, the AODT Court co-ordinator, and defence counsel roles are expanding beyond what was originally expected which is impacting on their capacity to manage increasing case loads. In part this reflects that the responsibilities for ensuring participants have appropriate financial and social supports are not clearly allocated to a team member. The need to respect and value the contribution of all team members based on their areas of specific expertise and to manage the balances between judicial and therapeutic processes, particularly with regard to information sharing were also areas of tension.

Key areas to strengthen implementation are:

- Review the scope of the AODT Court case managers, the AODT Court co-ordinator, and defence counsel roles and responsibilities to address their current expansion and ensure they can complete their expected tasks within their current FTE and expected caseload.
- Determine where the responsibility for addressing participants' financial and social needs (eg, their accommodation and income) to take part in the AODT Court lies.
- Consider an occasional team debrief to discuss implementation and the tensions inherent in roles, communications and relationships within a therapeutic court model.

The AODT pre-court team meetings and court hearings are being undertaken as intended in the pilot design. Time management practices need strengthening to reduce the length of the pre-court team meetings and AODT Court sessions.

Victim engagement

Victim involvement is not working as intended. The key area to strengthen implementation is ensuring the intended process for victim involvement in the Determination Hearing process is followed.

Treatment

Treatment pathways and relationships are working as intended with good integration between the AODT Court and the treatment programmes, and the governance arrangements are working effectively. Participants interviewed were in the main positive about their treatment programmes. However, accessing timely treatment services that best meet participants' needs can be difficult due to a limited range of treatment types in the region. Peer support workers' role is expanding beyond its intended scope and thus impacting on their capacity to undertake all expected tasks.

Key areas to strengthen implementation are:

- Consideration by the AODT Court Steering Group and the AODT Court Treatment Network Steering Group to determine whether there are any solutions to the identified gaps in treatment types.
- Review the scope of peer support workers' role.

Testing

AOD testing is a critical part of the AODT Court. There is a lack of clarity on whether the AOD testing is implemented as intended as questions have been raised over the process and quality assurance of testing.

To strengthen the implementation of AOD testing:

- Facilitate communication between the AODT Court and ESR to agree expectations for future reporting and address the differing perceptions on the timeliness and content of the information reported.
- Review the quality of testing in residential treatment against AODT Court pilot design expectations.
- Investigate the quality of alcohol testing required at different stages in the court process to address concerns raised on the adequacy of twice-weekly breath testing to monitor alcohol use after SCRAM anklets are removed.

Exiting the AODT Court

There is insufficient information to assess the implementation of the termination process for those exited from the AODT Court against what was intended, as insufficient data is collected on participants who have terminated from the court. Stakeholders also have varying perceptions on assessing when to terminate a participant who is not making the expected progress, and the appropriateness of sentences imposed.

The AODT Court is just over one year into operation therefore no participants have graduated. Systems to support those graduating from the court are starting to be considered and developed. It is therefore too early in the pilot's implementation to assess exit by graduation.

Strengthening data collection

At this stage of the evaluation, the focus on the data collection has been on the JAX data system. Problems have occurred with both inputting data and obtaining reports from JAX, resulting in gaps in the data reported. The issues identified with the AODT Court data have implications for the integrity, consistency and efficacy of data recorded for the pilot, and will have implications for the evaluation of the pilot if not resolved.

To strengthen the pilot's implementation review the AODT Court data collection and investigate the issues identified with JAX to ensure data collection is fit for purpose.

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