

Hon Andrew Little
Minister of Justice

Proactive release – Future of the Alcohol and Other Drug Treatment Court

Date of issue: 17 March 2020

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

No.	Document	Comments
1.	Future of the Alcohol and Other Drug Treatment Court <i>Cabinet paper</i> Office of the Minister of Justice 21 August 2019	Some information has been withheld in accordance with section 9(2)(f)(iv) of the OIA to protect the confidentiality of advice tendered by Ministers of the Crown and officials. No public interest has been identified that would outweigh the reasons for withholding it.
2.	Future of the Alcohol and Other Drug Treatment Court <i>Cabinet Minute: SWC-19-MIN-0103</i> Cabinet Office Meeting date: 21 August 2019	Some information has been withheld in accordance with section 9(2)(f)(iv) of the OIA to protect the confidentiality of advice tendered by Ministers of the Crown and officials. No public interest has been identified that would outweigh the reasons for withholding it.

In Confidence

Office of the Minister of Justice and Minister of Health

Chair, Cabinet Social Wellbeing Committee

FUTURE OF THE ALCOHOL AND OTHER DRUG TREATMENT COURT

Proposal

1. This paper reports back on the Alcohol and Other Drug Treatment (AODT) Court pilot [SOC-17-MIN-0060] and notes our intention to:
 - 1.1. continue the AODT Court at the existing two sites, with some improvements, subject to funding
 - 1.2. expand the drug court model to a small number of new sites over the next two to three years, subject to funding and other resources needed to implement them.

Executive Summary

2. The AODT Court, Te Whare Whakapiki Wairua, applies a therapeutic approach to reducing the influence of alcohol and other drug (AOD) use on crime. It is targeted at offenders who are substance dependent, have entrenched patterns of offending and who are facing a prison sentence of one to three years.
3. The pilot is a joint initiative between the judiciary and the government. It has been operating for seven years in Auckland and Waitākere. The Court has the strong support of the judiciary involved in its operation, as well as the backing of local iwi and communities. Funding for the pilot expires on 30 June 2020.
4. The recent outcomes evaluation shows positive results for the approximately 45% of participants who graduate from the AODT Court. The positive outcomes include improved health and wellbeing and improved engagement with whānau. Graduates' re-offending rates also improved significantly over the first 2-3 years from entry into the Court. However, the impact on reducing reoffending and imprisonment across all participants decreases over time.
5. The evaluation shows that the AODT Court model has a positive impact for Māori in terms of reducing reoffending. The AODT Court has a strong cultural focus and support from local iwi. This aligns with the Government's commitment to ensuring that Crown-Maori partnerships are at the centre of future developments in the health and justice sectors.
6. The AODT Court model is expensive to operate, the cost-benefit component of the evaluation shows a cost neutral result leading to a small to moderate positive return on investment. Some changes are needed to reduce costs and sustain re-offending gains over the longer term.
7. s9(2)(f)(iv)

We further propose to expand the number of drug courts over the next few years in a staged approach so that the new courts will have the

benefits of the ongoing improvements and to ensure that the appropriate supports and treatment services are in place.

8. We will also consider what additional support the Government can provide to address AOD-related offending and harm more widely. This work will be aligned with Hāpaitia te Oranga Tangata (the safe and effective justice reform programme) and the Ministry of Health's work to increase access to, and choice of, alcohol and other drug services following Budget 2019 and the recommendations from He Ara Oranga (Inquiry into Mental Health and Addictions).

Background

9. Approximately half of crime is committed by people under the influence of alcohol or other drugs. The Department of Corrections estimates that about 60% of community-based offenders have an identified AOD need, and 87% of prisoners have experienced an AOD problem in their lifetime¹.
10. As part of its review of the Misuse of Drugs Act 1975, the New Zealand Law Commission recommended the establishment of a pilot drug court². In 2011, Cabinet agreed to an investment package for alcohol and other drug assessments and interventions as part of a work programme to address drivers of crime. One of the initiatives was a pilot AODT court for offenders in greater Auckland.
11. The central feature of drug courts is that they aim to reduce drug misuse and associated offending through active ongoing judicial supervision of participants during their treatment programme. It is this feature of active supervision by a judge or other judicial officer that distinguishes drug courts from other court-ordered treatment programmes.
12. The AODT Court pilot commenced in 2012 as a joint initiative between judiciary and government. It is targeted to offenders who are substance dependent, have entrenched patterns of offending and who are facing a prison sentence of one to three years. The AODT Court operates in Auckland and Waitākere. The Court aims to:
 - a) reduce reoffending
 - b) reduce imprisonment
 - c) reduce AOD use
 - d) positively impact on health and wellbeing, and
 - e) be cost-effective.
13. A multi-agency steering group representing the Ministries of Justice and Health, New Zealand Police, Department of Corrections and the Judiciary has overseen and supported the pilot.
14. The programme was intended to operate as a pilot for a period of five years. In May 2017, the Cabinet Social Policy Committee considered a progress report on the AODT Court pilot and four other initiatives to improve access to AOD treatment. The Committee:

¹ *Breaking the Cycle: Our Drug and Alcohol Strategy Through to 2020*, Department of Corrections, March 2016.

² *Controlling and Regulating Drugs: A Review of the Misuse of Drugs Act 1975*, Law Commission report 122, April 2011

- **noted** that early indications are that the Alcohol and Other Drug Treatment (AODT) Court is capable of delivering considerable benefits, but that outcomes need to be measured over a longer period to provide us with confidence that it provides good return on investment;
- **agreed** to extend the term of the pilot until 30 June 2020, with decisions on whether to permanently establish the model at the pilot sites in the first half of 2019. [SOC-17-MIN-0060, confirmed CAB-17-MIN-0270].

Evaluation findings show some positive results and opportunities for improvement

15. An outcomes evaluation has been carried out to inform decisions about the future of the AODT Court pilot. The evaluation plan and findings were independently reviewed by local and international experts. The evaluation had three components³:
 - 15.1. Quantitative outcomes evaluation
 - 15.2. Qualitative evaluation
 - 15.3. Cost-benefit analysis.

Quantitative outcomes evaluation

16. The quantitative outcomes evaluation compared AODT Court programme participants with a matched group of offenders who were released from prison. Reoffending was measured over one- to four-year follow up periods. State Benefit usage and Police non-crime related incident rates were also compared.
17. The evaluation findings show large reductions over all the reoffending measures⁴ and Police non-crime related incidents within the two years following a participant's entry into the AODT Court, when compared to matched offenders. However, over longer follow-up periods, the results suggest that the effectiveness of the AODT Court in reducing reoffending and imprisonment declines markedly. There were significant differences only for the overall reoffending rate and frequency of reoffending after three years, and no significant differences for any of the measures within a four-year follow-up period.
18. The results in part reflect the challenges of treating addiction concurrent with reoffending. Addiction is a chronic relapsing disorder and will not always be fully addressed by an intervention. It is not unusual for people with addiction to relapse or not complete their treatment. Outcomes were much more positive for those who completed their treatment and graduated from the AODT Court. Of those entering the AODT Court prior to 1 March 2017, 46% graduated. Over a three year follow up period, graduates had significantly lower reoffending and imprisonment rates⁵ and committed 71% fewer offences compared to matched offenders.

Qualitative outcomes evaluation

19. Evaluators conducted 53 interviews, including 14 with AODT Court graduates and 7 with participants who exited without completing the programme. They also interviewed

³ In addition to the three separate reports, a summary report was prepared: *Alcohol and Other Drug Treatment Court Outcomes Evaluation 2018-19: Summary Evaluation Report, June 2019*.

⁴ Measures included reoffending for any offence, reoffending for offences excluding breaches of community service orders, parole or probation, new offences, serious offences and imprisonment.

⁵ Graduates had a 28-percentage point lower reoffending rate and a 27-percentage point lower imprisonment rate compared to matched offenders.

whānau members, treatment providers and justice stakeholders, and reviewed court files.

20. Interviewees rated the AODT Court contribution to improving the lives of graduates and exited participants as good. For example, graduates reported improved self esteem, better relationships with whānau, improved physical health, connection with work or training, and better connection with cultural and spiritual values. The evaluation shows a reduction in AOD dependency during a participant's time in the AODT Court. Some reported maintaining sobriety for up to four years after graduation.

Cost-benefit analysis

21. The cost of the pilot over four years was \$14.46m⁶ with benefits estimated at \$19.19m. This produced an average cost-benefit ratio of 1.33 (range of 0.91 – 1.75). Most of the benefits are private benefits through reduced harm (victimisation) rather than savings to the justice sector. This is because the justice sector benefits are relatively short-lived. The cost-benefit ratio represents a cost-neutral intervention, leaning towards a small to moderate positive return on investment relative to the standard court process.

Outcomes for Māori

22. Approximately half of the participants are Māori. The AODT Court model is effective for Māori. Over a three-year period, Māori participants were 15% less likely to reoffend, committed 28% fewer offences and were 19% less likely to be imprisoned than a matched group of Māori offenders.

Conclusion from findings

23. The evaluation showed a reduction in AOD dependency during participants' time in the Court and positive contributions to health and wellbeing. There were large reductions in reoffending measures over two years following participants' entry into the AODT Court. However, over longer follow-up periods, the results in reducing re-offending and imprisonment declined markedly. The evaluation concluded that the AODT Court model requires further refinement in process, policy and implementation for it to deliver better outcomes.

The AODT Court model contributes to a safe and effective justice system

24. The Coalition Government is committed to long term solutions to improve community safety and wellbeing, and the way justice works. Addiction treatment and support services contribute to reducing reoffending and improving the health, wellbeing and quality of life of vulnerable people.
25. The AODT Court model has a number of the features that are desirable in the criminal justice system reforms, such as:
 - 25.1. a tailored, solutions-focused therapeutic approach
 - 25.2. using tikanga Māori cultural practices
 - 25.3. involvement and support from whānau, community and iwi.

⁶ Direct Government costs were met through the Ministries of Health and Justice, Department of Corrections and NZ Police.

26. The components of the AODT Court model combine to provide holistic, therapeutic, wraparound support for participants, embedded in a tikanga Māori cultural approach. Many participants commented that without the AODT Court they would not have achieved positive changes or had the skills to continue their recovery journey after a relapse. One of the benefits of the Court is that it provides access to treatment for a group of people who may otherwise have chosen not to access treatment, or have difficulty accessing treatment, outside prison.
27. The tikanga Māori and cultural aspects of the Court are seen as a strength and model for other justice sector initiatives. A cultural framework, developed by a Māori Cultural Advisory Group, provides a Māori cultural context for the AODT Court. Tikanga Māori protocols are integrated into court practice. Te Pou Oranga, the Māori cultural adviser, provides support to the AODT Court team, has developed Māori cultural and AOD recovery pathways for Māori participants, and works collaboratively with local iwi and marae. Tangata whenua (Ngāti Whātua) are involved in and are supportive of the AODT Court.
28. Part of our commitment to a safer and more effective justice system involves building partnerships with Māori, community groups and business so we can collaborate and design long-term solutions that work for future generations. The evaluation shows the AODT Court has strong positive support from participants, judiciary, treatment providers and justice stakeholders. A voluntary independent support group, the Community Advisory Group (CAG), provides support for participants through fundraising for incentives (for example, certificates and vouchers) and arranging for additional services such as dentistry and tattoo removal. Local iwi host and participate in graduation ceremonies and other activities.

There are opportunities to build on the strengths of the AODT Court to improve effectiveness

29. Government agencies and the judiciary have identified potential areas to reduce costs and improve the effectiveness of the AODT Court. Moving out of the pilot phase into a longer-term funding arrangement will allow for consideration of what the optimal model, including resourcing, should look like.

Drug testing

30. Approximately 16% of the overall cost of the AODT Court (one-third of Ministry of Health funding) is for drug testing. Officials consider that the current standard for analysis of urine samples is expensive and more comprehensive than is required for most purposes. The main purpose of the testing regime is to monitor compliance with the treatment programme and progress in recovery. A cheaper and less invasive saliva test is likely to be sufficient to detect the presence of drugs or alcohol and allow the AODT Court team to monitor participants' progress. The more thorough testing of urine could be reserved to resolve any disputes about alcohol or drug use.

Eligibility criteria and selection process


31. It is timely to review the eligibility criteria. Given the significant costs of operating the AODT Court model, priority should be given to participants who would not successfully address their addiction or reduce offending using alternative programmes (for example, alcohol interlocks to address drink-driving) and residential programmes as part of community-based sentences.

32. As the pilot has proceeded, the AODT Court team has developed a better understanding of the level of risk that is suitable for the AODT Court. Some participants have been involved in incidents that caused harm to the public or required police intervention. Other participants' behaviour has sometimes posed risks to staff and other people participating in treatment programmes.
33. Currently Judges decide whether to accept a participant into the AODT Court following assessment of their addiction levels and mental health. Officials consider that before being accepted into the AODT Court, it would be appropriate for a specialist AOD clinician to assess and approve potential participants to ensure that they are suitable for the treatment programme available. Police could also screen participants to ensure they do not pose a significant risk to public safety (in the same way as is done for bail applications).

Aligning treatment with AODT Court entry and improving aftercare

34. The experience of operating the pilot highlights the limited availability of supported accommodation and residential placements. Evidence suggests that offenders should begin treatment as soon as possible. If potential participants do not have a suitable address for bail, it will delay entry into treatment. A sample of participants showed an average of 41 days from their acceptance into the AODT Court to beginning treatment. In the interim, potential participants are likely to have been in custodial remand, which has added to overall costs of the pilot. Ideally, participants should not be accepted into the AODT Court if there is to be a significant delay before they are able to begin the treatment programme.
35. The AODT Court evaluation shows that the effectiveness of the programme reduces over time. Officials consider that there are opportunities to better link graduates with other services that can improve enduring aftercare and help graduates stay on track with their recovery.

Next steps for the AODT Courts

36. s9(2)(f)(iv) 
37. We will also begin preparations to establish a small number of additional drug courts over the next two to three years, subject to local resources, treatment service availability, community support and funding. The expansion will include examining different approaches to develop a court model that can be used in courts of different sizes and locations.
38. Drug courts are expensive and not the only way to address AOD-related offending. Ideally, we want to intervene early to prevent dependency and related harm before intensive intervention and court involvement is needed. In addition to establishing therapeutic courts agencies will consider what additional support the Government can provide to address AOD-related offending and harm more widely. This applies to those at risk of entering the criminal justice system and as part of community-based or

custodial sentences. As part of this, agencies are particularly interested in assessing the potential of the post-sentence drug court models used overseas.

39. This work will be carried out in alignment with Hāpaitia te Oranga Tangata (the safe and effective justice reform programme) and the Ministry of Health's work to increase access to and choice of specialist alcohol and other drug services following Budget 2019 and the recommendations from He Ara Oranga (Inquiry into Mental Health and Addictions). This work will also consider the flow on implications for other AOD services. We want to ensure that AOD services in the criminal justice system do not restrict access to treatment for people seeking help in the community voluntarily.


Consultation

40. The following agencies were consulted, and their views are reflected in the paper:

The Ministry of Health, Department of Corrections, the New Zealand Police and the Treasury were consulted on this paper. The Department of Prime Minister and Cabinet has been informed. While agencies are generally supportive of the proposals, the Department of Corrections would prefer that any changes to the current AODT Court model were assessed before being implemented in new AODT Courts.

Financial Implications

s9(2)(f)(iv)



Legislative Implications

43. No legislative changes are proposed at this stage. If it becomes apparent that the Court would benefit from legislative changes, I (Minister of Justice) will seek approval for inclusion of an appropriate legislative vehicle in the Legislation Programme.

Impact Analysis

44. Regulatory impact analysis is not required as no changes to legislation or regulation are proposed.

Human Rights

45. The proposals in this paper do not raise any issues of consistency with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Gender Implications

46. Decisions about the future of the AODT Court do not have specific gender implications. Acceptance into the Court is considered on a case by case basis.

Disability Perspective

47. People with disabilities are accepted into the AODT Court if the criteria for eligibility are met and a suitable treatment programme is available. People with significant mental health needs are not able to be accepted into the programme as the treatment providers are not qualified to support participants with serious mental health needs.

Treaty of Waitangi implications

48. The evaluation of the AODT Court shows benefits from incorporating Māori cultural practices and building a close working relationship with local iwi. There are opportunities to build on this further to give greater effect to the Treaty of Waitangi as the model continues to evolve and courts are established in new areas. The AODT Court model also indicates the potential benefits of developing stronger Māori-Crown partnerships in other aspects of the justice system. The flow-on effects of incorporating Māori cultural practices and partnering more closely with iwi are likely to be positive for Māori wellbeing and reduced offending.

Publicity

49. The evaluation reports will be made public on the Ministry of Justice website at the same time this paper is released. The reports are likely to attract interest from the public and the media.

Proactive Release

50. We intend to proactively release this Cabinet paper, subject to redactions as appropriate under the Official Information Act 1982. s9(2)(f)(iv)

Recommendations

The Ministers of Justice and Health recommend that the Committee:

1. **note** that funding for the Alcohol and Other Drug Treatment (AODT) Court pilot expires on 30 June 2020 and that decisions about the future of the AODT Court are needed so that the Court and agencies can plan for next steps.

2. **note** an evaluation has been completed and shows some positive results, but also areas for improvement.
3. **note** that the AODT Court model aligns with the Government's plans for a safe and effective justice system and the recommendations of He Ara Oranga, the Mental Health and Addiction Inquiry report.
4. **agree** in principle to continue the AODT Court at the current two existing sites, with some improvements as indicated in the paper and subject to securing funding.
5. s9(2)(f)(iv)

Authorised for lodgement

Hon Andrew Little

Minister for Justice

Hon David Clark

Minister for Health



Cabinet Social Wellbeing Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Future of the Alcohol and Other Drug Treatment Court

Portfolios Justice / Health

On 21 August 2019, the Cabinet Social Wellbeing Committee:

- 1 **noted** that funding for the Alcohol and Other Drug Treatment (AODT) Court pilot expires on 30 June 2020 and that decisions about the future of the AODT Court are needed so that the Court and agencies can plan for next steps;
- 2 **noted** that an evaluation has been completed and shows some positive results, but also areas for improvement;
- 3 **noted** that the AODT Court model aligns with the government's plans for a safe and effective justice system and the recommendations of He Ara Oranga, the Mental Health and Addiction Inquiry report;
- 4 **agreed in principle** to continue the AODT Court at the current two existing sites, with some improvements as indicated in the paper under SWC-19-SUB-0103, subject to securing funding;
- 5 s9(2)(f)(iv) [REDACTED]

Gerrard Carter
Committee Secretary

Hard-copy distribution: (see over)

Present:

Rt Hon Jacinda Ardern
Hon Kelvin Davis
Hon Grant Robertson
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Andrew Little
Hon Dr David Clark
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Damien O'Connor
Hon Tracey Martin (Chair)
Hon Willie Jackson
Hon Aupito William Sio
Hon Poto Williams
Jan Logie, MP

Officials present from:

Office of the Prime Minister
Office of the Minister for Social Development
Office of the Chair
Officials Committee for SWC

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