



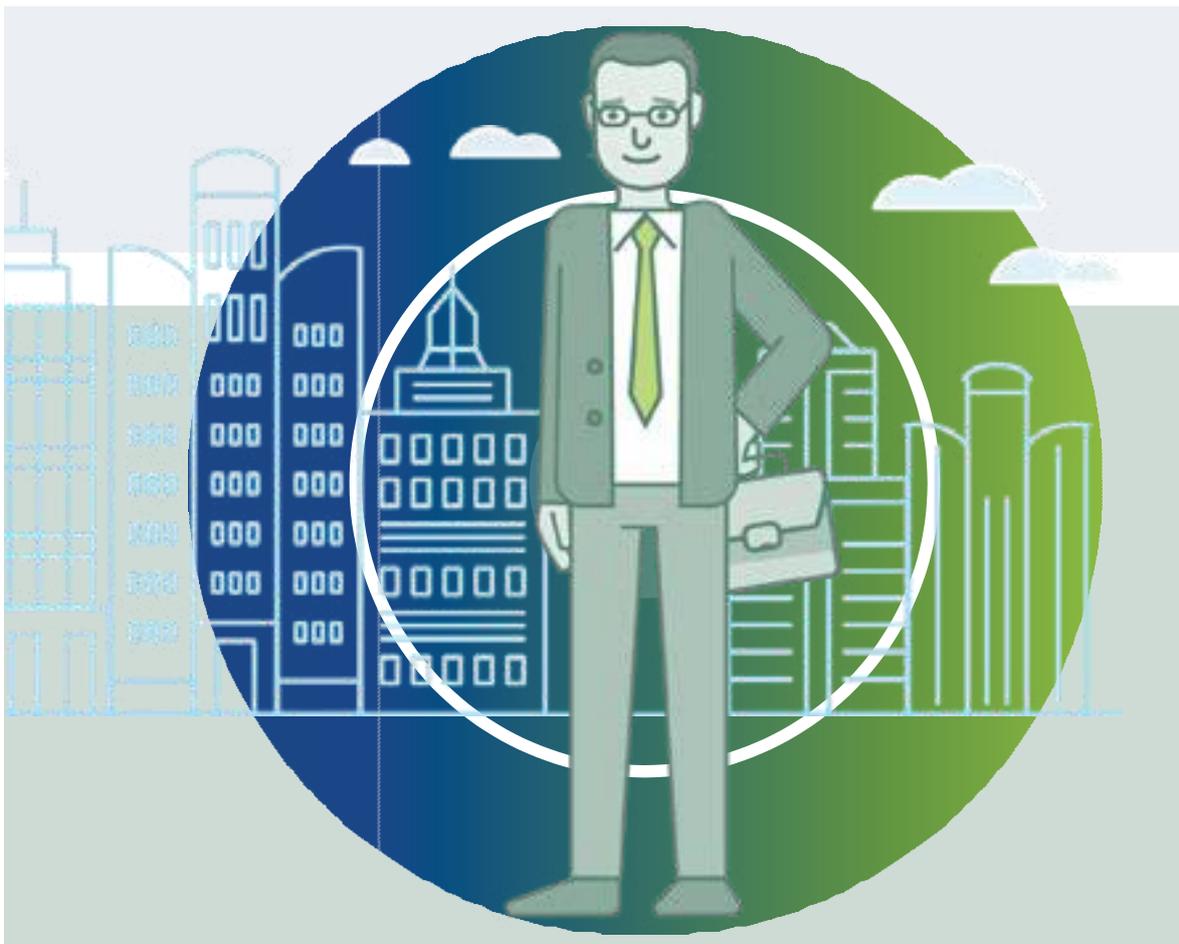
AODT

Court

TE WHARE WHAKAPIKI
WAIKIRI KI KIRIKIRIROA

Alcohol and Other Drug Treatment Court

Information for lawyers



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Information for lawyers

Te Whare Whakapiki Wairua, the Alcohol and Other Drug Treatment (AODT) Court operates in the District Court in Auckland, Waitākere and Hamilton with a maximum capacity of 50 participants, at any one time, at each location.

This document provides lawyers with information on the AODT Court.

AODT Court objectives

Te Whare Whakapiki Wairua, meaning the house that uplifts the spirit, provides an alternative to imprisonment for people whose offending is driven by alcohol and/or other drug substance use disorders.

The AODT Court provides an evidence-based, best practice treatment pathway that includes intensive monitoring, case management, drug testing and mentoring. The AODT Court aims to:

- reduce reoffending
- reduce rates of imprisonment
- reduce alcohol and other drug consumption and dependency
- positively impact health and wellbeing
- be cost effective.

You can find more information on the Ministry's website: www.justice.govt.nz/courts/criminal/specialist-courts/alcohol-and-other-drug-treatment-court/.

AODT Court process overview

The AODT Court follows a pre-sentence model. Sentencing is deferred while participants undertake the AODT Court programme which may take between one to two years to complete.

A criminal court judge considers all relevant information to determine if a defendant's offending is driven by an alcohol and/or other drug substance use disorder. This may include Alcohol and Drug (AOD) screening results. To support the judge's decision, Defence Counsel should complete the *AODT Court Eligibility checklist* and provide it to the judge.

Counsel should also give the defendant a copy of the *AODT Court Participant Handbook* and the *AODT Court Participant Agreement* to inform them about what is involved in being an AODT Court participant.

You can find AODT Court forms and resources on the Ministry's website: www.justice.govt.nz/about/lawyers-and-service-providers/legal-aid-lawyers/the-alcohol-and-other-drug-treatment-court-aodt/

AODT Court process overview cont'd

If a defendant is likely to meet the eligibility criteria of the AODT Court, the judge may direct a Comprehensive AOD Assessment. The judge considers these results and if the defendant is seeking early resolution of their charges, will provide a sentence indication. If the defendant accepts their sentence indication and enters a guilty plea the judge may decide to refer the defendant to the AODT Court.

A defendant referred to the AODT Court is represented by their defence counsel at a Determination Hearing. The AODT Court judge decides whether to accept the defendant to the AODT Court programme.

If the defendant is accepted, they are assigned to a defence lawyer in the AODT Court Legal Services team for the duration of their AODT Court programme. The AODT Court lawyer, defendant and the AODT Court judge sign the *AODT Court Participant Agreement* at the Determination Hearing.

A participant is provided with an individualised treatment plan and goes through 3 phases before graduating from the AODT Court. Initially the participant appears before the AODT Court more frequently for monitoring. However, as their initial treatment needs are being met through satisfactory compliance with their Court obligations, these appearances become less frequent. In addition, as the participant progresses through the phases, they are expected to spend increased amounts of time engaging in community-based activities.

Participants who graduate are sentenced in the AODT Court. The graduates receive a community sentence rather than a custodial sentence. This type of sentence also ensures continuing oversight from probation officers to check on recovery progress and ensure compliance with sentence conditions (such as ongoing AOD testing) along with further judicial oversight during this period.

Participants can leave the AODT Court by choice or if an AODT Court judge decides to exit a participant as a consequence of non-compliance with the requirements of the programme. Participants leaving the AODT Court will return to standard District Court sentencing processes.

Expectations of AODT Court specific lawyers

A lawyer in the AODT Court legal services team is rostered for 12-18 months. Lawyers who are accepted to the roster will apply and be appointed for a set term. Each court will have their own sitting schedule for AODT Court.

AODT Court lawyers are expected to provide the same high-quality legal representation as they would for any client. This includes:

- attending weekly monitoring hearings and keeping records of these attendances
- professionally and appropriately representing the interests and wishes of the participant, ensuring that their legal rights are protected and ensuring that their informed instructions are obtained and recorded

- staying updated on their client's treatment progress and support their programme participation and compliance (e.g. to attend AOD testing)
- championing te reo Māori and tikanga and upholding the kaupapa of the AODT Court
- working effectively and collaboratively as a member of the AODT Court team and taking direction from the legal services team leader
- completing AODT Court training (including any judge-led training days) and familiarising themselves with information about how the AODT Court operates.

Legal aid administration

Funding and assignments

The AODT Court operates under the duty lawyer framework and payment structure.

Non PDS AODT defence lawyers will be paid a daily rate for their attendance in Court, which will equate to 11.5 hours. This acknowledges:

- attendance in AODT Court for duration of the whole day; and
- other attendances or preparation if required between court sittings

Additional payments are made for bail variation attendances as well as sentencing appearances for exiting AODT Court participants (if required).

Lawyers are not be paid to attend judge-led training days; legal aid payments can only be made for the provision of legal services. However, this training is compatible with the New Zealand Law Society's continuous professional development (CPD) framework and lawyers can apply to earn CPD points. Please contact legalaidtheprovider@justice.govt.nz.

You can find more information in the AODT Court Operational policy on the Ministry's website:

<https://www.justice.govt.nz/about/lawyers-and-service-providers/legal-aid-lawyers/the-alcohol-and-other-drug-treatment-court-aodt/>

Legal aid grant and repayment

AODT Court participants must have a legal aid grant, which will remain open until their charges are resolved.

When a participant is accepted into the AODT Court, the team leader will advise the legal aid grants team and the grant will be moved to the AODT Court. The previous legal aid provider will submit their final invoice to the legal aid grants team; the grant will remain open and be reassigned to the Public Defence Service under the AODT Court location.

Once assigned, the AODT Legal Services team will maintain oversight of the participants grant during their tenure in the AODT Court.

When a participant exits or graduates from AODT Court, the Public Defence Service (PDS) will provide a cost of service (COS) to Legal Aid grants. The COS applied to the participants grant of aid will be calculated at two hours' hearing time per attendance during the length of the programme.

The AODT Court programme involves longer and more frequent attendances than a standard criminal matter, so to ensure fair and equitable treatment, participants' legal aid debt owed will be considered under s43 (1)(c) of the Legal Services Act 2011 to be reduced to be comparable to the average cost of a PAL1 matter proceeding through the District Court.

At the finalisation of the grant, Legal Aid Debt will apply a s43 partial write-off to reduce the total debt to \$1500 or apply the actual cost of services, whichever is lower.

If the participant exits the AODT programme early and withdraws their guilty plea, then costs incurred after exiting the AODT court will not be considered within the partial write off review and additional costs will be incurred.