

**Process Evaluation for the  
Alcohol and other Drug  
Treatment Court  
Te Whare Whakapiki Wairua  
Interim Report**

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 and Liz Smith (Litmus Limited), Alison Chetwin (independent evaluator), Maria Marama (Māori evaluator) with contribution and review by Timothy Taotua (Integrity Professionals Limited).

The Ministry of Justice Research and Evaluation Team provided the analysis of the Alcohol and Other Drug Treatment Court (AODT Court) administrative data included in this report.

This document reports on findings from the first phase of the process evaluation of the AODT Court pilot. Appendices for this report are contained in a separate Technical Appendices document (Litmus, 2015).

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 team members and correctional facility staff who helped arrange for AODT Court participants to be interviewed.

## 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 Steering Group Network	Auckland based steering group network made up of treatment provider CEOs, judges, cultural representatives, and managers of CADs, case managers, and peer support workers
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
CRO	Court Registry Officer
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)
Haka	A fierce rhythmical dance that expresses pride, strength and unity.
Himene	Hymn
HOP card	Travel card
JAX	Justice Application Express, a Ministry of Justice repository for AODT Court data
Kanohi ki te kanohi	Face to face
Karakia	Māori incantations and prayers used to invoke spiritual guidance and protection
Kaumātua	Adult, elder, elderly man, elderly woman, old man
kaupapa	Purpose, topic
Kaupapa whānau	Support person or people who have experience with AOD treatment
Kia Tau	To be settled

Kotahitanga	A unified body of people
Kuia	Elderly woman, grandmother, female elder
Māori tikanga	Correct Māori procedure, custom, meaning, practice and convention
Mana whenua	Authority over land or territory
Mihimihi	A greeting
Ministry	Ministry of Justice
motu	Island
NA	Narcotics Anonymous
NHI	National Health Identification number
NDCI	National Drug Court Institute
PAC report	Provision of advice to courts report
Participant	Offender who is part of the AODT Court
Pou Oranga	Māori advisor 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)
Roopu	Group
SCRAM	Secure Continuous Remote Alcohol Monitor
Te Ao Māori	Māori world
Te Whare Whakapiki Wairua	Alcohol and Other Drug Treatment Court
Tamariki	Children
Tikanga Māori	Māori custom or lore
Toto whānau	Blood relative
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
Whakamaa	Embarrass
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
Whare Tupuna	Ancestral house
Waiata	Songs



# 1. Executive summary

## 1.1 Evaluation purpose

The Alcohol and Other Drug Treatment Court (AODT Court) is a specialist District Court being piloted in the Auckland and Waitakere District Courts. It 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 AODT Court began operating in November 2012. The intended outcomes are to reduce reoffending and the use of imprisonment, reduce AOD consumption and dependency, positively impact on health and wellbeing, and be cost-effective.

The Ministry commissioned Litmus Limited to undertake formative and process evaluations, and a cost-effectiveness analysis of the AODT Court pilot. The formative evaluation was undertaken in November - December 2013 (Litmus 2014). The process evaluation is being carried out in two phases. This document reports on findings from phase one of the process evaluation carried out in March - May 2015, after the AODT Court had been in operation for two years and five months.

The process evaluation draws on observations of the AODT Court, interviews with the AODT Court team, wider stakeholders, participants and their whānau, and administrative data.

## 1.2 Overview of AODT Court processes

The following overview of the AODT Court draws from the Ministry's design plan and handbook (Ministry of Justice, 2012; 2014). The intended pathway is as follows:

- Potential AODT Court participants are identified by people involved in proceedings at the Auckland or Waitakere District Courts.<sup>1</sup>
- A District Court Judge decides on referrals to the AODT Court based on a full AOD assessment and other criteria in the eligibility check list such as Roc\*RoI score,<sup>2</sup> previous and current offences, willingness to participate, likely plea and sentence.
- The AODT Court team receives the referral (including the clinical assessment) and discusses the defendant's eligibility and potential acceptance into the AODT Court at the pre-court team meeting.
- Defendants appear at the AODT Court Determination Hearing and the AODT Court judge accepts or declines entry. Defendants must consent to participate and plead guilty to be accepted into the AODT Court. Where the AODT Court is not offered, the standard District Court process is followed.
- AODT Court participants work through three phases in the AODT Court; the AODT Court programme is expected to last between 12 - 18 months in total.

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

<sup>2</sup> Risk of re-conviction and Risk of re-imprisonment score, provided by Community Probation.

- AODT Court participants exit the court through termination or voluntary exit, or through graduation for those who successfully complete all three phases. Graduates take part in a graduation ceremony and sentencing event at court, and are invited to later take part in the He Takitini graduation celebration at a marae or another suitable community venue.

### 1.3 Overall evaluative assessments

Overall the AODT Court is operating as intended and specified in the AODT Court handbook. An ongoing process of reflective practice has resulted in continual improvement and developments since the formative evaluation.

In many respects the AODT Court is reaching a 'steady state'. Some changes, however, are still being bedded in, such as the AOD testing, and other areas continue to be developed, such as the processes for graduation.<sup>3</sup>

An inherent tension in a therapeutic court is balancing treatment, justice and judicial priorities and processes. This tension is acknowledged by the AODT Court team, and is managed effectively by a collaborative and collegial approach and effective judicial leadership that seeks to respect differing perspectives.

A broad level of support for the AODT Court is evident among the team, governance, wider stakeholders, local community groups and organisations, treatment providers, AODT Court participants and whānau. Planning is required to manage how the pilot period will draw to an end, including managing expectations for the future of the programme. While the findings from the process evaluation are largely positive, the success of the AODT Court will be determined, in part, by how well the AODT Court is achieving its intended outcomes and the extent to which the outcomes are cost effective.

### 1.4 Evaluative assessments, summary of key findings and areas to strengthen across the AODT Court pathway

#### ***Governance, operational management, training***

##### **Evaluative assessment**

In the main, the overall governance of the AODT Court is working as intended in the pilot's design.

##### **Key findings**

- A key strength of the AODT Court Steering Group is cross-agency representation and broad support for the AODT Court.
- The AODT Court Steering Group is increasingly comfortable with the AODT Court evolving from the original design. The AODT Court Steering Group have developed

<sup>3</sup> Processes for graduation refer to: the graduation ceremonies, the processes leading up to graduation and preparing participants to leave the AODT Court environment, and the period after leaving the AODT Court.

an effective working relationship to enable robust discussions of issues from differing agencies' perspectives.

- Some local level stakeholders suggested that the Steering Group has limited operational understanding of the court. This concern may be addressed through continuation of the memo the AODT Court judges developed recently and provided to the Steering Group, outlining current matters in the operation of the AODT Court.
- The AODT Court Steering Group has flagged the risk that as the pilot moves into its final stages there may be a loss of personnel and therefore knowledge about the AODT Court. In this context, a key future focus for the AODT Court Steering Group is maintaining the operational commitment to the AODT Court over the full term, and developing the policy framework about what happens after the completion of the pilot.
- In terms of operational management and training processes for the AODT Court team, court observation is a critical induction tool. The introduction of new AODT Court team members can, however, be challenging due to a lack of formalised handover processes and documentation at the court and within respective agencies.

### **Areas to strengthen**

- Consider ways to increase the understanding of the Steering Group role at a local level. Reflect on the usefulness of the judges' memo to increase the operational understanding amongst the Steering Group.
- Develop an induction tool for new AODT Court members at both a court and agency level to enable effective handovers and maintain clarity of roles.

## ***Determining eligibility for the AODT Court***

### **Evaluative assessment**

Overall, the processes for identifying defendants and determining eligibility are working as intended and seem to have reached a steady state.

### **Key findings**

- AODT Court team members are generally satisfied with the process for deciding who is accepted into the AODT Court. Qualitative stakeholder feedback suggests the eligibility criteria are being met.
- The introduction of Community Alcohol and Drug Services (CADS) at pre-court team meetings has strengthened communications and the relationship between CADS and the AODT Court team.
- Awareness of the AODT Court and eligibility criteria is mixed among potential referrers. Awareness is best among the Public Defence Service, and defence counsel and judges at Waikare District Court.
- Referrals for AOD assessment continue to be lower than expected. Any implications of low referrals are minimised with the AODT Court nearing capacity<sup>4</sup> and the high proportion of referred cases (86%) being recommended for the AODT Court.
- To date, 335 cases<sup>5</sup> had a Determination Hearing, and 61 percent of these were accepted into the AODT Court. Acceptance rates vary across the two courts (54

<sup>4</sup> The court reached capacity three days after the administrative data was received for analysis.

percent of cases were accepted at Auckland AODT Court, and 70 percent at Waitakere AODT Court). Possible explanations for the difference in acceptance rates include: variability in referrers' awareness of the AODT Court and its eligibility criteria, and more cases with unique and complex issues at Auckland AODT Court.

- The length of time spent on pre-court team meetings has shortened. The meetings have quickened as processes are bedded-in, and the team is more familiar with what issues do and do not require more in-depth discussion in this forum.
- Concerns have been raised about people accepted into the AODT Court with serious mental health issues, which can be disguised by the AOD addictions when assessing eligibility before the Determination Hearing. Serious mental health issues are an exclusion criteria for acceptance into the AODT Court and as such the court is not equipped to respond to such issues.
- Despite the treatment readiness programme held in correctional facilities, stakeholders continue to raise concerns about participants remaining on remand in custody, while waiting for a residential treatment programme or safe housing.
- Participants' attitudes to the AODT Court evolve as they progress through the AODT Court pathway. Most started the programme thinking the court was an easy option to avoid prison. They did not appreciate the significant demands the court would place on them to attend treatment and testing, and meet other court requirements.

### **Areas to strengthen**

- Continue to develop processes for early identification of significant mental health issues that cannot be accommodated by the court.
- Reflect on whether further actions can be undertaken to decrease the time participants remain on remand in custody, while waiting for a residential treatment programme or safe housing.

## **AODT Court**

### **Evaluative assessment**

Overall, the operation of the AODT Court is working well and as intended. Concerns about workforce capacity continue with AODT Court team members investing time and commitment beyond what is contracted or sustainable.

### **Key findings**

- Since the formative evaluation, capacity has increased with the addition of the second court coordinator role. A review of the case manager role has also been completed. Personnel changes have occurred in the following roles: AODT Court judges and case managers.
- Overall relationships have matured as the AODT Court team has become more familiar with their role in the team and in a therapeutic court. However, further role clarification is required to ensure a shared understanding of who is responsible for what, and ensure team members work within their scope of practice.

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<sup>5</sup> Data is presented on the number of cases, not people, as one person may have been into the AODT Court more than once.

- AODT Court team members are working well together and are managing the inherent tensions in a therapeutic court model by balancing treatment, justice and judicial priorities and processes. Particular areas of tension are determining treatments most appropriate for participants and encouraging participant self-efficacy.
- Some concerns have been raised by stakeholders that the sustainability and momentum of the AODT Court relies on a few key people.
- Workload continues to exceed capacity as the team members commonly work beyond contracted hours. This is common in roles across the team and in the case manager role in particular.
- Processes for the court hearings and pre-court team meetings are streamlined and reaching a 'steady state'. Time management of the AODT Court has improved with faster progression of cases. This may be further improved by continuing to increase discussion of administrative details outside of court time. Some concerns remain regarding the length of court days when there are graduation ceremonies.
- As at 28 April 2015<sup>6</sup> the AODT Court is very near capacity with 96 participants (the pilot is capped at 100). The upcoming considerations are the flow of people through the AODT Court, how to manage a full AODT Court list, and managing the flow of cases as the pilot period ends.
- Participants generally enjoyed the positive and supportive environment of court appearances. Participants developed trust in, and an appreciation of, the AODT Court team and considered the team's relationships with participants to be genuine. Some participants found the court appearances particularly helpful for accountability and keeping on track.

### **Areas to strengthen**

- Develop documentation and guidelines that clearly detail the different AODT Court team roles and role boundaries.
- Continue to monitor and reflect on the balance between support and self-efficacy for phase three participants (also refer to section 13).
- Continue to facilitate discussion of administrative details outside of court time to reduce time taken during court hearings.

### ***Meeting Māori cultural needs***

#### **Evaluative assessment**

Tikanga Māori processes are in place and have largely been embraced in the AODT Court.

#### **Key findings**

- Since the formative evaluation, the Pou Oranga role has been formalised and extended, and a Cultural Framework and Cultural Assessment Form have been developed.
- Tikanga Māori practices have become an inherent part of the AODT Court, and are generally accepted by the AODT Court team.

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<sup>6</sup> The administrative data was made available to the Ministry of Justice's Research and Evaluation Team as at 28 April 2015.

- Relationships between Mana Whenua (Ngati Whatua in Tamaki Makaurau/Auckland) and the AODT Court have strengthened.
- The Pou Oranga role is working well in establishing tikanga in the AODT Court. However, concerns were raised about the scope and capacity of the Pou Oranga role and the reliance on a few key roles for sustaining tikanga practices.
- Most participants accept and support tikanga practices in the AODT Court, recognising tikanga as an aspect of the AODT Court that differentiates it from other courts.
- Whānau are not always visible in participants' journeys through the AODT Court; a number of challenges hinder their involvement. The AODT Court team are actively seeking to increase appropriate whānau engagement. Whānau interviewed who are engaged spoke of positive experiences at the AODT Court.

### **Areas to strengthen**

- Further work is required to embed an understanding of tikanga in the AODT Court, cement relationships with Mana Whenua, and enhance the ability of the AODT Court team to work with whānau.
- Consider the role scope and capacity for the Pou Oranga role.

## ***Victim engagement***

### **Evaluative assessment**

- There is increased victim involvement in the AODT Court since the formative evaluation. However, there is room for further consideration into appropriate victim involvement in the AODT Court.

### **Key findings**

- Concerns remain regarding the time required for Police to contact all victims between a referral from the District Court and the Determination Hearing.
- Stakeholders' feedback suggests there have been few restorative justice meetings with victims, and most have been held with a community panel.
- The length of time between the offence and restorative justice meetings is an ongoing concern raised by some stakeholders.<sup>7</sup>
- Police and victim advisor feedback shows victims' responses to the AODT Court are mixed. Some want to be kept informed of progress, while others do not.

### **Area to strengthen**

- Further discussion and consultation between victim advisors, Police, and the AODT Court to clarify the best process for involving victims in the AODT Court (including restorative justice meetings) and to clarify roles.

<sup>7</sup> Since 6 December 2014, s24A of the Sentencing Act 2002 has been enacted which requires referrals to restorative justice. Since that date the AODT Court has seen the occasional case where there has already been a restorative justice meeting while the case is awaiting determination in the AODT Court.

## **Treatment**

### **Evaluative assessment**

- Overall, the AODT Court treatment process is working well. Several positive aspects of treatment have been sustained or improved since the formative evaluation, such as good relationships and communication between the AODT Court and the treatment network, and the close relationship with the 12-step fellowship movement. Developments including the treatment readiness programmes, use of a broader range of programmes, and increased community accommodation options have further strengthened AODT Court treatment processes.

### **Key findings**

- Since the formative evaluation a new housing coordinator role has been introduced to the treatment team, and the peer support role has been reviewed. As with the AODT Court team, particularly the case manager role, there is an ongoing need for role clarity with regard to scope of practice and management of workload for the peer support worker role.
- Discussing issues and problem solving by the AODT Court Treatment Network Steering Group is working well, as is communication between the AODT Court team and the treatment network (a collaboration between Odyssey House, Higher Ground and the Salvation Army).
- Pressure on the availability of places in treatment programmes is increasing as the AODT Court nears capacity. There is variation in opinion on the use of community treatment options. Some stakeholders perceive there to be a shift in emphasis from using residential treatment towards using a range of community treatment options. However, use of community-based outpatient services continues to be dependent on the availability of suitable community housing. Provision of numeric data is required to obtain a clearer understanding of treatment use and pathways.
- Some needs continue to be unmet including programmes and services for women, psychological and psychiatric services, social worker services, and kaupapa Māori AOD treatment. While options for community housing have improved through increased accommodation and the introduction of the housing coordinator, finding suitable housing, including transitional housing, is an ongoing challenge.
- Continuing care is not available for all AODT Court participants after completion of a treatment programme, creating reliance on case managers to fill this gap and support AODT Court participants through relapse.
- A majority of the participants reported positive experiences with treatment providers. Some found the treatment environment challenging as they were required to talk openly and honestly, share feelings and develop trust with people.

### **Areas to strengthen**

- Continue to clarify the role and workload requirements of key treatment roles.
- Provide numeric data to obtain a clearer understanding of treatment use and pathways.

- Consider whether further services can be made available where there are unmet needs such as mental health services<sup>8</sup>, social worker services, services for women, and kaupapa Māori AOD treatment services.
- Consider whether coordination of continuing care may be developed and how this can be balanced with increasing self-efficacy.

## ***AOD testing***

### **Evaluative assessment**

- All areas of the AOD testing have strengthened since the formative evaluation, resulting in improved integrity of the testing regime. Some changes are still consolidating and some areas are yet to reach optimal performance, such as reporting and the capability of the testing team in relation to learning and adhering to the protocol.

### **Key findings**

- Since the formative evaluation, there have been a number of changes to the AOD testing such as: ESR has assumed responsibility for all collections; testing is now five times per fortnight; one central clinic has been established; accountabilities are built into the reporting process.
- Stakeholders are generally in agreement that AOD testing is improving and becoming more reliable as a result of the changes, although some changes need more time to bed-in.
- The need for fully observed testing is currently being investigated, although there are differing views on its use.
- All participants interviewed found testing important for their success in the programme and helping them to abstain from AOD. Participants' experiences of testing were generally positive.
- Some challenges with AOD testing remain, including participants bringing their children to the clinic, and the consistent and ongoing availability of E-Screen (the shared interface for real-time test results). The integrity of testing continues to be challenged with new substances emerging and participants practised in concealing evidence of their substance use.

### **Area to strengthen**

- Continue consolidating the changes to the AOD testing processes, and improving testing reporting.

## ***Exit and termination***

### **Evaluative assessment**

- While opinions across the AODT Court team differ on when to exit participants with repeated relapses, the overall termination and exit processes for the AODT Court are

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<sup>8</sup> While serious mental health issues are an exclusion criteria, the AODT Court acknowledge that some mental health issues will commonly co-occur with AOD dependency.



being operationalised as intended. The exit rate from the AODT Court is comparable with drug courts in other jurisdictions.

### **Key findings**

- Of the 205 cases accepted into the AODT Court, 36 percent have been exited.
- Stakeholders identified three groups of exited participants: participants who opt out early on when they recognise the amount of work involved; participants who actively try to address their AOD issues but offending continues due to wider circumstances; and participants who have complex addiction and co-existing needs that are unable to be met by the AODT Court.
- Some stakeholders report the AODT Court team has become more understanding of relapses in the AOD recovery journey, noting the team are patient with participants' relapsing and appropriately giving participants opportunities to remain in the AODT Court.
- In contrast, other stakeholders perceive that there are too many second chances, and there are mixed opinions on when someone should be exited from the AODT Court if they continue to relapse or are not making the progress expected of them.
- There are mixed views on whether appropriate sentences are being imposed on those exited. There are also mixed views on whether the AODT Court judge is best placed to sentence exited participants.
- Stakeholders reflected on positive impacts from the AODT Court in exited participants such as changes in offending or addiction, improved parenting, and better relationships with whānau, and employment outcomes.
- Interviewed participants exited from the AODT Court commented that the AODT Court gave them "a taste" of what life could be and what recovery felt like. The exit process was described as emotionally very difficult. On being exited all support networks were lost and participants noted a sense of abandonment.

### **Area to strengthen**

- Continue to monitor and reflect on exit and termination processes, in particular when to exit after continued lapses or breaches.

## **Graduation**

### **Evaluative assessment**

- Processes for graduating<sup>9</sup> from the AODT Court have developed and continue to evolve as more participants reach this stage, and the AODT Court team reflect on what works and what does not work. The graduation processes have not yet reached a steady state, as stakeholders and some participants raised concerns about the transition from the AODT Court to the community.

### **Key findings**

- Thirty-five cases have graduated from the AODT Court (17 percent of cases accepted). There is variation between the courts in the proportion of cases graduated.

<sup>9</sup> Processes for graduation refer to: the graduation ceremonies, the processes leading up to graduation and preparing participants to leave the AODT Court environment, and the period after leaving the AODT Court.

The reasons for this difference are unclear and may reflect, for example, differences in participant groups or the length of time to progress through the phases.

- Based on the number of graduates to date, the majority of graduations (61 percent) are occurring within the expected timeframe of between 52 - 78 weeks. No cases graduated faster than the expected minimum time period of 52 weeks. Fourteen of the 35 participants (40 percent) took longer than 78 weeks.
- Since the formative evaluation, community probation officers have joined the AODT Court team. They provide support and monitoring to graduated participants in the community. Stakeholder feedback shows the inclusion of community probation is working well, particularly the ability to start working with participants in phase three. While keeping within probation officers' legislated roles and responsibilities, further role clarification and documentation is required to ensure clear role scope and boundaries.
- Stakeholders generally considered the graduation ceremonies to be a positive way to mark the success of the participants and the work of the AODT Court. Some queries were raised, however, on the use of multiple events<sup>10</sup> and the appropriateness of holding celebrations in the court room.
- Amongst stakeholders and some participants there are concerns about the transition to the community. For some the concern is with the level of support for participants during the initial transition period after graduation. For others, queries were raised on how well graduates have been able to build self-efficacy to live in the community during the AODT Court programme.
- Overall, graduates reflected on feelings of pride and anxiousness leading up to graduation. The ceremonies were a reminder of how much they had achieved. Some participants were anxious about leaving the security of the court and the relationships they had developed. Some graduates felt there was little structure in place in the community to support their recovery.
- Graduates interviewed reported several positive outcomes in their lives which they attributed to their journey through the AODT Court and addressing their AOD addiction. These included feeling happier, accessing employment, re-engaging with whānau, building new friendships and finding new hobbies.

### **Areas to strengthen**

- Consider the number of graduation events and their purpose in participants' ongoing recovery journey.
- Consider what is required to further aid the transition of graduated participants (e.g. considering the extent to which self-efficacy is being developed during the programme, and the level and type of support after graduation).
- Improve the timeliness of information communicated to community probation officers, and continue to clarify and document the role scope.
- Clarify the accepted proportion of cases that take longer to graduate than the anticipated maximum of 78 weeks to enable interpretation and evaluative assessment on whether this is within expectations.
- Continue to monitor and observe the time to graduation, including investigation of trends as more participants graduate from the court. The length of time to graduate has implications for resources and the flow of participants through the AODT Court.

<sup>10</sup> There can be three graduation events: one graduation from completion of a treatment programme, one graduation ceremony at the AODT Court, and the He Takitini celebration.

## 2. Introduction

### 2.1 Background to the Alcohol and Other Drug Treatment Court (AODT Court)

#### ***The New Zealand AODT Court***

The Alcohol and Other Drug Treatment Court (AODT Court) is a specialist District Court and operates under general legislation and judicial discretion. The AODT Court 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 AODT Court began operating in November 2012. The overall goal of the AODT Court is to reduce alcohol-related harm and improve availability and accessibility of alcohol and drug treatment services.

The intended outcomes of the AODT Court 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 is a key initiative in the Ministry of Justice (the Ministry) Statement of Intent 2013 - 2016 and is expected to contribute to making communities safer by preventing crime and victimisation (Ministry of Justice, 2013).

It is a joint initiative between the judiciary, the Ministry, the Ministry of Health, New Zealand Police and the Department of Corrections, and is part of government's *Addressing the Drivers of Crime* work programme, a whole of government approach to reducing offending and victimisation (Ministry of Justice, 2011).

The AODT Court provides an opportunity to evaluate a 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 into the costs and outcomes involved with the AODT Court.

#### ***Alignment with international research***

The AODT Court aligns with international best practice, particularly American best practice (e.g., National Drug Court Institute, 2012). The AODT Court model has drawn on ten components of best practice identified from research by the US National Drug Court Institute (NDCI) (Carey, 2012).

According to the NDCI research review, the top ten 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 the treatment provider 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 (e.g. 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
- team members are given a copy of the guidelines for sanctions
- drug test results are available within 48 hours
- drug tests are collected at least two times per week in the first phase.

The report states that drug courts where participants must have a job or be in school in order to graduate had 83 percent greater cost savings (Carey, 2012).

Internationally, drug courts have shown positive results with: 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 (e.g., Rossman et al, 2011; Makkai & Veraar, 2003; Rempel et al, 2003; Weatherburn et al, 2008).

### ***Distinctive features of the New Zealand AODT Court***

The development of the AODT Court in New Zealand includes components that are appropriate and meaningful within the New Zealand context. Distinctive features are:

- the inclusion of Māori cultural practices and support to meet the needs of Māori participants
- the ability of the AODT Court to expect<sup>11</sup> participants attend 12-step meetings (Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) meetings)
- the inclusion of peer support workers from the health sector

While not unique to the New Zealand context, other notable features of the AODT Court in New Zealand are that it is a pre-sentence rather than a post-sentence initiative, and it includes participants charged with driving while intoxicated.

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<sup>11</sup> During the review process, one reviewer stated that participants are expected to engage with the 12-step community throughout their time in the court and would not graduate unless there is evidence of that engagement.

## 2.2 Evaluation of the AODT Court

The Ministry commissioned Litmus Limited to undertake formative and process evaluations, and a cost-effectiveness analysis<sup>12</sup> of the AODT Court being piloted in the Auckland and Waitakere District Courts. The Ministry will be undertaking an outcomes/summative evaluation.

The overall aim of the evaluation of the AODT Court is to:

- provide informative and timely feedback on the implementation of AODT Court to support the Ministry and the judiciary and ensure that processes are fit-for-purpose
- describe how the AODT Court operates in practice
- assess whether the AODT Court is meeting desired outcomes
- assess whether the AODT Court is cost-effective.

The formative evaluation was undertaken in November—December 2013, and the report completed in March 2014 (Litmus, 2014).

The process evaluation is being carried out in two phases: an interim process evaluation in 2015 and final process evaluation in 2016. This document reports on findings from the interim process evaluation carried out in March - May 2015, after the AODT Court has been in operation for two years and five months.

## 2.3 Interim process evaluation

The purpose of the interim process evaluation is to describe, after two years and five months in operation, how the AODT Court is working in practice, what works well and what does not work well. AODT Court processes developed or changed since the formative report are described.

The interim process evaluation measures the flow of people through the court, and describes how the AODT Court is experienced by AODT Court participants, their whānau and AODT Court teams. The findings will provide context for understanding the outcome evaluation results.

The objectives of the interim process evaluation are to:

1. build on the description of the AODT Court from the formative evaluation report
2. describe any changes in the operation of the AODT Court since the formative evaluation
3. identify what works well and what does not work well
4. identify any new or emerging challenges.

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<sup>12</sup> Litmus has sub-contracted Sapere Research Group to undertake the cost-effectiveness analysis. The cost effectiveness analysis will look at the relative costs and outcomes involved with the AODT Court, compared to alternative procedures in the District Court.

## 2.4 Report structure

The report structure follows the broad pathway of the AODT Court:

- overview of the AODT Court
- governance, operational management, training
- determining eligibility for the AODT Court
- AODT Court programme
- meeting Māori cultural needs
- victim engagement
- treatment
- AOD testing
- exit and termination
- graduation
- overall evaluative assessments and areas for strengthening.

Each section includes a brief description of changes or developments to the operation of the AODT Court since the formative evaluation. For detailed information on the operational processes and roles in the AODT Court refer to the formative evaluation report (Litmus, 2014) and the AODT Court handbook (Ministry of Justice, 2014).

Where applicable, data is provided on the number and profile of people going through the AODT Court. Each section provides stakeholder perceptions of what is working well, and participants' experiences of the AODT Court. New or emerging challenges are identified.

## 3. Evaluation methodology

### 3.1 Process evaluation design

The process evaluation draws on a mixed-method evaluation approach, involving immersion visits to the AODT Courts and AODT Court administrative data. Fieldwork was undertaken between 16 March and 21 May 2015. The evaluation team was briefed on interviewing and safety protocols. Refer to Litmus, 2015 for the interviewer safety protocols.

#### ***Observation of the AODT Court***

Waitakere AODT Court was observed on Thursday 26 March and Auckland AODT Court on Wednesday 1 April. This included the pre-court team meetings and an open court session. The AODT Court judges authorised the 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.

Litmus also observed the AODT Court He Takitini Ceremony ('the many who stand together') celebration at Hoani Waititi Marae on 16 March.

#### ***Interviews with AODT Court participants***

In total, 25 AODT Court participants were interviewed (Table 1). There was a mix of gender, age, ethnicity and offence type (EBA or not EBA) amongst participants.

**Table 1: Number and type of AODT Court participant interviews**

AODT Court status	Auckland AODT Court	Waitakere AODT Court
Current phase 1	2	2
Current phase 2	4	2
Current phase 3	3	3
Exited/terminated	2	2
Graduated	3	2
<b>TOTAL</b>	<b>14</b>	<b>11</b>

#### **Recruitment**

Litmus worked with AODT Court case managers to identify current AODT Court participants, and with community probation to identify graduated participants, to interview. The following recruitment process was followed:

- Case managers/community probation approached participants to seek their agreement to be contacted by Litmus for the evaluation.
- Case managers/community probation forwarded contact details to Litmus evaluators for participants who agreed to be contacted.

- Litmus contacted participants to explain the evaluation, and to ask if they would like to take part. For those who agreed, an interview time and location was arranged.

To interview exited participants, the AODT Court coordinator provided a list of people who had exited/been terminated to Litmus and the Ministry identified their location. Ten people were identified from Auckland Regional Women's Corrections Facility and Auckland Men's Prison.

The list of ten people was provided to the Department of Corrections Service Development Team.<sup>13</sup> Correctional facility staff recruited and set up interviews with four people from the list, two people from each facility, ensuring an even mix of AODT Court location. All four interviews were held on Thursday 9 April 2015. Two evaluators attended all interviews in correctional facilities.

### **Interviews**

Interviews with current and graduated participants were undertaken at safe, mutually agreed locations such as court, service provider premises and safe community-based locations. At the request of community probation, no interviews were held at community probation offices. All interviews with exited people were held in correctional facilities.

Interviews were conducted in a qualitative manner (refer Litmus, 2015 for discussion guides). Interviews explored participants' experiences across the whole AODT Court pathway starting from referral from the District Court, up to their current point. Interviews explored what has gone well, what could be done better, and the impact of the AODT Court.

All interviews were held face-to-face and lasted up to 60 minutes. With the consent of the participant, interviews were audio-recorded and notes taken. All interviews followed an informed consent process (refer Litmus, 2015 for the information sheet and consent form).

No incentives were given. Transport costs were covered as required where interviews were not held at the court and participants travelled to get to the venue.

### ***Interviews with whānau of AODT Court participants***

In total, two whānau members of AODT Court participants were interviewed.

### **Recruitment**

The Litmus team gave careful consideration and consulted with the AODT Court Pou Oranga to identify the most appropriate and feasible method of identifying and talking with whānau/family members. Whānau were identified and recruited through AODT Court team members and the AODT Court participants who took part in interviews.

Whānau/family members proved difficult to recruit as some participants did not have a relationship with their whānau. Some participants had only recently established contact and did not wish for their family to be involved in an interview. Some had connections with whānau /family members, but their whānau/family were not involved with the AODT Court and participants did not want them to be approached for an interview.

<sup>13</sup> While Litmus wanted to interview four exited participants, all ten people's names were provided to the Department of Corrections as some people may have declined to participate. Department of Corrections staff may also have applied discretion on who was appropriate to approach and available at that time.



## Interviews

All whānau/family member interviews were held face-to-face at the court or agreed safe location. Participants received a voucher as a thank you for their time and contribution.

Interviews were conducted in a qualitative manner. Discussions covered the role and experience of whānau in the AODT Court, the challenges and facilitators to participation, and the impact of the AODT Court (refer Litmus, 2015 for discussion guide). With the consent of the whānau member interviews were audio-recorded and notes were taken. All interviews followed an informed consent process (refer Litmus, 2015 for the information sheet and consent form).

### *Interviews with AODT Court team members and key informants*

A total of 51 AODT Court team members and key informants<sup>14</sup> participated in individual interviews, group discussions, or provided email responses to questions (Table 2).

**Table 2: Number and type of stakeholder interviews**

Stakeholder type	Number achieved
<b>Individual interviews</b>	
Community Alcohol and Drug Services (CADs)	2
Community Probation	2
Court coordinators	2
Court staff	1
Defence counsel	2
Judges	3
Police prosecution	2
AOD testing provider	2
Treatment providers	4
Pou Oranga	1
Peer support	2
Victim advisors	6
Other stakeholders	2
<b>Group discussions</b>	
Case managers	4 participants
AODT Court Steering Group: group and individual interviews	5 participants
Community Advisory Group	6 participants
Māori Advisors hui	5 participants
<b>Total</b>	<b>51 people</b>

<sup>14</sup> From here, 'stakeholder' is used to refer to both AODT Court team members and key informants.

## Recruitment

Litmus worked with the Ministry to develop a sample frame that ensured a breadth of participation across the many roles involved in the AODT Court. The AODT Court coordinator provided an updated list of contact details. Litmus invited stakeholders to take part in an interview or group discussion. In some instances further individuals were identified by participants.

## Interviews

Face-to-face interviews were held at stakeholder workplaces or at the court. Groups were held at the Ministry national office and at treatment provider locations. Where face-to-face interviews could not be arranged, telephone interviews were held or feedback sought via email.

Interviews were conducted in a qualitative manner and focused on changes or developments in the AODT Court, learnings to date, what is working well, not so well, and any unintended impacts (refer Litmus, 2015 for discussion guides).

With the consent of the stakeholder, interviews and groups were audio-recorded and notes taken. Stakeholders were given the opportunity to review the notes from their interviews. Informed consent processes were followed (refer Litmus, 2015 for the information sheet and consent form).

## 3.2 AODT Court administrative data

AODT Court administrative data shows the flow and demographic profile of people through the AODT Court pathway. Community Alcohol and Drug Services (CADS) data provides information on the referrals made for AOD assessments. Litmus worked with the CADS to access AOD assessment data.

The Ministry's Research and Evaluation Team undertook the analysis of the AODT Court administrative data. The official AODT Court data collection tool JAX was not available during the time of the interim process evaluation,<sup>15</sup> therefore there are gaps in the data available for this report (for example, there is no available data on AOD testing, victim engagement, AOD treatment services, phase duration, and incentives and sanctions). All data presented in this report is based on data from spreadsheets kept by the AODT Court coordinators. The Ministry expect JAX to be available for the final process evaluation report in 2016.

As the evaluation team are using collated data outputs produced by the Ministry, not raw administrative data, no assessments can be made on the quality of the data.

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<sup>15</sup> JAX has been reviewed and revised since the formative evaluation. The Ministry are currently backfilling data into JAX.

### 3.3 Analysis

A systematic approach was applied to the analysis of the information from the immersion visits. Qualitative interviews and observational data were coded and grouped into categories and themes. As with the formative evaluation, the categories reflect the broad pathway of the AODT Court:

- governance
- determining eligibility
- AODT Court programme
- Māori cultural needs
- victim engagement
- AOD treatment
- AOD testing
- exit/termination
- graduation.

Within these categories, sub-themes were identified. Where AODT Court data was available, it was included in the analysis. Consideration was given to the areas of strengthening identified in the formative report. AODT Court participants' experiences of the AODT Court are described.

### 3.4 Evaluation caveats

The Litmus team is confident that this report accurately represents the range of views and perceptions of the participants who contributed to the evaluation. In considering the findings for the process evaluation, some caveats are acknowledged:

- AODT Court data was analysed by the Ministry based on data collected in Excel spreadsheets and not JAX. The evaluation team is unable to assess the accuracy or quality of the data.
- AODT Court participants interviewed were identified by case managers and community probation. Sample selection bias is therefore possible.
- While participants' whānau were included in the evaluation design, the voice of whānau is not strong as only two whānau members were interviewed. This reflects that interviews with whānau were only able to be arranged through participants or AODT Court team members.
- Victims were not included in the evaluation. Insights into victims' perspectives of the AODT Court are provided by court victim advisors and police prosecution. Inclusion of victim interviews may be considered for the final process evaluation in 2016.

## 4. Overview of the AODT Court

### 4.1 Description of the AODT Court pathway

The AODT Court is an abstinence-based model 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. Where AODT Court is not offered, standard District Court<sup>16</sup> process is followed.

The following overview of the AODT Court draws from the Ministry's design plan and handbook (Ministry of Justice, 2012; 2014) and from interviews with stakeholders.

### 4.2 Assessing eligibility

#### *Overview*

The pathway of referrals into the AODT Court covers the following steps:

- Identification of potential AODT Court participants at Waitakere and Auckland District Courts.
- District Court Judge considers defendants based on the eligibility check list (Ministry of Justice, 2014).
- District Court Judge makes referral for a full AOD assessment.
- District Court Judge decides on referral to AODT Court based on AOD assessment and other eligibility information.
- AODT Court team receive the referral (including the clinical assessment) and discuss the defendant's eligibility and potential acceptance into the AODT Court at the pre-court team meeting.
- Defendant appears at the AODT Court Determination Hearing and the AODT Court judge accepts or declines entry into AODT Court.
- Those accepted commence with the AODT Court; those not accepted revert back to the District Court sentencing list.

#### *Referral from District Court*

Potential AODT Court participants are identified by people involved in proceedings at the Auckland or Waitakere District Courts using the eligibility checklist (Ministry of Justice, 2014). Defendants who may be eligible for the AODT Court are expected to be identified at the first or earliest possible appearance to ensure people can be accepted into the AODT Court within 50 days (or as close as) from offending or arrest.

Those thought to meet the eligibility criteria and who are interested in participating, are sent to CADS to undertake a specialist AOD assessment to determine dependency. The District

<sup>16</sup> In this report the term 'District Court' refers to those courts using standard court processes.

Court Judge decides whether or not to make a referral to the AODT Court based on the following information:

- the AOD assessment
- Roc\*RoI score (Risk of re-conviction and Risk of re-imprisonment score), provided by community probation<sup>17</sup>
- previous and current offences, provided by police prosecution
- likely plea and willingness to participate in the AODT Court, provided by defence counsel
- likely sentence, based on the judge's assessment.

### **AOD assessment**

Referral letters for AOD assessment are sent from the District Court to the Auckland CADS AODT Court assessment team. AOD assessments are undertaken at the CADS premises or in prison, and are required to be completed and reports disseminated within three weeks from referral. The CADS team assess for AOD dependencies in accordance with the Diagnostic and Statistical Manual of Mental Disorders Fourth Edition (DSM IV).<sup>18</sup>

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.

### **AODT Court Determination Hearings**

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

After consideration by the AODT Court team, the defendant appears at a Determination Hearing. The AODT Court judge makes the final decision on whether to offer a place, based on the eligibility criteria (Ministry of Justice, 2014) and in consultation with the AODT Court team. Pleas of guilty must be entered upon acceptance of a place if they have not been entered already.

The AODT Court is limited to 50 places per court. Being eligible for the AODT Court does not guarantee acceptance. There is no waiting list and determinations are not delayed for places to become available.

The AODT Court judge must ensure defendants understand the commitment required for the programme and the possible sanctions and consequences should the programme not be completed satisfactorily. All participants are required to give informed consent to participate. They are expected to understand and sign the participant agreement.

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<sup>17</sup> The use of the RoC\*RoI score is to identify medium to high-risk offenders. AODT Court participants need a score between 0.5–0.9, however from December 2013 AODT Court judges can use their discretion to admit someone with a RoC\*RoI score of below 0.5 provided they meet all other eligibility criteria. 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.

<sup>18</sup> 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.

### 4.3 AODT Court programme

Once the defendant formally consents to participate, a treatment plan is created based on individual treatment needs and requirements. Participants are allocated a peer support worker and AODT Court defence counsel.

When accepted into the AODT Court, participants may be remanded on bail, or remain remanded in custody while waiting for a bed in a suitable residential treatment programme or in safe transitional housing.

The length of the AODT Court programme varies depending on the needs of each participant and is expected to last between 12 - 18 months. The AODT Court programme has three phases, each taking approximately four to six months.

Progression across phases requires a written application from the participant which they present to the court (usually by reading it out in open court). If the participant meets the advancement criteria (Ministry of Justice, 2014), they can apply to move into the next phase.

Phase one expectations of participants include:

- engagement with treatment readiness group if in custody
- development of and compliance with the treatment plan
- engagement with 12-step meetings
- undertaking regular and random AOD testing (five times over two weeks), and fitting of a SCRAM (Secure Continuous Remote Alcohol Monitor) bracelet if required
- regular reporting to their case manager and peer support worker
- attending AODT Court fortnightly or as the AODT Court judge determines.

Phase two expectations of participants include:

- attendance, participation and completion of treatment programme(s)
- engagement with 12-step meetings
- undertaking regular and random AOD testing (SCRAM may be removed at this phase)
- identification of and steps taken towards vocational/educational/personal goals
- regular voluntary community work
- rebuilding family/whānau bonds where appropriate
- regular reporting to case manager and engagement with peer support worker
- AODT Court appearances every three weeks, or as directed by the AODT Court judge.

Phase three expectations of participants include:

- completion of treatment plan
- engagement with 12-step meetings
- undertaking regular and random AOD testing
- advancement of vocational/educational/personal goals and completion of relevant programmes
- obtaining a driver's licence where appropriate

- regular and significant engagement with voluntary community work
- restorative justice meeting at judge's discretion
- clarification or reparation payments
- engaging in suitable paid work or study
- continuing to rebuild family/whānau bonds where appropriate
- reporting to case manager as directed
- AODT Court appearances every four weeks, or as determined by the AODT Court judge.

### ***Incentives and sanctions***

The AODT Court has a system of graduated incentives and sanctions that are delivered by the court. AOD lapses, particularly at early stages where other goals are being met (e.g. attending court, treatment and other programmes) would likely result in a treatment response to the lapse. AOD lapses where other goals are not being met or there is denial of use, result in more severe consequences and sanctions are likely imposed. The ultimate sanction is exit from the AODT Court.

Sanctions are:

- verbal correction in court
- appearing at the end of the court list
- 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
- participation in services in and for the community
- a stand-down or short remand in custody where behaviours raise risk of reoffending or exit from AODT Court.

Incentives are:

- verbal praise and recognition in open court
- being moved to the front of the court list
- recognition of being part of the 'A team' (those who have met all commitments since their last appearance)
- recognition of consecutive negative AOD tests (e.g. 30 day tag, 6, 9, and 12 month medals)
- recognition of attendance at 12-step meetings (with stamped cards)
- recognition of progress with treatment/rehabilitation goals (phase rewards)
- 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 not normally available.

Funding for incentives is provided by Community Advisory Group (CAG) fundraising events and from Freemasons.

### ***AOD testing***

All participants are required to undergo regular and random AOD testing five times over a two week period, through all phases of the AODT Court programme. The Ministry of Health contracts the Institute of Environmental Science and Research (ESR) to manage and undertake all the AOD testing, including testing in residential treatment facilities.

Sobriety times are reported in the monitoring hearings with incentives delivered for the number of days clean. Positive tests can result in sanctions being imposed. Test results are considered when assessing phase applications, graduation and exit from the AODT Court.

### ***Treatment***

The Ministry of Health contracted Odyssey House as the lead provider of AOD treatment services. Odyssey House provide AOD services and created a treatment network, which is a collaboration between Odyssey House, Higher Ground and the Salvation Army. The following treatments are available as part of the AODT Court programme:

- detoxification
- pharmacotherapies
- residential treatment
- intensive outpatient day programmes
- specialist drink driver programmes
- community outpatient counselling services
- case management overview function.

## **4.4 Exiting the AODT Court**

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

### ***Voluntary exit and termination***

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

- further offending
- 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 breach of rules
- acting in a manner which causes the AODT Court to conclude that continued participation is untenable.

Participants may choose to withdraw from the AODT Court. If a participant withdraws or is terminated, they are remanded in custody to a District Court sentencing list and sentenced in the normal manner. Participants can be sentenced by an AODT Court judge or by a District Court judge. Progress in AODT Court is taken into account as a mitigating factor in sentencing.

### **Graduation**

Participants who successfully complete all three phases of the AODT Court and achieve all requirements, graduate from the court. Successful participants take part in a graduation and sentencing event at court, and are invited to participate in He Takitini graduation celebration at a marae or another suitable community venue. Participants may also participate in a graduation event on completion of their treatment programmes.

Graduated participants are sentenced by an AODT Court judge, taking into account completion of the AODT Court as a significant mitigating factor.

## 5. Governance, operational management, training

This section focuses on the AODT Court leadership, governance and management structures, and draws on feedback from all stakeholders including the AODT Steering Group and the Community Advisory Group. After a brief overview, it outlines changes since the formative evaluation, and then considers stakeholders' perceived areas of strength and challenge for governance, operational management and training.

### 5.1 Governance and operational management

#### *Brief overview*

##### **Leadership and governance**

The AODT Court is governed by a national AODT Court Steering Group based in Wellington and comprised of representatives from the Ministry of Justice (District Courts) Chair; the Ministry of Justice, Policy; New Zealand Police, the Police Prosecution Service and the Police Policy Group; judiciary; Ministry of Health, Mental Health Service Improvement; and the 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, 2011), ensure integration between organisations, oversee the implementation of the court, provide effective project steering and maintain budget oversight.<sup>19</sup>

##### **Operational management**

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

The AODT Court teams undertake the day-to-day operation of the court. Each AODT Court team comprises the AODT Court judge, coordinator, case managers, police prosecutor and defence counsel (discussed in section 7). Although not part of the AODT Court team, a number of further roles support the teams in court, including a court registry officer, community probation officer, Pou Oranga (Māori cultural advisor), and team leader of the case managers.

##### **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 (discussed in section 10).

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<sup>19</sup> AODT Court pilot Steering Group Terms of Reference 12 June 2012.

## **Community Advisory Group**

The Community Advisory Group (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 Community Advisory Group terms of reference states that the forging of partnerships among the AODT Court, public agencies and community based organisations is expected to generate local support and enhance the AODT Court programme effectiveness.

The membership of CAG was established by the AODT Court judges and comprises member with community interests in AOD recovery (including the 12-step fellowship), road safety advocacy, the legal profession, philanthropic organisations, treatment provision, professional, academic and business interests, LGBTQQI<sup>20</sup> community, and a cross section of ethnic and cultural backgrounds. There is also a representative of Victim Support on CAG. The group meets around once every two months.

## **Māori community advisory group**

A Māori community advisory group (MCAG) has been established to provide advice and cultural support to the Pou Oranga, to discuss issues and to assist with developing a Cultural Framework for the AODT Court (refer to section 8).

## **Training**

During the early implementation stages, the AODT Court team received training on the AODT Court processes, cultural competencies, the nature of alcohol and drug addiction, and treatment options (Ministry of Justice, 2012). Annually, the AODT Court team and wider stakeholders hold a training workshop to reflect on the delivery of the AODT Court, successes, issues arising and changes being introduced. Other workshops are held on occasion. For example, in 2014 an international drug court judge took a workshop on issues of confidentiality and a workshop with a SCRAM representative is planned for later this year.

## ***Formative evaluation insights***

The formative evaluation found that the overall governance and operational management of the AODT Court are working as intended in the pilot's design. Training offered had increased the AODT Court team's understanding of the court and the roles of other team members, and fostered good team dynamics. Key areas to strengthen included ensuring timely reporting to the AODT Court Steering Group, involving the AODT Court judges at part of the AODT Court Steering Group meeting, clarifying the role of tikanga Māori in the design of the AODT Court, and delivering ongoing training and induction for new appointees.

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<sup>20</sup> Lesbian, gay, bisexual, transgender, queer, questioning and intersex.

## 5.2 AODT Court Steering Group

### *Changes and developments since the formative evaluation*

The AODT Court Steering Group has shifted its focus to provide oversight of the court's operation. Some members of the AODT Steering Group note, that as judges govern their court, the role of the Steering Group is more one of national level project oversight rather than governance.

The AODT Court Steering Group now meets four times per year to be informed on progress and to address any high level policy issues.

Membership of the AODT Court Steering Group has been fairly consistent over the last two years. Changes in personnel representing the different agencies have occurred for the Ministries of Justice and Health.

In May 2015, the AODT Court judges provided the AODT Court Steering Group with a brief report on operational matters relating to the AODT Court. The AODT Court Steering Group noted that the report provided helpful insight into the workings of the AODT Court from the ground level. The lead AODT Court judge has been asked to provide future reports to keep the AODT Steering Group informed of court matters.

The importance of the role of tikanga Māori in the design of the AODT Court is acknowledged by the AODT Court Steering Group.

### *Stakeholder perceptions of what is going well*

#### **Cross-agency support for the AODT Court pilot**

A key strength of the AODT Court is that it is a formalised court that has cross-agency support. This contrasts with other problem solving courts that have developed from local judicial initiatives which rely on the goodwill of agencies to make them work.

#### **Clarity on issues for review by AODT Steering Group**

Feedback from the AODT Court Steering Group indicates that they are more comfortable with the AODT Court evolving from the original design, provided changes made are documented. The Steering Group note they have greater clarity on issues that have wider policy implications which need to be discussed by them (e.g. testing). They are happy for more day-to-day operational adjustments to occur as part of the court process without reference to the Steering Group. In this context, the issue of reporting to the AODT Court Steering Group as noted in the formative evaluation report appears to be resolved.

#### **Robust debate of issues**

The AODT Court Steering Group have developed an effective working relationship to enable robust discussions of issues from differing agencies' perspectives.

## **Stakeholders' perceived challenges**

### ***Lack of connection with the AODT Court***

Feedback from stakeholders suggests a lack of communication between the AODT Court Steering Group and the AODT Court. There is a perception that many on the Steering Group have not visited the AODT Court. As a result, they are seen to lack understanding of its operations and the issues the AODT Court is seeking advice on. This concern may be addressed through continuation of the memo the AODT Court judges developed recently and provided to the Steering Group, outlining current matters in the operation of the AODT Court.

### ***Lack of clarity on the role of the AODT Steering Group***

Some stakeholders were uncertain about the role and contribution of the national level AODT Court Steering Group in resolving issues arising in the court's operation.

*I don't know what the intent of the Steering Group is... I see a disconnect around operations and what's happening on the ground and the Steering Group. Stakeholder*

A few stakeholders questioned whether the AODT Court Steering Group should be regionally located to be more closely linked to the operation of the AODT Court. AODT Steering Group members noted the importance of being able to separate local level focus when considering key policy issues at national level such as testing.

### ***Hard to engage via teleconference***

Due to poor telecommunication equipment, members engaging via teleconference found it difficult to hear and contribute to the discussion at the AODT Court Steering Group meetings.

### ***Irregular attendance***

Attendances at the AODT Court Steering Group meetings can be sporadic with members attending only those meetings they believe are of critical importance for their organisations.

### ***Maintaining operational commitment to the pilot***

The AODT Court Steering Group has flagged the risk that as the pilot moves toward the end of its five year duration there may be a loss of AODT Court team personnel and with this, a loss of knowledge about the AODT Court. In this context, the AODT Court Steering Group note the need to maintain the operational commitment to the pilot over the full term, and to commence policy work early about what happens after the completion of the pilot.

## 5.3 Community Advisory Group (CAG)

### *Changes and developments since the formative evaluation*

Since the formative evaluation the CAG has consolidated. Members of CAG stated that they are clearer about their independence from the AODT Court judges, and that they support the judges' work without being under their direction. In mid-2014 the group formalised their terms of reference<sup>21</sup> and developed a structure, with a chair, secretary and treasurer. Its stated purposes are to:

- provide support and opportunities for the work of the AODT Court
- provide a meaningful opportunity for the AODT Court to be informed by the input of the wider community
- play a role in informing the wider community about the purposes and processes of the AODT Court.

In the past year the group had used its own networks to help find community work and housing for AODT Court participants. The group's connections with a non-governmental agency had assisted the new housing coordinator<sup>22</sup> to find the first transitional house for AODT Court participants. Members of the group go out into the community to seek donations and fundraise for items such as zoo passes, supermarket vouchers, and driver license fees for the AODT Court reward system. They have also helped inform the community about the AODT Court for example through links with a radio host. Clothing Angels, a small volunteer agency, is also providing assistance to CAG by providing clothing for participants.

### *Stakeholder perceptions of what is going well*

#### *Building understanding and support from the wider community*

The CAG plays a key role in its ability to engage across the community and to build understanding about the AODT Court, in particular that it is not an easy option for offenders.

### *Stakeholders' perceived challenges*

None were raised by stakeholders interviewed.

## 5.4 Training

### *Changes and developments since the formative evaluation*

The annual training workshop continues to be held with inclusion of all AODT Court stakeholders to reflect on the delivery of the AODT Court, successes, issues arising and changes being introduced.

<sup>21</sup> Community Advisory Group (CAG) for the Alcohol and Other Drug Treatment (AODT) Court, Te Roopu Whakamahi Hapori o te Whare Whakapiki Wairua. *Terms of Reference*. 2 July 2014.

<sup>22</sup> A housing coordinator for the AODT Court has been funded by the Ministry of Health and employed by Odyssey House for the last six months to develop housing options within the community.

## ***Stakeholder perceptions of what is going well***

### ***Observing the court***

Across stakeholders involved in the AODT Court, the ability to observe the AODT Court sitting was seen as particularly useful in understanding the court processes and the nuances of this problem solving therapeutic court.

## ***Stakeholders' perceived challenges***

### ***Need for better induction processes***

An ongoing challenge noted for the AODT Court was the hand over process when new personnel were being inducted into the AODT Court. Stakeholders across the judicial and therapeutic jurisdictions noted that when selecting personnel to take over AODT Court roles, care was taken to ensure the personal philosophies of the individual aligned with the court and that they had the ability to negotiate the tensions between treatment, justice and judicial process within a problem solving therapeutic court.

While court observations are important, at a role level, there appears to be a lack of formalised handover process and documentation that explains roles and what they entail. This was especially noted in the treatment context where there is a need for greater clarity around the interfacing of roles.

Refer to section 8 for feedback on tikanga training in the AODT Court.

### ***Need for succession planning in key roles***

Consideration is needed on succession planning for key roles like the judge and other key AODT Court team members.

## **5.5 Evaluative assessment and areas to strengthen**

### **Evaluative assessment**

In the main, the overall governance of the AODT Court is working as intended in the pilot's design.

### **Areas to strengthen**

- Consider ways to increase the understanding of the Steering Group role at a local level. Reflect on the usefulness of the judges' memo to increase the operational understanding amongst the Steering Group.
- Develop an induction tool for new AODT Court members at both a court and agency level to enable effective handovers and maintain clarity of roles.

## 6. Determining eligibility for the AODT Court

This section is broken into four parts: identifying potential participants, AOD assessments, Determination Hearings and acceptance into the AODT Court. Key findings and data are presented along with stakeholders' feedback on strengths and challenges. Participants' experiences of being referred and accepted into the AODT Court are explored.

### 6.1 Changes and developments since the formative evaluation

In 2014, the formative evaluation found that the overall process for identifying defendants and determining eligibility required further strengthening. In particular areas of strengthening were identified regarding the eligibility criteria, recognising the individual expertise of the team members, providing feedback to the AOD assessors, and a concern raised regarding awareness of the AODT Court given the lower than expected referrals for AOD assessments.

The evaluation does not have access to data on the application of the eligibility criteria in 2015. However, qualitative feedback suggests the criteria are being met and the AODT Court team are generally satisfied with the process for decision making on who is accepted into the AODT Court.

The AODT Court has established a team environment that supports discussion and differing opinions in considering applicants. There remains, however, an inherent tension within a therapeutic court of balancing treatment, judicial and justice sector priorities and processes.

The relationship between CADS and the AODT Court team has strengthened. CADS receive information on the outcome of cases assessed as a result of attending the pre-court team meetings for new referrals (refer below).

Awareness and low referral numbers for AOD assessment to CADS continue to be a challenge. However, with the AODT Court nearing capacity,<sup>23</sup> the potential implications of this are minimised. The upcoming considerations are the flow of people through the AODT Court, how to manage a full AODT Court list, and managing the flow of cases as the pilot period ends.

The following changes or developments have been implemented since the formative evaluation:<sup>24</sup>

- CADS assessors attend the pre-court team meetings when new referrals are being considered.
- Community probation officers attend the pre-court team meetings and Determination Hearings (refer section 13).<sup>25</sup>
- Pou Oranga attends pre-court team meetings and Determination Hearings (refer section 8).<sup>26</sup>

<sup>23</sup> The court reached capacity three days after the administrative data was received for analysis.

<sup>24</sup> Reviewer feedback also states that referring lawyers are now required to sign a document to confirm that they have given their client (the applicant for the court) a copy of the AODT Court handbook and contract.

<sup>25</sup> AODT Court community probation attend the full AODT Court day. Their role is described in section 13.

<sup>26</sup> The AODT Court Pou Oranga attends the full AODT Court day. The role is described in section 8.



- Waitakere AODT Court no longer use a whiteboard to facilitate the discussion at pre-court team meetings, as the team is familiar with the relevant considerations. Preference is to verbally summarise the considerations. Where there are a number of referrals to consider at one time the whiteboard may be used to ensure no confusion across cases. Some stakeholders stated not using the whiteboard has sped up the process for considering applicants.
- Judicial discretion may be applied in the application of the RoC\*RoI score in the eligibility criteria, to include cases with a score below 0.5 where all other criteria are met.
- Introduction of a template for referring counsel where confirmation is required on some eligibility criteria.

## 6.2 Identifying and referring potential participants

### *Stakeholder feedback on what is working well*

#### **Awareness among Public Defence Service**

Feedback from stakeholders suggests there is good awareness among Public Defence Service. Creating awareness works well as information is distributed through existing organisational systems/networks, and there is a direct connection to the AODT Court through the defence counsel team leaders. There seems to be a lower, but increasing, level of awareness amongst private defence counsel.

### *Stakeholder feedback on challenges*

#### **Variation between Waitakere and Auckland courts**

There seems to be variation in awareness of the AODT Court and eligibility criteria between referrers at Waitakere and Auckland courts. The AODT Court team report greater awareness at Waitakere Court as there is a consistent group of judges presiding and making referrals. The judges have observed and are familiar with the AODT Court and eligibility criteria, resulting in better quality and timely referrals, which follow the appropriate processes.

Auckland Court has a larger pool of judges and defence counsel and more visiting judges who may not know about the AODT Court. This impacts on the overall level of awareness of the AODT Court, identification of potential participants, the use of correct processes, and ensuring referrals are timely (within the 50 day guideline).

The quality of referrals impacts on the workload of the AODT Court coordinators, who ensure information is available on the eligibility criteria and case complexity for the team to consider. The coordinators developed a template to send to referring counsel when there is ambiguity. For example, defence counsel may be asked to confirm in writing that the applicant lives in the catchment area and is able to meet their obligations of attending treatment and AODT Court appearances.

## Challenges with referrals from District Court

Stakeholder feedback suggests the majority of referrals into the AODT Court are from the Public Defence Service. Referrals are less common from private defence counsel. Overall, challenges to referrals include:

- low awareness of the eligibility criteria and referral process, particularly at Auckland Court
- a perception that it is hard to get cases accepted into the AODT Court, strong advocacy and detailed knowledge about the client is required, particularly as the court is nearing capacity<sup>27</sup>
- reluctance to continue referring defendants after earlier referred cases, thought to meet the eligibility criteria, were not accepted
- confusion around the payment for legal aid matters that go to the AODT Court
- initial uncertainty about how well the interests of clients will be represented when part of the AODT Court.

*Every client that's ever been to a morning meeting I've got in, but they have got in because I'm aggressive. I know from my consult [consultation] with the client everything about them. The judge will ask me things about the ethnicity of the partner, you've got to know if they are Māori or Polynesian, you've got to know their last name and what their job is, where they live. Some people live in garages so you've got to know who's at the front part of the house, who's garage are they're in, get right in-depth about people's partners sometimes, if their partner has a drinking or other drug problem. Stakeholder*

*If things run smoothly and if the rest of the criminal bar feels that the clients are being well looked after in the drug court and outside of the drug court particularly on these non-drug court days then I think they'll be more supportive of referring the clients to the court. Stakeholder*

The AODT Court has implemented strategies to increase awareness of the AODT Court, including education seminars and promotion of the AODT Court, which are reported to have good attendance. Defence Counsel who attend the AODT Court seminars receive one point towards their annual Continuing Professional Development tally.

Increasing the involvement of the New Zealand Law Society and the Criminal Law Committee of Auckland District Law Society Incorporated (ADSLI) may provide a mechanism for raising awareness of the AODT Court. Encouraging defence counsel to sit in and observe the AODT Court may aid in their understanding of the eligibility criteria and how the AODT Court operates.

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<sup>27</sup> The court reached capacity three days after the administrative data was received for analysis.

## 6.3 Alcohol and drug assessment

### ***Number of referrals for an alcohol and other drug assessment***

CADS data shows 398 referrals<sup>28</sup> have been received for AOD assessments as of 20 April 2015. There have been 200 referrals from Auckland, and 198 from Waitakere District Courts.

Of the 398 referrals for AOD assessment, 86 percent (342) were recommended for referral to the AODT Court. Ninety percent of cases referred from Auckland District Court, and eight-two percent of cases from Waitakere were recommended for AODT Court.

Fourteen percent (56) referred were not recommended for AODT Court. Reasons for this included:

- another programme was recommended, for example in cases where there are mental health concerns or cognitive impairment, a lack of motivation, or existing engagement in services
- defendant did not attend the assessment appointment
- defendant did not meet the criteria for AOD dependency.

As found in the formative evaluation, the number of referrals for assessment continues to be lower than expected. CADS were expecting around 400 referrals for assessment per year. This has not been reached, however there is a high conversion rate of those referred for AOD assessment being recommended for AODT Court. This suggests that while the number of referrals is low, appropriate cases are being identified and referred in relation to AOD dependency.

Having fewer referrals has allowed CADS to develop other areas to support the AODT Court, including the introduction of the treatment readiness programme in correctional facilities (refer section 10). Feedback from CADS suggests the diversification of roles is important for sustainability, as a full-time role restricted solely to AOD assessments and reports may not be sufficiently variable to retain staff. Fewer referrals also allow the team to be responsive to requests for fast turn-around AOD assessments.

### ***Stakeholder feedback***

#### **Strengthened relationship between CADS and the AODT Court**

The relationship between CADS and the AODT Court team has strengthened, facilitated through attendance at the pre-court team meetings and liaison with the AODT Court coordinators.

There is increased understanding between the CADS team and the AODT Court coordinators about each other's roles, and improved communication about fast turn-around AOD assessment requests.<sup>29</sup>

<sup>28</sup> The 398 referrals are cases, not people and may include repeat referrals.

<sup>29</sup> AOD assessments may be requested faster than the standard three week period where for example, the participant is nearing 50 days since arrest or offence.

Responding to fast turn-around requests can be challenging, particularly for assessments in correctional facilities which take more staff time to complete. CADS assessors' schedules are booked in advance, they need to work within available time slots in correctional facilities, and more than one appointment may be needed to complete an assessment.

Communication to the AOD assessors could be further improved with timely provision of court lists for Determination Hearings. Preference is for the assessor who did the assessment to attend the pre-court team meeting, which can be difficult to accommodate with short notice.

## 6.4 Determination Hearing

### *Referral from District Court*

After receiving the AOD assessment, the District Court judge decides on whether or not to refer to the AODT Court, based on the recommendation from the AOD assessment and other eligibility criteria (refer section 4). Some cases are declined at the list court stage, and do not reach the Determination Hearing.

### *Number and profile of cases attending Determination Hearings*

As of 28 April 2015, 335 cases had a Determination Hearing. Of those, 183 (55 percent) were at Auckland AODT Court and 152 (45 percent) were at Waitakere AODT Court.<sup>30</sup>

Table 3 details the demographic profile of those appearing for a Determination Hearing. It shows:

- overwhelmingly more men are appearing (87 percent are male)
- high representation from Māori (45 percent of defendants are Māori)
- fewer younger people (11 percent aged 18–24) and older people (5 percent aged 55 and over); the majority of defendants are aged 25–44 years (66 percent).
- about half (51 percent) had a RoC\*RoI score recorded within range. Of the 75 cases where the RoC\*RoI score was not in range, the majority of these (69 percent) were EBA offence cases, and about a third were other offences (31 percent).<sup>31</sup>

<sup>30</sup> Data is presented on the number of cases, not people, as one person may have been into the AODT Court more than once.

<sup>31</sup> 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. 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. All other applicants are usually required to have a RoC\*RoI score between 0.5–0.9. In December 2013, the AODT Court Steering Group decided to allow the AODT Court judges to admit someone with a score below 0.5 provided all other eligibility criteria are met.

**Table 3: Demographic profile of cases appearing for Determination Hearings**

	Auckland		Waitakere		Total	
	Count	%	Count	%	Count	%
<b>Total</b>	<b>183</b>	<b>55%</b>	<b>152</b>	<b>45%</b>	<b>335</b>	<b>100%</b>
<b>Gender</b>						
Male	155	85%	135	89%	290	87%
Female	22	12%	15	10%	37	11%
Transgender	4	2%	1	1%	5	1%
Unknown	2	1%	1	1%	3	1%
<b>Age</b>						
Under 18 <sup>(1)</sup>	1	1%	0	0	1	0
18-24	19	10%	19	13%	38	11%
25-34	68	37%	62	41%	130	39%
35-44	53	29%	39	26%	92	27%
45-54	35	19%	23	15%	58	17%
55+	7	4%	9	6%	16	5%
<b>Ethnicity<sup>(2)</sup></b>						
Māori	76	42%	75	49%	151	45%
European	69	38%	53	35%	122	36%
Pacific	18	10%	17	11%	35	10%
Asian	10	5%	2	1%	12	4%
Other	3	2%	1	1%	4	1%
Unknown	7	4%	4	3%	11	3%
<b>Offending type<sup>(3)</sup></b>						
EBA <sup>(4)</sup>	40	22%	43	28%	83	25%
Not EBA (other)	118	64%	90	59%	208	62%
Unknown	25	14%	19	13%	44	13%
<b>RoC*RoI Score</b>						
In range	94	51%	78	51%	172	51%
Not in range	32	17%	43	28%	75	22%
No Roc*RoI on file <sup>(5)</sup>	3	2%	4	3%	7	2%
Roc*RoI missing <sup>(6)</sup>	54	30%	27	18%	81	24%
<b>RoC*RoI not in range by offence</b>						
<b>Base</b>		<b>n=32</b>		<b>n=43</b>		<b>n=75</b>
Not in range and EBA offences	20	63%	32	74%	52	69%
Not in range and other offence	12	38%	11	26%	23	31%

**Source: Ministry of Justice Research and Evaluation, 28 April 2015, unpublished data.**

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

Unknown responses are possible where incomplete information has been provided.

1. Person under 18 years old was later declined entry into the AODT Court.
2. Ethnicity has been coded using Statistics New Zealand's prioritised ethnic response method.
3. Offending type is the primary engagement charge.
4. Primary engagement charge is EBA and there are no other non-driving related active charges. EBA includes charges for driving with excess breath/blood alcohol or refusing to provide a sample.
5. The Department of Corrections does not have a RoC\*RoI score for the defendant.
6. A RoC\*RoI score was not recorded at the time the case appeared for the Determination Hearing and has not been recorded as at 28 April 2015.

## ***Stakeholder feedback on what is working well***

### **CADS attendance at pre-court team meetings**

Since early 2015, CADS have attended pre-court team meetings for new determinations. This has enabled CADS to develop a better understanding of the AODT Court, how the AOD assessments are used, and the reasons why some cases may not be accepted. Being aware of non-acceptance into the AODT Court is important for CADS to determine if other plans need to be put in place. Attendance at pre-court team meetings enables CADS assessors to respond directly to queries, provide more details, and provide additional information obtained since the report.

On the whole, CADS considered their voice to be heard and valued during the pre-court team meetings in assessing suitability of an applicant. Some questions were raised however, on the extent to which recommendations in CADS treatment plans are implemented, as there can be differences between what is recommended and what is implemented, for example, implementation of residential or out-patient programmes as recommended. If treatment plans are also done by case managers and treatment providers, queries have been raised about possible duplication. Ethically CADS are required to provide a treatment plan after identifying AOD dependency.

### **Timing for Determination Hearings**

Overall, stakeholders reported that the timing of the pre-court team meetings has improved and quickened. Meetings have quickened as processes are bedded-in and the team is more familiar with which issues require more in-depth discussion in this forum. There is some feedback suggesting this can be further improved by reducing the time spent discussing cases unlikely to be suitable and accepted.

## ***Stakeholder feedback on challenges***

There are concerns about the time required on the AODT Court days for referring defence counsel. Referring defence counsel attend the pre-court team meeting in the morning and two appearances at the Determination Hearing in the afternoon. This can be problematic due to the length of time required and also for scheduling when defence counsel are required in other courts. The AODT Court continues to be mindful of this issue and where possible seeks to accommodate referring defence counsel and to progress cases quickly on the day if it is a clear acceptance.

## **6.5 Acceptance into the AODT Court**

### ***Number of cases accepted into the AODT Court***

From the 335 cases appearing for Determination Hearings, 61 percent (205 cases) were accepted into the AODT Court, as of 28 April 2015: 99 cases in Auckland, and 106 in Waitakere AODT Court.<sup>32</sup>

<sup>32</sup> This excludes cases that were identified in the District Court and not referred to the Determination Hearings as a result of the AOD assessment (refer section 6.3) or other criteria.

There is variation between the courts in the proportion of cases accepted. The Auckland AODT Court accepted 54 percent of cases appearing for a Determination Hearing and Waitakere AODT Court accepted 70 percent of cases (Table 4).

**Table 4: Proportion of cases declined and accepted from Determination Hearings**

	Auckland		Waitakere		Total	
	Count	% <sup>(1)</sup>	Count	% <sup>(1)</sup>	Count	% <sup>(1)</sup>
<b>Determination Hearing</b>	<b>183</b>		<b>152</b>		<b>335</b>	
Declined	84	46%	46	30%	130	39%
Accepted into AODT Court	99	54%	106	70%	205	61%

Source: Ministry of Justice Research and Evaluation, 28 April 2015, unpublished data.

1. Base for percentages is the Determination Hearing count

Feedback from stakeholders suggests there are differences in applicants across the two courts, noting that the Auckland AODT Court seems to have more cases with unique and complex issues, and more transient people. There is a suggestion that Waitakere AODT Court may have more applicants declined due to mental health conditions. In addition, Waitakere and Auckland court referrers appear to vary in their awareness of the AODT Court and its eligibility criteria, which may impact on the quality and appropriateness of the referrals (refer above).

The reasons recorded in JAX for declining participation in the AODT Court (Table 7) also suggest some differences. The Auckland AODT Court has more cases declined due to the sentence indication not meeting the criteria and the application being withdrawn. Waitakere AODT Court has more cases declined due to not being suitable for the AODT Court.

### ***Profile of cases 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 from those appearing for a Determination Hearing, with the exception of the proportion with a RoC\*RoI score in range. There is a greater proportion of cases with a RoC\*RoI score in range with those accepted into the AODT Court (60 percent) compared with those at Determination Hearings (51 percent).

Part of the eligibility criteria for acceptance into the AODT Court is a RoC\*RoI score between 0.5 and 0.9, for cases that are not recidivist drink driving (EBA) offences. Since the formative evaluation, judicial discretion can be applied to accept non-EBA offence cases below this range where all other eligibility criteria are met. Thirteen non-EBA cases have been accepted into the AODT Court with a RoC\*RoI score below 0.5 (Table 6).

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

	Auckland		Waitakere		Total	
	Count	%	Count	%	Count	%
<b>Total</b>	<b>99</b>		<b>106</b>		<b>205</b>	
<b>Gender</b>						
Male	87	88%	91	86%	178	87%
Female	9	9%	13	12%	22	11%
Transgender	3	3%	1	1%	4	2%
Unknown	0	0%	1	1%	1	0%
<b>Age</b>						
18-24	14	14%	14	13%	28	14%
25-34	35	35%	45	42%	80	39%
35-44	32	32%	26	25%	58	28%
45-54	16	16%	15	14%	31	15%
55+	2	2%	6	6%	8	4%
<b>Ethnicity<sup>(1)</sup></b>						
Māori	46	46%	54	51%	100	49%
European	34	34%	35	33%	69	34%
Pacific peoples	12	12%	11	10%	23	11%
Asian	4	4%	2	2%	6	3%
Other	1	1%	0	0	1	0
Unknown	2	2%	4	4%	6	3%
<b>Offending type<sup>(2)</sup></b>						
EBA <sup>(3)</sup>	24	24%	29	27%	53	26%
Not EBA (other)	67	68%	63	59%	130	63%
Unknown	8	8%	14	13%	22	11%
<b>RoC*RoI Score</b>						
In range	66	67%	56	53%	122	60%
Not in range	16	16%	29	27%	45	22%
No RoC*RoI on file <sup>(4)</sup>	1	1%	2	2%	3	1%
RoC*RoI missing <sup>(5)</sup>	16	16%	19	18%	35	17%
<b>RoC*RoI not in range by offence</b>						
<b>Base</b>		<b>n=16</b>		<b>n=29</b>		<b>n=45</b>
Not in range and facing EBA offences	10	63%	22	76%	32	71%
Not in range and facing other offences	6	38%	7	24%	13	29%

Source: Ministry of Justice Research and Evaluation, 28 April 2015, unpublished data.

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

Unknown responses are possible where incomplete information has been provided.

1. Ethnicity has been coded using Statistics New Zealand's prioritised ethnic response method.
2. Offending type is the primary engagement charge
3. Primary engagement charge is EBA and there are no other non-driving related active charges. EBA includes charges for driving with excess breath/blood alcohol or refusing to provide a sample.
4. The Department of Corrections does not have a RoC\*RoI score for the defendant.
5. A RoC\*RoI score was not recorded at the time the case appeared for the Determination Hearing and has not been recorded as at 28 April 2015.



**Table 6: RoC\*RoI score for those accepted into the AODT Court with an 'not EBA (other)' offence type**

	Auckland		Waitakere		Total	
	Count	%	Count	%	Count	%
<b>Base</b>		<b>n=67</b>		<b>n=63</b>		<b>n=130</b>
Less than 0.5	6	9%	7	11%	13	10%
0.5	14	21%	13	21%	27	21%
0.6	21	31%	17	27%	38	29%
0.7	14	21%	13	21%	27	21%
0.8	4	6%	9	14%	13	10%
Unknown RoC*RoI	8	12%	4	6%	12	9%

**Source: Ministry of Justice Research and Evaluation, 28 April 2015, unpublished data.**

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

Table excludes cases with EBA offences and cases where the offence type is unknown.

RoC\*RoI scores have been rounded down to the nearest integer. For example, a score of 0.673 is recorded as 0.6.

### ***Reasons for not being accepted into the AODT Court***

The AODT Court administrative data records the reasons for not accepting defendants to the AODT Court (Table 7). The most common reasons listed in the administrative data are:

- sentence indication does not meet the AODT Court eligibility criteria
- serious violence precluding treatment access
- withdrew application or did not accept place offered.

**Table 7: Reasons for cases not accepted into AODT Court at Determination Hearings**

	Auckland		Waitakere		Total	
	Count	%	Count	%	Count	%
<b>Total<sup>(1) (2)</sup></b>	<b>86</b>		<b>46</b>		<b>132</b>	
Sentence indication does not meet criteria	13	15%	3	7%	16	12%
Serious violence precluding treatment access	9	10%	5	11%	14	11%
Withdrew application or did not accept place offered	10	12%	2	4%	12	9%
Not suitable for AODT Court	0	0	10	22%	10	8%
Mental health condition/s precluding treatment access	4	5%	5	11%	9	7%
Resides outside of AODT Court catchment area	6	7%	2	4%	8	6%
Age of case (too old)	3	3%	2	4%	5	4%
Prosecuted by non-police agency	2	2%	2	4%	4	3%
Arson offending precluding treatment access	4	5%	0	0	4	3%
Not found to be high risk/ high need target group	1	1%	3	7%	4	3%
Did not appear for Determination Hearing	1	1%	1	2%	2	2%
Gang affiliation precluding treatment access	0	0	3	7%	3	2%
Sexual offending precluding treatment access	2	2%	1	2%	3	2%
CADS assessment not recommending entry	0	0	2	4%	2	2%
Not found to be substance dependant	1	1%	0	0	1	1%
Medical health condition/s precluding treatment access	1	1%	0	0	1	1%
Other <sup>(3)</sup>	13	15%	2	4%	15	11%
Reason unknown	16	19%	3	7%	19	14%

Source: Ministry of Justice Research and Evaluation, 28 April 2015, unpublished data.

1. Reasons for decline are for cases appearing at the Determination hearing. This does not include cases referred for AOD assessment and subsequently not referred to the AODT Court.
2. The number of reasons is greater than cases declined as multiples reasons can be given and are counted.
3. Other includes no treatment option available.

## **Stakeholder feedback**

### **Identifying who to accept into the AODT Court**

Within the eligibility criteria, who is accepted into the AODT Court has evolved over time and is influenced by the following factors:

- By reflecting on past cases the AODT Court team is learning who is suitable for the AODT Court in addition to who is eligible (for example, whether the applicant requires the intensive supervision of the AODT Court).
- Increased scrutiny and consideration of who to accept in the AODT Court as the court nears the maximum number of places available.
- Some relaxation from national AODT Court governance to allow the AODT Court judges to govern their court and apply discretion based on the merits of an individual case.

There is variation of opinion about the discretion available for reviewing and accepting new cases. Some stakeholders reflected that discretion risks movement away from the eligibility criteria and the evidence-base for who the court works best for. Most reflected they are comfortable with the use of discretion as the process for decision making is considered robust.

## **Stakeholder feedback on what is working well**

### **Assessing eligibility and suitability for the AODT Court**

The evaluation does not have access to data on the application of the eligibility criteria to assess how well the criteria are being applied. On the whole the AODT Court team members feel the eligibility criteria are being applied appropriately.

Overall, the team is working together well in assessing eligibility and suitability for the AODT Court. There is good information sharing and members are generally satisfied with the process for deciding who is accepted.

It is accepted that team members may have differing opinions when discussing cases, reflecting the inherent tension within a therapeutic court. Preference is given for consensus across the team. The final decision remains with the judge.

*It is discussed by the group, we register an opposition, but we go with what the group decides. We don't always get what we want and neither do the other parties, but the decision making process is robust. Stakeholder*

*I think we are all very aware of what that criteria are and we tend to cover all points relating to the criteria when we discuss and consider applications, I think it's pretty honest list of criteria. Stakeholder*

## **Stakeholder feedback on challenges**

### **Identifying serious mental health issues**

Concerns have been raised about people in the AODT Court with serious mental health issues. Cases have been identified that were assessed as eligible, accepted into the AODT Court and serious mental health issues emerged over the course of the AODT Court pathway. While AODT Court participants may have some mental health issues, serious

mental health issues are an exclusion criteria. The AODT Court is not equipped to respond to such issues, and some AODT Court members found the process to exit participants from the court was taking too long after mental health issues have been identified.

The AODT Court is continuing to develop ways of identifying people with serious mental health issues earlier. The difficulty with this is that mental health issues may not be evident when the addiction is active, and that the addiction may mask mental health issues.

In response to this issue, there has been a review of the CADS AOD assessments. The review found there was nothing further the assessors could do to identify and screen for mental health issues. The court is interested in CADS reviewing applicants' past treatment attempts to identify reasons for failed attempts. This may disclose serious mental health or behavioural issues for CADS to consider when assessing recommendations for referral to the AODT Court.

CADS assessors are also attending weekly meetings with case managers to discuss cases. Identification of emerging mental health issues allows the CADS team to reflect on the assessment process and determine if there are factors that could be identified earlier.

### **Informing participants about the AODT Court**

Part of the criteria for acceptance is ensuring the potential participants understand what will be required. There are a number of mechanisms in which potential participants can receive information about the AODT Court including referring defence counsel, CADS assessors, the participant handbook and agreement letter, the AODT Court judge, and AODT Court defence counsel. There are also examples of referring defence counsel using YouTube clips of American drug courts to give participants a sense of what the AODT Court is about. Applicants who are on bail are also encouraged to observe the AODT court in operation.

Despite this, ensuring potential participants are informed about the AODT Court can be challenging due to literacy issues and the impact of drug and alcohol use on cognitive functioning. The CADS team note that defendants referred for AOD assessment often attend with little understanding of what the AODT Court is about and, as a result, the assessors are explaining the AODT Court to defendants.

*They are really keen but they can't think clearly because they are coming off the drugs and alcohol and they have got this fog in their head and they forget things or they muddle up. Stakeholder*

### **Remand in custody**

Once accepted into the AODT Court, participants may remain remanded in custody or on bail while waiting for a bed in a suitable residential treatment programme or in safe transitional housing. Where a treatment programme has been unsuccessful, one possible consequence of an unsuccessful treatment discharge is to remand in custody followed by remand on bail at a suitable bail address.<sup>33</sup>

Stakeholders raised concerns about participants remaining on remand in custody, in correctional facilities and at times in police cells. AODT Court administrative data shows 49

<sup>33</sup> Alternatively, unsuccessful treatment discharge may result in continued remand on bail with a variation to reside at a suitable bail address and attend non-residential treatment, or to reside at a suitable bail address until the participant is able to access a different residential treatment programme, re-engage at the same treatment programme, or access transitional housing.

percent of cases are on remand in custody when they are accepted into the AODT Court (Table 8).

**Table 8: Remand status for those accepted into the AODT Court**

	Auckland		Waitakere		Total	
	Count	%	Count	%	Count	%
<b>Base</b>		<b>n=99</b>		<b>n=106</b>		<b>n=205</b>
Bail	32	32%	43	41%	75	37%
Custody	51	52%	49	46%	100	49%
Unknown	16	16%	14	13%	30	15%

Source: Ministry of Justice Research and Evaluation, 28 April 2015, unpublished data.

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

The counts are of remand in custody at acceptance into the AODT Court. Remand status whilst a participant is not shown.

Data were not available on the length of time in custody. Stakeholders reported that participants can be in custody for weeks and up to months. Spending time in custody can make the transition to treatment more difficult and reduce motivation for treatment. It can also mean that there is less incentive to complete the AODT Court programme if participants have already served a reasonable proportion of the likely sentence. A treatment readiness programme has been established to aid the transition from a correctional environment to a treatment environment (refer section 10). Despite the addition of this programme, concerns remain about the time spent in remand in custody.

## 6.6 Participant experience

### *Knowledge and understanding of the AODT Court*

The ways in which participants became aware of the AODT Court varied. The majority were informed by their lawyer, word of mouth from other prison inmates, or from a judge. Where participants found out about the AODT Court from other inmates, they asked their defence counsel about the court and whether they may be eligible.

*I read about the court in the prison cell before going to court, it was in a big pamphlet... I saw another girl reading it and when she got bored I started reading it. I wouldn't have pursued it if I didn't see that pamphlet. I said to the lawyer I had at the time - can I try for this? Current participant*

Several participants commented that their lawyers had talked to them about the AODT Court because they felt that it would make a difference in their lives, and their recovery.

*I was charged and I told my lawyer that I had been trying to change by being at [treatment] and she said she would put in a drug court referral for me. I hadn't known anything about the drug court; I had just been trying to change on my own. My lawyer said that she wanted to acknowledge that I had been trying to change before I got these charges and that we should make an application for the drug court. I met the criteria, but there were some things that they were still concerned about before they accepted me in to the court. Current participant*

*My lawyer was looking at my case and instead of me going [to] prison he wanted me to do something about it. So that's why I'm here... He just told me it was a long process, it's a rehab, it's good if I really want help.* Current participant

Some still had alcohol and drugs in their systems and could not think clearly about the AODT Court at the time it was raised as an option, but they understood that it was about getting help for their AOD use and put faith in what they had been told.

The handbook and information provided by their defence counsel and the judge were the main sources of information about the AODT Court. There seemed to be some understanding of what the AODT Court was about: that it was a long process involving AOD treatment and that there are eligibility criteria to be accepted. However, in general, participants commented that they did not fully appreciate what was involved, or how hard it was going to be until they started in the AODT Court.

*I found it a little daunting because I thought oh my word what a lot of work. At a stage when I was still coming down and anxious and overwhelmed and confused, this book means nothing. It was just a lot of words. I read it over and over again in a space of a week. The information was overwhelming because I had this attitude that it was a lot of work. Do I have to do all this?... For me personally it was trying to make sense of it. I understood what it was saying, but I couldn't personalise with it to my situation.* Current participant

### **Deciding to participate**

The majority of participants interviewed initially saw the AODT Court as a way to get out of going to prison. However, as they got further into the programme which included abstinence and AOD treatment, they realised that it was not the easy way out.

*This was to me, and I think like everybody else who comes in here, it is an option of this or prison. That is how I saw it; well I will go to drug court so that I don't have to go to prison... I have been to prison once but that was only 14 days. And that 14 days felt like 14 years. I thought I never want to go back there. So I thought I would come along to drug court. I did come here because I didn't want to go to prison. .... The judge said 'I am going to put you on this course'... and I said 'ok' but all I was thinking was 'yeah I got away with it again!'... And then once I started getting into the course, it was the best thing I have ever done. My thinking just changed aye. And I just thought s\*\*\* this is what I needed.* Current participant

Others spoke about the AODT Court coming at a time when they wanted to change, to 'get clean', and to change their lifestyle (criminal offending and AOD use), particularly for those who had previously tried to make changes on their own but had not been successful. They talked about their life spiralling out of control and needing an intervention to move forward and to break the cycle. Many acknowledged having dysfunctional relationships with their families because of their drug and alcohol addictions and re-offending. They considered the AODT Court a last chance to change their lives.

*To get clean and stop going round and round in circles, I was just sick of going back to prison pretty much and I knew it was my time to do treatment... I realised that for a number of years beforehand I knew I was getting to the point in my life that was going to be the point of no return, it was either going to be the hospital, institutions or death.* Current participant

Some participants reported giving consideration to whether or not they wanted to take part in the AODT Court. Some participants talked about weighing up prison or treatment.

*I didn't want to [take part] because I had 18 months full commitment to courses and programmes and things like that. At the start I was weighing up 18 months of being out in the community or the three or so years that I was going to get in prison, that was my main thought. Current participant*

For some the consideration was whether they felt they were prepared to delve into their addiction and underlying traumas that drove their AOD use. Some, particularly those with previous experience of treatment, felt daunted about the amount of work that would be required, and questioned whether it was something they thought they could do.

*Weighing it up was I knew how much work I'd end up doing mentally, I'd been in treatment before years ago. It's hard work and I knew that, so weighing up sit in prison, watch TV, sleep in, get fed, lie around eating chocolates and lollies and stuff all day long, doing nothing. That or getting out there and getting into some deep stuff from my past. It's quite hard for me to bring up my past and it's just really personal stuff and that's what I think about. Am I ready to think about all that stuff or should I just sit around and waste away inside? Current participant*

## **Determination Hearings**

For some the Determination Hearing was not a significant event, either because they were 'fuzzy' from AOD use, or because it was considered 'just another court appearance'. Others commented on how different it was from 'normal court', and felt nervous about speaking directly to the judge.

*It was quite weird for me because usually my lawyer is talking for me and it's different but it was good at the same time. I was really nervous aye because I didn't want to say a bad thing; I didn't want to cross the line. I knew she wanted to help and she told me there were no wrong or bad answers as long as you have been honest. Current participant*

Some said that the first court appearance was a significant day for them. For example, for one person it was recognition that they were admitting to having a problem. For others, it was the first step in getting to treatment, and showed they had support to get treatment.

*It was nerve wracking. Overwhelming at the end result, when they finally say that they are going to give you a chance, you are taken aback by it. Normally it is 'no you stay back in prison, we aren't going to give you a chance you've had so many chances before'. So for me it was quite overwhelming. I was so stoked that I got it and stoked that someone was going to give me a chance and support me and have my back on trying to change my life. Current participant*

*You're not really there for the Determination Hearing, it's all happened, you don't see it, it all happens before you get there. It was good to know I got in. I got told I got in and I read this letter... I read it because I meant some of the things not all of them but I was almost crying. Just because what I was saying hit home for me that I was just over this life, not getting anywhere. Graduated participant<sup>34</sup>*

<sup>34</sup> Since the beginning of 2015, the AODT Court has adopted an approach where the applicant comes into court and speaks with the AODT Court judge about their application (where the judge is considering offering the applicant a place in the court). If the applicant is offered a place in the court, the participant agreement is gone through with the applicant and formally signed. The applicant is then formally accepted and welcomed to the AODT Court by the judge and the Pou Oranga.

## 6.7 Evaluative assessment and areas to strengthen

### Evaluative assessment

Overall, the processes for identifying defendants and determining eligibility are working as intended and seem to have reached a steady state.

### Areas to strengthen

- Continue to develop processes for early identification of significant mental health issues that cannot be accommodated by the court.
- Reflect on whether further actions can be undertaken to decrease the time participants remain on remand in custody, while waiting for a residential treatment programme or safe housing.



## 7. AODT Court programme

This section covers stakeholders' feedback on the changes, strengths and challenges with AODT Court hearings and roles of the AODT Court team. Experiences of AODT Court participants and their whānau are described.

### 7.1 Changes and developments since the formative evaluation

The 2013 formative evaluation reported that the AODT Court team roles are working together as intended. However, concerns were raised about the scope and capacity of some roles, in particular case managers, court coordinator and defence counsel, where managing the increasing caseload was increasingly problematic. The evaluation found that AODT pre-court team meetings and court hearings were being undertaken as intended, although time management was becoming an issue.

Since the formative evaluation there has been an appointment of additional capacity in the court coordinator role and a review of the case manager role (the results of this review by the Ministry of Health are yet to be released). There have been some minor changes to the operational delivery of the court, which are detailed below. The time management of the AODT Court, while improved, continues to be a concern.

### 7.2 Dynamics of the therapeutic court team

Overall, the AODT Court teams are working well together and there is a strong willingness across the team to continue to improve. Despite this, there is an inherent tension within a therapeutic court in terms of balancing treatment, judicial, and justice priorities and processes, which continually needs to be managed.

*The strength of the team that is the treatment providers and the police, who are really not like usual prosecutors, they are very willing to accept that people slip up but giving them the benefit of the doubt and giving them the opportunity to put things right is a huge move for the police ... Police prosecutors are aware that the safety of the public is paramount but at the same time it's being a little bit understanding or willing to go with what treatment says should be done to ensure that the participant is able to travel well through the court. We are all working towards one goal and that is that they [the participants] get through it all and that they achieve their sobriety and can graduate. Stakeholder*

A current tension, for example, is balancing a participant's progression through the court with developing self-efficacy. Treatment may purposefully require participants to do tasks for themselves. In some instances, the tasks have subsequently been performed by other team members to help the participant and get things progressed, lacking appreciation of the therapeutic intervention intended.

Key to ensuring the teams are working well together, given these inherent tensions, is:

- having a clear shared vision that the team is working towards

- selecting staff for the AODT Court team who are able to work in a cross-sector team (refer below)
- clearly defined roles and working within the scope and boundaries of those definitions
- regular contact and communication.

### ***Stakeholder feedback on what is working well***

#### **Staff selection**

Overall, selection of staff for the AODT Court team has worked well. Stakeholders reflect on the importance of selecting staff who have the technical expertise and personal philosophy in line with the court and an ability to work within a cross-sector team with differing priorities and perspectives. For example, with the addition of community probation officers in the AODT Court team, experienced probation officers were sought who specialise in AOD and have an understanding of the recovery journey. For police prosecution, community probation and defence counsel this includes an understanding of how their day-to-day role is different in a therapeutic court.

### ***Stakeholder feedback on challenges***

#### **Role clarity**

Stakeholders reflected that further role clarification and guidelines are required to clarify who is responsible for what, and ensure team members work within their defined roles. Documentation of role scope is particularly important given roles can function differently in the AODT Court from other courts.

#### **Workload**

Overall, the workload exceeds capacity as the team members commonly work beyond contracted hours. There are high expectations for all the AODT Court team members and a high degree of scrutiny over the team's performance.

The teams are dedicated. Their belief and commitment to the values of the AODT Court means they are willing to go the extra mile. Some team members, however, are reaching burn out due to the workload and the nature of the work in dealing with tough issues.

#### **Recovery voice**

Some stakeholders noted concern about a lack of a recovery voice, based on lived experience of recovery, amongst the AODT Court team. Some felt this was a gap in the team, while other stakeholders did not feel that this was an essential component of the AODT Court team given the inclusion of the peer support role.

### 7.3 Roles in the AODT Court

The AODT Court team consists of the AODT Court judge, case managers, court coordinator, defence counsel and police prosecution. The team is supported by the Pou Oranga (a Māori advisor, discussed in section 8), team leader of the case managers (section 7), peer support (section 10), CADS (section 6), and community probation (section 13). Two new support roles have been created in the treatment team (housing coordinator and operations support). While there have been some changes to people performing the treatment roles, overall the people in the AODT Court teams have been relatively consistent to date.

#### *Judge*

The formative evaluation suggested that defining the training required by judges may be an upcoming issue due to the specialised role and knowledge required.

#### **Changes since the formative evaluation**

Since the formative evaluation, there have been changes to the judge's role with one of the two original AODT Court judges changing roles and no longer presiding over the AODT Court. This judge remains involved in the policy direction for the court, graduation ceremonies and review of sentencing reports. One judge now has responsibility over both courts and two other judges have been trained and preside over the AODT Courts once or twice a month and cover any periods of leave.

Managing the change in judges was carefully considered and involved senior judiciary in the decision making. There was careful consideration of the importance of judicial consistency for the AODT Court participants balanced against the need for capacity building and reducing the reliance on two judges. As with all roles in the AODT Court team, finding appropriate judges to fill the role was important, ensuring an understanding of AOD issues and specialist courts.

#### **Stakeholder perceptions of what is going well**

The AODT Court judges are considered the momentum and driving force behind the AODT Court. Stakeholders talked about the strength of the judges in leading the teams, and the contribution of their time. In making changes to the operation of the court the AODT Court judges look towards the evidence base internationally and reflects on the local practices of the AODT Court to learn what works and what does not.

#### **Stakeholder perceptions of challenges**

Some stakeholders raised concerns about the heavy reliance on the remaining lead AODT Court judge and were mindful of the risk in placing such a heavy reliance on one person. The AODT Court systems may not yet be sufficiently bedded-in to sustain another change in the judiciary.

There are challenges in training new judiciary in the AODT Court, given current court commitments and rostering. Much of the training time was volunteered weekends and holidays, and using monthly reserve days to observe the court in operation. The training included getting up to speed on the operation of the court, management of team meetings, and also developing a sound understanding of the processes and requirements of the

programme outside of the court (for example, understanding and visiting different treatment provider programmes and the CADs AOD assessment processes).

### **Court coordinator**

There are two key components of the court coordinator role, one is to connect the AODT Court team together and facilitate the flow of information. The second is to strengthen processes and systems to ensure efficient operation of the court.

The formative evaluation found that the workload for the court coordinator is heavy and would be overwhelming when the court reached capacity as there were no trained back up coordinators to cover leave.

### **Changes since the formative evaluation**

Since the formative evaluation the court coordinator role has been reviewed and capacity increased from one to two full time equivalents (FTE), through the addition of a 12 month fixed term contract. The coordinator role no longer sits in open court sessions. Each week, one coordinator sits in the pre-court team meeting and is available for, but does not attend, open court.

Both coordinators work across the two courts and each holds responsibility and oversight for different components of the role. Working across both courts was preferred to ensure consistency across the courts, share learning on common issues, and provide peer support.

Given the uniqueness of the role, the coordinators are interested in training and professional development opportunities through other specialist courts and international AODT Courts.

### **JAX data**

Since the formative evaluation, the AODT Court database JAX, has been reviewed and revised by the Ministry. The database is currently being back-filled. The court coordinators expect that the new JAX database will be more prescriptive to reduce inconsistencies in interpretation and data entry, and more information will be accessible (e.g. what treatment facilities a participant attended). The backfilled JAX database is intended to provide descriptive reports to inform the operation of the court. Further work is continuing with the back-fill and smoothing of some processes, such as automatically populating some fields.

### **Stakeholder perceptions of what is going well**

The coordinator role is a vital link between all members of the team, and ensures processes are followed appropriately. It is considered appropriate and important that the coordinator role is embedded in courts. As District Court staff, the court coordinators have good knowledge of court systems, processes and procedures, enabling AODT Court processes to run smoothly.

Being embedded in courts also means the coordinators are in an impartial position. They do not have a direct working relationship with the AODT Court participants, are not representing a particular perspective or representing the participant, and do not sit in on AODT Court hearings. Their role is to coordinate information across the team. This allows the coordinators to provide an informed and impartial view to the court on matters being discussed based on all the information gathered, such as disputes around testing results.

## **Stakeholder perceptions of challenges**

Some stakeholders' perceptions of the increase from one to two FTEs was that it would enable capacity for proactive tasks to be delivered, such as developing systems and quality standards, and the implementation of new initiatives such as exit interviews with participants. While there have been improvements, progress with new initiatives is thought to be hindered as the coordinators continue to be busy reacting to operational issues such as AOD testing and administrative data challenges. Some work is underway on proactive projects such as documenting the AODT Court operational policies and procedures.

Some queries were raised on the position of the coordinator role and whether it is sitting at the right level in the court hierarchy given some of the tasks and requirements involved, for example, liaising with senior roles in treatment and AOD testing organisations.

## **Case managers**

Case managers coordinate specialist AOD treatment and other services for participants, retain an overview of their treatment programme and report to the AODT Court on participants' progress. They are employed by the lead treatment provider, Odyssey House.

The formative evaluation identified difficulties with the size of the role and expected case-load, and identified a need for a clear role scope, particularly with regard to providing treatment and contact hours. The challenges with the case manager role have continued and worsened with growing case-loads and staff changes.

### **Changes since the formative evaluation**

Since the formative evaluation, the Ministry of Health has reviewed the case manager role. The results of this review are yet to be released. There have been changes in personnel, but no substantive changes to the role of case managers since the formative evaluation.

### **Stakeholder perceptions of what is going well**

There seems to be a good and improving working relationship across the treatment team (case managers, peer support, housing coordinator and operations support), with a willingness to work together to meet demands.

Case managers are committed and have a strong alignment to the purpose and intent of the AODT Court. Case managers have learned over the course of the pilot how to respond to particular issues that emerge. However, these lessons are not maximised with limited documentation and opportunities for sharing lessons across the team.

### **Stakeholder perceptions of challenges**

Stakeholders in the treatment team reflect that the case manager role in its current form is unsustainable. Treatment team stakeholders have raised strong concerns about what is described as a 'relentless workload' for case managers, with a risk of burn-out. Treatment team stakeholders report that this is due to the scope of the case manager's role and caseload required, which has increased as the court reaches capacity. Case managers are currently performing three key roles: case management and oversight of the treatment plan, providing treatment and liaising with the court around treatment issues, and monitoring and compliance. A caseload of 25 participants is considered too high for the role, and 15 - 20 is thought to be more appropriate.

Case managers are often put in the position of a treatment provider and provide support for managing relapse when a participant is exited or has successfully completed a treatment programme, given that there are limited options for continuing care. Some stakeholders consider this role beyond that of case management. As more participants move into phase three, the treatment workload for case managers is likely to increase.

*Case managers would be coordinating treatment, booking them into the right provider and the ancillary services that are required, so just straight case management. Advocating and link them, supporting and there's still a wee bit of psych-education that would happen within there like problem solving and you would be using motivation monitoring and all those things but that would all be geared towards getting people into services that support them. Stakeholder*

Given the high need profile of the AODT Court participants, purely transactional and compliance-based interactions are not considered desirable. Case managers consider therapeutic-based interactions to be important for developing trusted relationships. They report, however, there is insufficient time available to consistently provide therapeutic-based interventions.

*The very people we are dealing with demands therapeutic response for pretty much every intervention. You have to build relationships with clients otherwise you're sunk. Stakeholder*

*We're meeting them and part of what we primarily get is information to keep the court informed, but it's not just about how many meetings. The expectation is that they leave the meeting feeling motivated and encouraged. It's not just transactional... It's about building up, and encouragement, and helping them. It's an intervention in itself. Stakeholder*

In some instances, case managers felt they are unable to perform all aspects of their role to the best of their ability under the role current scope and case-load. For example, case managers are not always able to be available to participants when they exit treatment. Case managers advise participants to take themselves to the police station as they will be breaching bail conditions. Given the vulnerability of the group, some case managers feel that this can be a safety risk.

There appears to be inadequate role and procedure documentation and training for upskilling and supporting new case managers. There are currently minimal opportunities for peer support, reflective practice, and learning across the team.

*There's no time for reflection and talking about the work which is really important in our work, in anyone's work. We have one staff meeting a week, we haven't had group supervision for ages, we kind of seem to have dropped that but we haven't had a case manager meeting for ages because everyone's too busy so there's no time for personal and professional development... It feels like a risk now because people are hitting the wall. Stakeholder*

There is also feedback that some case manager reports to the AODT Court do not contain the most up-to-date and correct information. It is not clear to what extent and why this may occur.

### ***Team leader of case managers***

The treatment team leader manages a team of ten treatment staff (case managers, peer support, operations support and housing coordinator), and is a stand-in case manager as required. Clinical supervision is provided by an external provider. The team leader sits in the pre-court team meetings twice a month for each AODT Court to support case managers in court, and connect with the wider AODT Court team.

#### **Stakeholder perceptions of what is going well**

The team leader role has fostered greater unity across the treatment team and encouraged more collaborative working relationships.

The case managers are very supportive of the team leader role, and consider this role vital for supervision, support, guidance, and training and development. The role is an important interface between case managers and the AODT Court team when issues arise or role boundaries are blurred. In some instances case managers felt that more support could be provided in the interface with the AODT Court.

#### **Stakeholder perceptions of challenges**

The main challenge to the team leader role is the workload and inability to deliver on case management and team leader activities. Over recent months, the team leader has largely been performing the role of case manager to cover staff changes. As a result, staff support and training has not been delivered for new case managers at the desired level and there has been insufficient team supervision and support. These functions are not able to be maintained while the team leader is carrying a case-load.

### ***AODT Court defence counsel***

The formative evaluation identified that AODT Court defence counsel were undertaking their role as intended. Feedback from AODT Court defence counsel at this stage highlighted that their role was being expanded beyond the expected scope and that inefficient processes resulted in their working on the AODT Court beyond their allocated ten hours.

#### **Changes and developments since the formative evaluation**

A new initiative for Auckland AODT Court defence counsel is the introduction of a non-drug court roster to have counsel from the AODT Courts available to attend arrest matters and breaches for AODT Court participants that occur outside of the AODT Court days. In Auckland District Court, some duty lawyers are frustrated when AODT Court participants front up and the duty lawyers receive instructions from AODT Court counsel that the participant is to be remanded in custody. This is seen by some as intervening in their role as defence lawyers.

In Waitakere District Court there are no issues around covering unscheduled appearances (e.g. for breach of bail, new charges) on non-AODTC days as the Waitakere Court Public Defence Service Supervisor is also an AODT Court defence counsel and is able to manage unscheduled appearances.

## Stakeholder perceptions of what is going well

In the past 18 months, the role of the defence counsel has matured as they have become more familiar with their role in a therapeutic problem solving court. Defence counsel in particular note that they are more comfortable negotiating between individual participant rights and the need for open and transparent information sharing to enable participants' recovery journey.

*I think that as defence counsel we originally may have not necessarily shared information to the team in our pre court meetings if we felt if it was going to jeopardise the liberty or the rights of the client. I think over time I certainly have become more comfortable with expressing views and opinions and sharing information that has been told by one of the participants so that we can work with that and try and progress. We try to work in a collaborative fashion as a team and if it does mean that there's going to be some sanctions for the client that's seen as a learning experience, like a teaching moment and I think as defence counsel that's a little bit foreign to us. Stakeholder*

Feedback highlights the strength of the supportive relationships being developed between the defence counsel and participants, particularly when participants hit a rough patch.

*There was one guy, who got his [duration] medal and went and used. Straight after he used, he messaged his lawyer to say that he had stuffed up and the lawyer was messaging him backwards and forwards late at night. He mentioned, later in court, how incredible it was that he was able to get hold of his lawyer during that time. A number of participants feel that way. Stakeholder*

## Stakeholders' perceived challenges

As in the formative evaluation, defence counsel continue to undertake roles that are outside their scope of practice. Examples given include the delegation of tasks to the defence counsel that should be completed by participants (e.g. sorting out driving licence issues). Delegating these tasks to the defence counsel was seen to be inconsistent with the need to build participant's self-efficacy.

On occasions when AODT Court participants breached bail or exited residential treatment facilities, they had been presenting at the court to make a voluntary appearance and have their breach addressed. The expectation now is that such participants should present themselves immediately to police to be subsequently produced at court unless the AODT Court has agreed a different course of action.

Stakeholders interviewed questioned the effectiveness and efficiency of having defence counsel rostered on alternative weeks. Preference was noted for having a smaller pool of defence counsel so there is consistency and a regular presence for the participants.

## Police prosecution

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.



## Stakeholder perceptions of what is going well

The formative evaluation identified a key challenge for police prosecutors as seeking to balance their adversarial and community safety roles with wanting to support the participant to address their AOD dependency. This challenge continues, and police prosecutors continue to maintain a critical focus on community safety. Positive feedback from police prosecutors and other stakeholders emphasise that the AODT Court team has become more adept at negotiating these boundary areas.

*All parties are very mindful of their ethical boundaries, which is something that I haven't ever seen be breached; it is pleasing. All parties work together in a collegial environment where we are comfortable sharing information, when it is required, because we can trust the other parties to deal with that information ethically. Stakeholder*

While the AODT Court continues to have its challenges and tensions, police prosecutors are buoyed by witnessing the recovery journeys of participants and the positive impact this change has on the participant and their whānau and on community safety.

*I think the pilot is definitely of value and it was set up with the best of intentions and when we see the ones who are genuinely successful it feels all worth it. I'm genuinely happy for them and even if it's just the one person that gets rehabilitated, not that there's only one, it's quite a few. Even if only one gets rehabilitated this is saving... victims in the future and that's great. Stakeholder*

## Stakeholders' perceived challenges

For police prosecutors, the AODT Court is resource intensive and requires the allocation of senior experienced staff who can negotiate in a multi-disciplinary team. Police prosecution are allocated three days to the AODT Court – one for preparation, one in court and one day after court for any follow-up and write up of their notes from court. In reality, preparation time may be eroded due to the wider demands of police prosecutor roles. At times this can result in police prosecutors not being as prepared as they would like to be in AODT Court. In considering these workforce challenges, a suggestion was made that there should be a lead AODT police prosecutor supported by two others trained to act as back up when needed due to leave or sickness.

In the formative evaluation, prosecutors took an active role when participants breached their obligations (e.g. absconding from treatment and breaking bail conditions). It is acknowledged that participants who breach are more likely to react better to police prosecutors they are familiar with. With the AODT Court near to capacity it is no longer feasible for the AODT Court prosecutors to undertake this role. Responding to breaches of bail is now delegated to other officers, as was originally intended.

*It does make it easier if it is someone that [the offender] has dealt with in the AODT Court that is coming to see them. If they are told it is one of the prosecutors they are familiar with there is less risk of them absconding; a lot of the time they will feel bad. Some of them will go for broke if they think that some random cops are turning up. If they know it is someone they are familiar with coming out they are liable to stay and be arrested because they understand they have breached their obligations. Stakeholder*

## 7.4 Participant experience of the AODT Court team

Over time, the participants developed trust and appreciation towards the AODT Court team and considered the relationships genuine. Support and encouragement from the team was a motivating factor for some participants who reported not wanting to let the team down. An exited participant commented that the amount of support people available was overwhelming, as they were not used to trusting and sharing their experiences with people.

Overall, the judges were considered fair, honest, and firm. Participants reflected that AODT Court judges were different from other judges and appreciated the judges' encouragement and support. Graduates reflected that the AODT Court changed their view of judges, from a very negative view to an appreciation and respect of the judges for trying to make a difference.

*I find the judge open and honest, I've never had a relationship like this with judges, usually I'm getting escorted off to prison or something. Just to be open and honest and to talk freely with them, they are encouraging as well. Current participant*

*They actually follow a kaupapa. Then when you say something they will say 'well how do you feel about that' and I have noticed they all say that. They don't just say 'ok you are doing well so see you later'. They really get right into you and make you express how you are feeling. Current participant*

*The judges are good. They are really supportive and it is not like when you are in normal court where they don't really give a stuff and you are just another number but in the drug court they're there to support you and help you make a change. Current participant*

Defence counsel are often the people who had explained the AODT Court to participants and in this context they are viewed as helpful and supportive. In some instances, participants reported that their defence counsel went over and above their role by visiting participants and going out of their way to be available and provide assistance.

Case managers were seen as supportive and encouraging. Participants tended to see case managers in a guidance role and they developed a trust in the advice received. Case managers were seen as committed and vested in their jobs; they wanted participants to succeed and made participants feel good about their progress.

*She was the man, I mean lady. She was just real supportive you know. She listened to me, she trusted me and that was quite good really, just having her trust really helped as well. She guided me along made me feel good for doing the right thing. Current participant*

*Case manager and peer support is like, the relationship you build with them is like they become your friend. But at the same time if you are doing wrong they will tell you and be straight up with you. They will tell you how it is. If you are mucking around they will tell you straight up so there is no hidden agendas or anything like that. Current participant*

Peer support workers were acknowledged for their lived experience of addiction and therefore had an understanding of the journey, and what was needed along the way. Participants often noted that peer support workers can see through the lies and game playing.

*Because of their background coming from an addict perspective they both knew the game so were able to have a meaningful discussion with you but also knew the game in terms of recovery and how difficult it can be and they also know all the b\*\*\*\*\* tricks. Current participant*

Some participants reflected that they appreciated getting practical help such as transport to and from meetings. A graduated participant reflected on the balance between support and 'doing for' someone, observing that some participants looked at case managers and peer support to do work for them.

*If I was to make one suggestion it would probably be to make it much clearer in the participant's mind what the case manager's role is and isn't and what the peer support worker's role is and isn't. There were a few people that seemed to think the case manager and peer support people were the maid, they were there to look after them and do everything for them. They were looking to be looked... after as opposed to being directed, instructed. Graduated participant*

## 7.5 Profile of current participants in the AODT Court

The AODT Court pilot is capped, by design, at 100 participants. Auckland and Waitakere are unable to take more than 50 participants at any time, nor can they wait list entry. As at 28 April 2015,<sup>35</sup> the AODT Court is very near capacity with 96 participants. Waitakere AODT Court is at capacity with 50 participants, and Auckland AODT Court is close at 46 participants.<sup>36</sup> Reaching capacity will have implications for the flow of people through the AODT Court pathway, which will require planning and management.

Table 9 provides the demographic profile of current participants as at 28 April 2015. It shows:

- current participants are overwhelmingly male (86%)
- nearly six in ten current participants are Māori (57%)
- most current participants are aged 25-44 years (63%); there are few young people currently in the court (7% are aged 18-24 years)
- about half (53%) of the current participants are recorded with an offence type of 'not EBA (other)'
- just under half (45%) have a RoC\*RoI score within range. Where cases are not in range (22 cases), the majority of these are EBA offence types (68%).

<sup>35</sup> The administrative data was made available to the Ministry of Justice's Research and Evaluation Team as at 28 April 2015.

<sup>36</sup> The court reached capacity three days after the administrative data was received for analysis.

**Table 9: Demographic profile of cases currently participating in the AODT Court**

	Auckland		Waitakere		Total	
	Count	%	Count	%	Count	%
<b>Total</b>	<b>46</b>		<b>50</b>		<b>96</b>	
<b>Gender</b>						
Male	42	91%	41	82%	83	86%
Female	3	7%	7	14%	10	10%
Transgender	1	2%	1	2%	2	2%
Unknown	0	0%	1	2%	1	1%
<b>Age</b>						
18-24	4	9%	3	6%	7	7%
25-34	12	26%	19	38%	31	32%
35-44	18	39%	12	24%	30	31%
45-54	10	22%	12	24%	22	23%
55+	2	4%	4	8%	6	6%
<b>Ethnicity<sup>(1)</sup></b>						
Māori	26	57%	29	58%	55	57%
European	16	35%	14	28%	30	31%
Pacific peoples	2	4%	2	4%	4	4%
Asian	1	2%	1	2%	2	2%
Unknown	1	2%	4	8%	5	5%
<b>Offending type<sup>(2)</sup></b>						
EBA <sup>(3)</sup>	11	24%	12	24%	23	24%
Not EBA (other)	27	59%	24	48%	51	53%
Unknown	8	17%	14	28%	22	23%
<b>RoC*RoI Score</b>						
In range	28	61%	15	30%	43	45%
Not in range	6	13%	16	32%	22	23%
No RoC*RoI on file <sup>(4)</sup>	0	0	1	2%	1	1%
RoC*RoI missing <sup>(5)</sup>	12	26%	18	36%	30	31%
<b>RoC*RoI not in range by offence</b>						
<b>Base</b>		<b>n=6</b>		<b>n=16</b>		<b>n=22</b>
Not in range and facing EBA offences	4	67%	11	69%	15	68%
Not in range and facing other offence	2	33%	5	31%	7	32%

**Source: Ministry of Justice Research and Evaluation, 28 April 2015, unpublished data.**

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

Unknown responses are possible where incomplete information has been provided.

1. Ethnicity has been coded using Statistics New Zealand's prioritised ethnic response method.
2. Offending type is the primary engagement charge
3. Primary engagement charge is EBA and there are no other non-driving related active charges. EBA includes charges for driving with excess breath/blood alcohol or refusing to provide a sample.
4. The Department of Corrections does not have a RoC\*RoI score for the defendant.
5. A RoC\*RoI score was not recorded at the time the case appeared for the Determination Hearing and has not been recorded as at 28 April 2015.

## 7.6 AODT Court hearings and pre-court team meetings

### *Stakeholder feedback on the pre-court team meetings and court hearings*

#### **Changes and developments since the formative evaluation**

The main concern from the formative evaluation was the duration of the pre-court team meetings and AODT Court days with the time spent on individual cases.

There have been some changes to the AODT Court hearing. Since the formative evaluation, the AODT Courts have introduced a new initiative called the 'A Team', which is recognition of participants who are tracking well (refer below).

Participants are now also required to appear at court 20 minutes before commencement to get their community service and meeting cards collected by case managers. This is intended to ensure participants all turn up before 1pm and to ensure streamlined processes for checking cards in court.

#### **Stakeholder perceptions of what is going well**

Overall feedback in the process evaluation suggests that the AODT Court processes are streamlined and the court hearings and that pre-court team meetings are reaching a 'steady state'.

Some stakeholders reported that the timing of the AODT Court days has improved, with faster progression of cases and more attention to keeping breaks in the day. Others, however, have ongoing concerns over the length of court days when there are graduation ceremonies (refer section 13).

#### **Stakeholder perceptions of challenges**

While overall timing has improved, there seems to be room for improvement at Auckland AODT Court, where more complex cases are taking longer to discuss.<sup>37</sup> There are some suggestions that administrative details are unnecessarily taking up court time, although other feedback states that the team is increasingly utilising email communication to resolve issues (such as home leave applications and bail variation) between court sitting days. The length of the court days can also be impacted by additional court appearances added to the list when AOD re-tests are required at court for a person who would not otherwise be appearing.

### ***Incentives and sanctions***

The AODT Court handbook gives examples of appropriate incentives and sanctions to be handed down in court hearings. In the formative evaluation there was some evidence from participants that the incentives and sanctions contribute to modifications in their behaviour. Feedback from participants and whānau interviewed continue to support this finding.

#### **Incentives**

Over the last 12 months new incentives have been introduced including the establishment of the A Team on the AODT Court day. Participants are allocated to the A Team based on

<sup>37</sup> During the review of the draft report, feedback was received noting that fewer complex cases are remaining in the AODT Court.

whether they have achieved their immediate goals or tasks. Those in the A Team are seen first in the court, and have the opportunity to win a prize draw for a \$30 supermarket voucher. Those participants who have not complied are seen at the end of the day. Another new incentive introduced is the 30 day tag, which is a tag participants' receive when they reach their first 30 days of sobriety.

Participants interviewed had a sense of pride when allocated to the A-Team and excitement that they may win the prize draw. One whānau member was concerned the prize draw may reinforce gambling tendencies. The AODT Court team did consider this issue before introducing the prize draw and decided to trial it.

Some participants reported enjoying the incentives received, and noted the positive impact they had.

*Just the vouchers and that, and just like there's heaps of stuff aye getting your book signed and that and getting these little stamps and the stars and that, it might not be a lot but you can really change how someone feels. Current participant*

Participants and whānau also commented on the importance of the support, encouragement and praise received from the AODT Court team. Graduated participants reflected on the importance of this encouragement in creating a sense of self-belief, pride and self-worth and enabling them to achieve their success. The support and sense of belief was particularly important when participants were struggling in their recovery journey.

## Sanctions

Sanctions continue to be applied as needed. However some stakeholders perceive that sanctions need to be stricter, consistently imposed, and more reflective of the breach or scaled over time for repeat breaches.

*In terms of the participants, the sanctions that they receive should be a lot stricter than they currently are... I just think the sanctions are not reflective of the seriousness of the breach, is six hours of community work really going to be a reflection? And they don't end up doing them anyway until we push them. Stakeholder<sup>38</sup>*

Feedback from participants suggests that sanctions (like incentives) support their recovery journey.

*I got a penalty last week; I got imprisonment so I went to prison for two weeks so that was a wakeup call for me. That was the second time. At the time I was pissed off at the judge, later on when it came out I kind of knew what she was doing for me because I wasn't in a safe environment at the time. Current participant*

## AODT Court phases

Of those currently in the AODT Court, nearly half are in phase one (46 percent) (Table 10). Waitakere AODT Court has a greater proportion of participants in phase three (30 percent), compared with the Auckland AODT Court (20 percent).

<sup>38</sup> A stakeholder noted that since the beginning of 2015 community work has almost never (if ever) been used as a sanction because it was hard to enforce in a short timeframe and other measures were perceived as much more effective (e.g. removing 'court clean time' from participants if they were not going to drug testing).

**Table 10: Current phase status of AODT Court participants**

Phase	Auckland		Waitakere		Total	
	Count	%	Count	%	Count	%
<b>Total</b>	<b>46</b>		<b>50</b>		<b>96</b>	
Phase 1	21	46%	23	46%	44	46%
Phase 2	16	35%	11	22%	27	28%
Phase 3	9	20%	15	30%	24	25%
Unknown	0	0	1	2%	1	1%

Source: Ministry of Justice Research and Evaluation, 28 April 2015, unpublished data.

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

Unknown responses are possible where incomplete information has been provided.

### Stakeholder perceptions of what is going well

The community work has worked well in phase three, with interest from some AODT Court participants, and good support from organisations and community groups to provide opportunities. A range of opportunities have been identified including native tree propagating and stream clean-up (which have a Māori holistic recovery focus on the individual, the whānau and the environment), planting days with the Orākei Marae, zoo work, work in a recycling plant, and work in Salvation Army shops. A stakeholder commented that a number of these opportunities allow the participants to work alongside people in the recovery community.

### Stakeholder perceptions of challenges

Stakeholder feedback suggests phase three can be the most challenging for some participants as they are increasingly required to do things for themselves, bail conditions are loosened, and responsibility is increased. For some participants, this is when other traumas or issues may emerge and greater support is required from case managers.

In some instances, participants have lapsed as they progress through phase three. The upcoming graduation from the AODT Court can be a concern as this means leaving the security of the AODT Court and the relationships formed. Some stakeholders felt more attention is required in phase three in preparing participants to graduate and live in the community.

*Sometimes people can get lost and often it those who are in phase three. Those in phase three, we think they are fine because they are about to graduate and are doing their treatment. However, if you take your eyes off them they will struggle and have some big issues. Sometimes they will graduate with those issues, slip under the radar, and then crash. Stakeholder*

## 7.7 Participant experience

There was a clear acknowledgement of the distinction between the District Court and the AODT Court. Notable differences are being able to talk directly to the AODT Court judge and the encouragement received from the AODT Court team. Overall experiences were:

- participants enjoyed the positive and supportive environment of the court appearance
- for some participants it was something they looked forward to each week

- some participants regarded court appearances as being a good mechanism for accountability, keeping on track, and transparency
- participants commented on the supportive environment through the clapping of hands, rewards system and encouragement
- some participants commented that at times waiting around can be tedious
- participants commented on how it was very encouraging to be around other participants that were also going through the same journey.

*I'm used to being terrified at the court, it was terrifying the first time but yeah people clapping... Even Ra [the Pou Oranga] came and did a prayer for me, I was wondering 'what's happening there' but yeah I wasn't quite sure what I had got myself into... and yeah I started to get to know the courts a lot more from there, started going to court from the outside, watching everyone going up in front of me and just sitting back soaking it up for a while, that's how I got there and I'm still there now. Current participant*

### **Experience of the AODT Court phases**

Graduating from one phase to the next reflected a milestone achievement and was seen as acknowledgment of progress through the AODT Court journey.

Phase one was described as hands on, where participants were told to attend treatment, participate in random AOD testing, and attend weekly or fortnightly court appearances, as well as find out about themselves. Graduated participants believed that phase one is when everything is done for participants because they are in treatment.

For current participants, the first phase seemed to be the hardest as they were adjusting to a new routine, meetings, programmes and restrictions that they had not experienced before. For some, it was also cementing whether they wanted to stay with the AODT Court and do the treatment, or 'take off'. As they adjusted to the different phases it became more manageable but was still considered a hard process.

Phase two was described as being similar to phase one, but with less 'hands on' support.

Phase three was described as having a lot less hands on support, for example, participants had to organise themselves getting to and from drug testing. Participants are getting actively involved in activities such as volunteer work, or demonstrating their ability to return to work. Phase three seems to be where participants establish a routine. Graduates reported that this phase was challenging.

## **7.8 Evaluative assessment and areas to strengthen**

### **Evaluative assessment**

Overall, the operation of the AODT Court is working well and as intended. Concerns about workforce capacity continue with AODT Court team members investing time and commitment beyond what is contracted or sustainable.

### **Areas to strengthen**

- Develop documentation and guidelines that clearly detail the different AODT Court team roles and role boundaries.



- Continue to monitor and reflect on the balance between support and self-efficacy for phase three participants (also refer to section 13).
- Continue to facilitate discussion of administrative details outside of court time to reduce time taken during court hearings.

## 8. Meeting Māori cultural needs

This section draws from interviews with the Pou Oranga and Māori Cultural Advisory Group (MCAG), other stakeholders, AODT Court participants and their whānau to outline the role of tikanga Māori in the AODT Court in meeting Māori cultural needs. Developments since the formative evaluation are described, as are perceived strengths and challenges.

### 8.1 Changes and developments since the formative evaluation

The AODT Court, Te Whare Whakapiki Wairua, has adopted and implemented Māori tikanga practices into its daily operations. Since the formative evaluation, the development of Māori tikanga has continued to evolve and become more bedded-in to the AODT Court.

Changes since the formative evaluation include the formalisation and extension of the Pou Oranga role from two to three days per week (refer below), the development of a Māori Cultural Framework, and the creation of a Cultural Assessment Form.

As a result of the discussions with wider stakeholders, the Pou Oranga and MCAG have developed a Cultural Framework for Te Wharepiki Wairua, the AODT Court. The framework provides a Māori cultural context for the AODT Court. It is based on a Māori world view and mirrors the domains of the court room with the whare nui or meeting house on a marae. The Cultural Framework is the result of a series of consultations with key stakeholder groups involved in the AODTC including Mana Whenua, and AODTC whānau. It was presented at a National Kaupapa Whānau Oranga Hui in Rotorua in 2014.

*The ultimate aim of the AODTC Cultural Framework is to provide a Maori cultural context for AODTC on an ongoing basis. The framework has broad cultural concepts that embraces diversity which is designed to accommodate all types of Māori tikanga practices throughout Aotearoa. The Māori framework mirrors structures and traditional aesthetics of the interior of the wharenuī at Orakei Marae. Te Whare Whakapiki Wairua (AODT Court) He Kaupapa Māori Framework*

The Pou Oranga has recently developed a Cultural Assessment Form. The information collected in this form will assist the Pou Oranga in providing appropriate cultural advice and interventions, as well as reconnecting Māori participants with their whānau. The cultural assessment is not yet operational and is intended to be administered by case managers.<sup>39</sup>

<sup>39</sup> The cultural assessment was operationalised after the evaluation fieldwork was completed.

## 8.2 Tikanga in the AODT Court

### *Tikanga Māori practices*

Tikanga Māori practices have become an inherent part of the AODT Court. For example everyone in the AODT Court, including participants and whānau, participate in practices of himene (hymn), waiata (song), karakia (prayer). There is also a daily reading. Karakia takes place on three occasions: in the closed court session, the beginning of open court, and when court closes. At the start of court, this process provides a time of 'kia tau'/settling, putting those at ease before the court room proceedings begin and again at the close of court. A haka<sup>40</sup> is usually performed for Māori and non-Māori participants graduating from the AODT Court.

One graduation ceremony takes place in the AODT Court. A celebration of the graduation is held on a marae or at another suitable community venue (section 13). Whānau are invited to the court room ceremony where there are speeches by the participants who describe their journey through the AODT Court. Many whānau choose to attend He Takitini graduation celebration. The Pou Oranga and MCAG worked collaboratively with the AODT Court and Ngati Whatua to host the first He Takitini.

### *Pou Oranga role*

The Pou Oranga (Māori cultural advisor) is an intrinsic part of the AODT Court and is available to contribute to the discussion on who is accepted into the AODT Court at pre-court team meetings as requested by the AODT Court judge. The contract for the Pou Oranga role is held by Odyssey House, funded by the Ministry of Health. The current Pou Oranga is an employee of Higher Ground.

The role of the Pou Oranga is organic and has evolved with the AODT Court and participants. The purpose of the Pou Oranga role (as per job description) is to:

- attend and participate in the Auckland and Waitakere AODT Court days (providing cultural safety, conducting appropriate Mihi/welcome and Poroporoaki/farewell processes for participants, and cultural support)
- establish Māori cultural processes and procedures (tikanga) within the AODT Court
- support the AODT Court treatment team as required (case managers, peer and operational support workers and other staff), including the provision of tikanga training
- develop collaborative relationships with local marae
- develop Māori cultural and AOD recovery pathways for Māori participants
- develop kaupapa whānau oranga support structures for participants.

Key attributes needed for the Pou Oranga role (as per the job description) are extensive experience in Māori culture; knowledge of rehabilitation of AOD addiction; knowledge of 12-step programmes; relevant training and qualification for teaching; and the ability to engage clients, stakeholders and provide supervision.

Initially, the Pou Oranga envisaged the role would accommodate face-to-face or 'kanohi ki te kanohi' visits to all Māori participants in custody. The Pou Oranga considered this a positive intervention as it provides Māori with an opportunity to connect with a Māori figure.

<sup>40</sup> The haka is a fierce rhythmical dance (Ryan, 1997), that expresses pride, strength and unity.

It also enables the Pou Oranga to gather more information on how participants are tracking and whether a cultural intervention may be required, such as reconnecting with their Māori side or Māori whanau.

To date this function is performed on a case-by-case basis, as requested by the AODT Court judge and team. The time required to visit all Māori participants/potential participants in custody meant the Pou Oranga was not sufficiently accessible to support the AODT Court team during court sessions and pre-court team meetings.

### ***Māori Cultural Advisory Group (MCAG)***

MCAG was formed as a collaborative roopu/group, to provide advice and cultural support to the Pou Oranga. It is also a strategic group discussing issues and as a result has developed a Cultural Framework for the AODT Court (refer section 8.1). Some members can also stand in for the Pou Oranga role in court as required.

The group meets on a two monthly basis. MCAG is comprised of cultural advisors from the AOD treatment providers (Odyssey House, Salvation Army and Higher Ground), mana whenua representation, representation from Hoani Waititi Marae, and wider Māori service providers involved in AODT Court work.

While MCAG does not have an official mandate, it is evident that they have a keen interest in ensuring that the AODT Court is successful in the recovery of Māori participants. The group is still in its infancy and is gathering momentum by including other groups such as a member of the Waitakere Law Society.

MCAG have initiated a stakeholder group meeting on a quarterly basis. The stakeholder group meeting is attended by representatives from Department of Corrections, service providers, community leaders, marae representatives, and current participants and graduates of Te Whare Whakapiki Wairua. Consultation with the stakeholder group includes discussion of tikanga issues in the AODT Court; participants' engagement with assessments and how well they are travelling in their recovery journey; and to what extent treatment programmes are tikanga appropriate.

### ***Māori AOD treatment***

Currently the contract holders of the AOD treatment services are mainstream providers. These organisations have cultural advisors in place, a Māori strategy and implement Māori specific programmes (such as Te Reo classes, kapa haka). However, they are not a Māori service provider and therefore do not provide a kaupapa Māori service.

There are no contracted Māori AOD treatment providers in Auckland. Hoani Waititi Marae and some Māori AOD providers such as Te Ara Hou (in South Auckland) provide support services to Māori including those involved in the AODT Court so they do not 'fall through the gap' during recovery. Te Ara Hou has capacity of four beds and, while providing services to the AODT Court, is not part of the treatment network.

MCAG members recommended further consideration into the possible benefits of contracting Māori AOD providers to give AODT Court participants the option of being able to access kaupapa Māori services.

### ***Stakeholder feedback on what is working well***

Tikanga Māori practices are undertaken consistently in the AODT Court and as such are becoming bedded-in to the AODT Court. Support and commitment by the AODT Court team and in particular the AODT Court judges have had a positive effect on the acceptance of tikanga in the AODT Court. The Pou Oranga reflected that the AODT Court team are more informed about tikanga Māori processes and generally confident with the integration of tikanga in the AODT Court.

The MCAG members felt that the acceptance and daily engagement of tikanga practices in the AODT Court had a positive impact for Māori participants by creating feelings of connectedness and that a genuine approach to their well-being has been taken. There is also a sense of familiarity for participants who are re-connecting with Te Ao Māori.

The evaluation team's observation of the AODT Court and feedback from the AODT Court team and stakeholders suggests the role of the Pou Oranga is working well. In particular, with regard to embedding tikanga within the AODT Court and establishing a Māori network to support the AODT Court.

The Pou Oranga reflects that the role has been strengthened through the development of support networks, including the MCAG and independent cultural supervision, support and assistance from kuia and kaumatua.

Some stakeholders reflected that while there had been little consultation with Mana Whenua (Ngati Whatua in Tamaki Makaurau/Auckland) in the establishment of the AODT Court, the relationships with these groups have strengthened. This is facilitated through the relationship developed between the AODT Court judges, Pou Oranga and MCAG. Hoani Waititi Marae in West Auckland has strong links to the AODT Court due to the work and relationship it has had with one of the AODTC judges. Members of the MCAG have relationships with Ngati Whatua and strong links to Orakei and Hoani Waititi Marae.

### ***Stakeholder feedback on challenges***

#### **Sustainability of tikanga practices in the AODT Court**

While tikanga Māori practices are being bedded-in to the AODT Court, some stakeholders reflected that there is a risk to the sustainability and continued use of tikanga Māori practices with a reliance on the Pou Oranga and AODT Court judges to keep the momentum of incorporating tikanga in the AODT Court.

Further embedding of tikanga Māori practices can be strengthened through training on the meaning behind the practices. The Pou Oranga and members of the MCAG reflected that training in tikanga is lacking for current and new AODT Court team members. While consistent use of tikanga practices in the AODT Court provides training in practice, it does not develop understanding of the meaning and the reasons of how and why these practices are used in Te Ao Māori.

## Strengthening relationships

The strengthening of relationships with Mana Whenua - Ngati Whatua and the AODT Court continues to improve; however, the relationships seem to be dependent on key roles (Pou Oranga, MCAG and the AODT Court judges). Some stakeholders reflected that there seemed to be reduced presence from Ngati Whatua in the AODT Court after a change in the AODT Court judge who maintained the relationship. Further consideration is required into how to sustainably strengthen relationships.

The sustainability of the MCAG is also unclear with no formalised Memorandum of Understanding or provision of resourcing to support the group and recognise their contribution. MCAG members noted that the role of the group could further evolve and has the potential to be a 'mangai' (mouthpiece) for the positive outcomes they are witnessing for Māori AODT Court participants, such as commitment to changing their lives, and reconnecting with whānau and tamariki.

## Pou Oranga role scope and capacity

The Pou Oranga works across both AODT Courts and may work with all of the AODT Court participants in some form. It is a position that can and does provide a range of services to both Māori and non-Māori. While the Pou Oranga job description is evolving, role boundaries are unclear and there are challenges in defining how to effectively deliver all aspects of the role with the existing capacity.

One MCAG member described the role as "incredibly hard...." and said that "tikanga affects everything". Further consideration is required into the structure and capacity required for the Pou Oranga role across the AODT Courts to best meet the needs of Māori and non-Māori participants.

## 8.3 Participants' experiences

Overall, participants interviewed appeared to accept and are supportive of tikanga practices in the AODT Court such as karakia (prayer), mihimihi (welcome speech), waiata (song). There appears to be ownership and pride in the use of tikanga practices by both Māori and non-Māori participants.

*It's good because it's, that's mana itself. Just hearing that gives you more confidence, I guess, to change.* Current participant

From long term participants (not exclusively Māori) there seems to be an expectation that tikanga processes take place in the AODT Court. While tikanga protocols have become the norm in the court, new participants may be taken aback at first as they are not familiar with them.

For some participants, tikanga is seen as a key part of the AODT Court, and was seen as another demonstration that the AODT Court is different from other court rooms.

*Having that attitude in the court was nice... [It's like] setting up arms and saying that we are different and the purpose is different.* Graduated participant

*That's just like life aye, you live in New Zealand, Māori culture is where it's at. It wasn't forced on us, but you know it's there, it's all good.* Graduated participant

One participant interviewed felt that the use of tikanga in the AODT Court seemed tokenistic, not a true reflection of culture, and that the engagement between participants and the Pou Oranga seemed scripted, rather than genuine and unique for each individual.

A small number of participants interviewed felt the use of tikanga was imposing Māori culture on non-Māori participants. They were interested in how other cultures could be incorporated.

There were mixed responses from participants on the Pou Oranga role. Some participants interviewed said they did not have a relationship with the Pou Oranga outside of the court room.

Other participants interviewed viewed the Pou Oranga role positively in that it offered them a chance to reconnect with their culture and their whānau whom they may have lost connections with through their offending. Several graduates interviewed had approached the Pou Oranga for advice and support on extending their knowledge in Te Reo me ona Tikanga.

*It has put me back in touch with my culture and that is one of the things that I am most proud of here. I lost touch with my culture and what it meant to truly be a Māori and a proud Māori. I have gone back to learning Te Reo and learning karakia, waiata and that and just the actual looking back on the very proud history that we have and that Māori in this country have. My whole attitude towards things has changed. Current participant*

## 8.4 Whānau involvement in the AODT Court

Whānau are not always visible during the participant's journey through the AODT Court. Some come to Determination Hearings and may appear in the court room intermittently. In general, a number of factors prohibit whānau from attending court including costs (e.g. travel and parking), breakdown of relationship with the participant due to AOD and offending issues, their inability to take or get time off work, and their whakamaa (embarrassment/shame). For whānau, they may be whakamaa to attend due to their whānau member being a repeat offender. For the participant, they are whakamaa and do not want to embarrass their whānau any further so do not invite them to the AODT Court.

Since the formative evaluation the AODT Court is actively seeking to increase appropriate whānau engagement in the court process. Defence counsel are now being asked to invite whānau to the Determination Hearing so they can gain an understanding of what their relative is committing to. There is a belief among some stakeholders that whānau involvement strengthens and enables better outcomes for participants in their recovery.

For some participants, however, to address their addiction issues they may need to disengage from whānau and friends whose behaviour reinforces their addiction. In these situations many participants receive support from 'kaupapa whānau' such as peer support workers, who participants rely on and work with through their journey of recovery as if they were 'toto whānau' (blood relatives).

### **Whānau experience**

The two whānau members engaged with the AODT Court and interviewed for the evaluation spoke of their positive experience at the AODT Court. They voiced their

previous unsuccessful attempts and frustrations to support their relative to address their AOD issues. Whānau interviewed highlight that through the recovery journey their relationships with participants have begun to be strengthened. For some whānau, who struggle with their own addictions, association with the AODT Court also supports their own recovery journey.

*Gives people another chance, doesn't just penalise them. [Name] got in the court because of repeat offending. She needed help and I was trying to give her help but I was a user as well so it was a bit hard. Then I said if you are going to go through the court I will give up drugs and alcohol too and I went cold turkey. We've done it together which is a lot easier. Whānau*

### **Stakeholder feedback on challenges**

Stakeholders reflected that some Māori participants do not have a desire to reconnect and engage with toto whānau early on the AODT Court programme, but they may want to reconnect at some point during their recovery journey. While peer support worker and case manager roles include engaging with whānau, feedback from stakeholders suggests work to re-engage participants with whānau could be further improved. There is a view from some stakeholders that improving connections with whānau may increase graduates' support network after they leave the AODT Court.

*More work could be done around family – the environments that they are going back to – this is a piece of the puzzle that's missing. This could be done as participants are transiting through the court at key moments; you need to prepare the family to accept the person back following recovery to learn how to live with them without their addiction. As early as possible engage the family and ask at what stage they would like to be involved; they do turn up to court; once you engage one, more of the family will come in; a lot have their own problems with addiction; work with families would increase the longevity of a person's recovery; cultural changes in the family take time. Stakeholder*

MCAG members suggested one way to do this with Māori participants is to have a specialist role as a Māori liaison to work with whānau from a Māori cultural perspective. The introduction of the Cultural Assessment Form by the Pou Oranga may also assist Māori participants identify a desire to reconnect with toto whānau early on in their journey of recovery. The MCAG are also interested in doing more work to strengthen whānau involvement, and preparing an environment that sustains the participant's recovery.

## **8.5 Evaluative assessment and areas to strengthen**

### **Evaluative assessment**

Tikanga Māori processes are in place and have largely been embraced in the AODT Court.

### **Areas to strengthen**

- Further work is required to embed an understanding of tikanga in the AODT Court, cement relationships with Mana Whenua, and enhance the ability of the AODT Court team to work with whānau.
- Consider the role scope and capacity for the Pou Oranga role.



## 9. Victim engagement

This section draws from interviews with the all stakeholders, particularly the police prosecution and court victim advisors, to describe how victims are involved in the AODT Court process, including restorative justice processes. Developments since the formative evaluation are described.

### 9.1 Changes and developments since the formative evaluation

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)
- applying 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.

Legislation provides that a Victim Impact Statement can be given to the judge at sentencing. Given the AODT Court model involves delayed sentencing, victim views are sought, where possible, by New Zealand Police prior to the Determination Hearing and made available for the pre-court team meetings.

When accepted into the AODT Court, victim views are represented by the AODT Court police prosecution. Both New Zealand Police and the Ministry's victim advisors manage the flow of victim information to the criminal court from the first appearance of the defendant until sentencing.

### 9.2 Victims informed and involved in the AODT Court process

The formative evaluation found that victim views were not well represented in the Determination Hearing process. Since the formative evaluation there has been an effort from New Zealand Police to ensure the inclusion of victim views in the AODT Court. The evaluation does not have access to data on the extent to which victim views are included. Stakeholder feedback suggests there has been some improvement with greater inclusion of victim views prior to Determination Hearings. Questions remain, however, on whether the AODT Court can further improve the response to victims.

*We are trying to [include victims]. I don't know how well we're doing, but we are trying.* Stakeholder

*We need to step it up, stepping up and contacting and putting it [victims] at the forefront. I think we've all forgotten, because it's such an offender focused court, about the victim.* Stakeholder

Previous concerns also remain regarding the time required for police to contact all victims between a referral from the District Court and the Determination Hearing, particularly in cases that involve multiple victims.

Police and victim advisors contact victims before defendants appear at the Determination Hearing, and when a defendant is being considered for the AODT Court. Communication with victims before the Determination Hearing needs to be carefully managed, as defendants may not be accepted and may not plead guilty. Victims are again informed when the defendant is accepted into the AODT Court.

*At determination it's not always guaranteed that the applicant will get in anyway so all that will have given the victim the false hope that the defendant will plead guilty to the charge to get into the court so I think we have to be quite careful in managing that. Stakeholder*

Some stakeholders suggested a hard copy pamphlet on the AODT Court for victims may be helpful to aid their understanding of the AODT Court process, how participants are monitored, and how victims may be involved.

Victims of participants in the AODT Court may choose to be informed at the final outcome of the programme (i.e. termination or graduation), to be updated at significant events (such as phase progression), or not to have any further contact.

Both police and court victim advisors said they inform victims about what the AODT Court is about (for example, explaining that the AODT Court attempts to address the cause of offending, that it is a long process, and, if agreeable, that they may be contacted for a restorative justice meeting).

*If a defendant becomes accepted as a participant we will inform the victims that 'just to let you know that your offender who has a drug or alcohol addiction that drove them to offend is now in a court where we are helping them rehabilitate'. We are trying to explain the process as much as we can.... making sure that they are aware that it's a long process 18 - 24 months, and letting them know that further down the track you might be contacted for a restorative justice meeting. Stakeholder*

There appears to be a lack of role clarity and possible duplication between police and victim advisors in informing victims about the possibility the defendant may take part in the AODT Court and in keeping victims informed of significant events in the AODT Court process (where requested).

*The officers in charge advise them [victims] of the outcome of any investigation, whether someone has been charged, whether bail has or has not been opposed. Beyond that point, the court process can go very quickly or be very delayed depending on a range of factors (e.g. how they plea, bail issues). Then division of responsibility then becomes blurred, it could be the officer in charge, the prosecutor or the VA once they are in the system. Stakeholder*

Victim Impact Statements are the responsibility of police. When participants are being exited or preparing to graduate from the AODT Court, victims are given the opportunity to revise their Victim Impact Statement.

Both police and victims advisors commented on having a heavy case-load, particularly since the changes to the Victim Rights Act. Because of large case-loads it is difficult for victim advisors to give special attention to victims whose cases are before the AODT Court,

particularly because these are not the most serious cases on the victim advisor case-loads which include cases of family violence, sexual violence and homicide.

### **Response from victims**

Based on the feedback from victim advisors and police, the response from victims appears to be mixed. For some victims, the AODT Court process is considered long and means the final resolution of their case is too delayed from the offence. In some instances victims may no longer want to be reminded of the offence over the length of the AODT Court process.

Other victims are interested in the court and pleased that the defendant is getting the intervention required for a long term positive impact. For some victims the main consideration is how the defendant will be monitored while on the AODT Court.

## **9.3 Restorative justice**

Where appropriate, the AODT Court judge may direct participants to restorative justice, generally in the third phase of the AODT Court. Where there is an identified victim, who agrees to participate, there is a presumption that participants will take part in a restorative justice process. Where a victim does not exist, consideration may be given to restorative justice with a community panel, indirect restorative justice with New Zealand Police representing victims' views,<sup>41</sup> or the participant writes an apology letter to the victim(s).

At the time of the formative evaluation, the inclusion of restorative justice was still evolving as participants moved through the AODT Court phases. Restorative justice processes were being brought into the end of phase three, based on the view that sustained sobriety and AOD treatment could lead to a more genuine apology. Some stakeholders raised concerns about the length of time between the offence and the restorative justice process for victims.

These concerns on timing remain. Stakeholder feedback suggests that when victims express an interest in the AODT Court process and the possibility of a restorative justice process, the interest seems greatest at the start of the AODT Court process.

*They [victims] are usually more interested in the pre-determination stage and what is involved, what happens throughout it, and what happens if they don't stick to the court. As time goes on, you find that the victims disappear. As I said, they feel that the offender has been held accountable so they don't want to be re-victimised. It is a really long process and sometimes before they have even got to the predetermination stage they have already been in and out of the court system for several months. Stakeholder*

The evaluation does not have access to data on the number cases with restorative justice meetings, or the type of meetings held. Feedback from stakeholders suggests there have been few restorative justice meetings with victims, reflecting the number of graduates, the nature of the offending (and whether there are any victims), and whether victims want to take part given the length of time that has passed since the offence.

Feedback from the team suggests even where victims are identified, the meetings have mostly been with a community panel as too much time has passed and victims are no

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<sup>41</sup> Review feedback states that New Zealand Police have been asked and have declined to represent victims in this manner in restorative justice meetings.

longer interested in being engaged. For some victims being re-contacted about an offence that occurred years ago can be re-traumatising.

*With RJ you just don't know if people are going to be willing to participate, even though you canvass them, views change over time. We find that the longer the process has gone on the more people have moved on and are less likely to want to be involved in RJ. Particularly for burglaries, it maybe six months before it goes to court and another three months to make a referral. You could be looking at two years from the time of the offence to RJ. Stakeholder*

In standard court processes, restorative justice meetings are usually held after a plea has been entered. At the time of data collection, at least one AODT Court participant had attended a restorative justice meeting before the Determination Hearing.<sup>42</sup>

Some questions have also been raised over who is best placed to contact victims for restorative justice purposes: restorative justice staff, who hold the expertise in this area, or AODT Court police prosecution for consistency of relationship. To date, AODT Court police prosecutors have been asked to contact victims in the first instance.

## 9.4 Evaluative assessment and areas to strengthen

### Evaluative assessment

- Overall, there is increased victim involvement in the AODT Court since the formative evaluation. However, there is room for further consideration into appropriate victim involvement in the AODT Court.

### Areas to strengthen

- Further discussion and consultation between victim advisors, Police, and the AODT Court to clarify the best process for involving victims in the AODT Court (including restorative justice meetings) and to clarify roles.

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<sup>42</sup> Since 6 December 2014, s24A of the Sentencing Act 2002 has been enacted which requires referrals to restorative justice. Since that date the AODT Court has seen the occasional case where there has already been a restorative justice meeting while the case is awaiting determination in the AODT Court.

## 10. Treatment

This section draws on interviews with the AODT Court team, treatment providers, and participants to outline changes since the formative evaluation, and perceived strengths and challenges in the provision of treatment for AODT Court participants.

### 10.1 Brief overview

The Ministry of Health has contracted Odyssey House as the lead provider of AOD treatment services. Odyssey House created a treatment network, which is a collaboration between Odyssey House, Higher Ground and the Salvation Army. The following treatments are available as part of the AODT Court programme:

- detoxification
- pharmacotherapies
- residential treatment
- intensive outpatient day programmes
- specialist drink driver programmes
- community outpatient counselling services
- case management overview function.

The formative evaluation found that treatment pathways and relationships were generally working as intended. Good integration existed between the AODT Court and the treatment programmes, and the governance arrangements were working effectively. Participation in and support to participants in the AODT Court from AA and NA was a strength of the AODT Court. Participants were, in the main, positive about their treatment programmes, although treatment was not without its challenges.

Some implementation issues identified at the formative stage were a lack of opportunities to prepare participants for treatment, a limited range of treatment types, peer support workers lacking capacity to undertake all that was expected of them, and a significant unmet need for safe community accommodation for participants. It was suggested that the AODT Court Steering Group and the AODT Court Treatment Network Steering Group consider whether there were any solutions to the identified gaps in treatment types and that the scope of the peer support workers' role be reviewed.<sup>43</sup>

### 10.2 Changes and developments since the formative evaluation

#### Assisting treatment readiness

CADs are now holding treatment readiness groups in the prisons and in the Wings Trust transitional housing facility. As of 20 April 2015, around 60 AODT Court participants have attended a treatment readiness programme.<sup>44</sup>

<sup>43</sup> The Ministry of Health has since reviewed the scope of the peer support role.

<sup>44</sup> The number of AODT Court participants at the treatment readiness programmes may be an underestimate, as counts are based on the referral source (i.e. referral from AODT Court). If a case is originally referred to CADs from another source, it may not be counted here.

These groups assist participants who are waiting for treatment places to understand the behaviours expected of them in programmes, such as emotional regulation, self-expression, non-threatening assertiveness, learning to make eye contact, and ability to work to a timetable. In the men's prison, treatment readiness sessions are run separately for segregated and non-segregated prisoners and can include other prisoners waiting to enter a drug treatment unit or residential programme. The sessions are also suitable for AODT Court participants who have been exited from a residential programme and returned to prison, as the sessions help participants to understand the reasons why the treatment programme had not been completed and whether they may be more suited to alternative programmes. In the women's prison, because of the small numbers, treatment readiness is generally delivered one-to-one.

### **Wider range of treatment types used**

The AODT Court is now operating almost at capacity, putting more pressure on the availability of places in treatment programmes. Some stakeholder perceive there to be a shift in emphasis from using residential treatment towards using a range of community treatment options. However, use of community based outpatient services continues to be dependent on the availability of suitable community housing. Provision of numeric data is required to obtain a clearer understanding of treatment use and pathways.

Stakeholders thought that as the AODT Court consolidated more positive risks were being taken around using a range of treatment options to meet a range of needs, rather than using residential programmes to manage the risk of having offenders living within the community. Examples of community provided programmes being used were the Salvation Army 90 day programme, CADS groups,<sup>45</sup> peer support groups, drink drive group, and the Man Alive stopping violence programmes. The 90 day programme is particularly designed for high risk offenders with multiple complex needs who would not be able to manage their behaviour in a residential setting.

*Everyone thought that the day programme would be the less risky programme for the less risky people, but we actually wrote it for the opposite people. Stakeholder*

Providers noted that there were increasing numbers of Māori clients in treatment and partly attributed this to the AODT Court placements, both because the system for selecting and accepting offenders into the AODT Court is favouring Māori, and that there is an over-representation of Māori in the justice system.

### **Reducing demands on providers**

The role has become less demanding over time for the lead treatment provider. In the first two years, establishing the AODT Court had required much planning and many meetings and discussions between the lead treatment provider CEO and the judiciary. There were also demands on the other providers who spoke of the complexity of managing their programmes in the AODT Court context. This required considerable time and effort which had not been anticipated or resourced. The demands had begun to reduce during the last four to six months as processes became more established.

<sup>45</sup> The main CADS programme used in the AODT Court is the CADS Abstinence Programme (CAP) (formerly known as the CADS Intensive Outpatient Programme (IOP)).

*As you get further away from inception, things are working a lot better, a lot easier than for the first two and a half years. For the first two and a half years this took a huge amount of my time, much of which was never resourced because.... we are the treatment lead, we are doing a lot of work between the judiciary and treatment; lots of meeting, lots of discussion, lots of sorting out, lots of planning; and it's only been in the last four to six months that I've felt confident enough to stand back. Stakeholder*

*So the further we get away from the inception of the pilot, the more we get to the business as usual, or it becomes business as usual rather than something new that lurches from left to right. Stakeholder*

### **Changes to treatment delivery**

The treatment providers stated they have further developed their delivery of programmes and internal processes to meet the challenges of working with AODT Court participants, for example:<sup>46</sup>

- Moral Reconciliation Therapy (MRT), a cognitive behavioural therapy, has been adopted both in pre-treatment and in residential treatment programmes as a therapy for people with AOD dependency who are also offenders. One of the developers of MRT had visited New Zealand before the AODT Court began and trained approximately 20 people who work in recovery, as well as two trainers. While the therapy is work-book based, peer support workers, case managers and judges are also using the techniques in their interactions with participants.
- Treatment providers encourage the placement of participants into less intensive support accommodation before placement in the more intensive therapeutic communities so that they can participate in treatment readiness programmes.
- Providers noted that the judges' knowledge of therapies and treatment systems had grown over time, contributing to more skilled decisions relating to treatment placements.

### **Addressing housing and employment needs**

A housing coordinator has been funded by the Ministry of Health and employed by Odyssey House for the last six months to develop housing options within the community. One transition house supervised by an AODT Court graduate has recently been established for three participants who have completed treatment. The housing coordinator also works with landlords and agents, ensures participants are receiving their WINZ entitlements, and offers budgeting advice. Additional beds at the Wings Trust have also been funded with a total of five for pre-treatment participants and five for post-treatment participants.

The AODT Court has access to Workwise to assist participants into work. A relationship has also been established with the Howard League who organise retired teachers to offer literacy assistance to AODT Court participants and other offenders.

The national steering group stated they are to approach MSD with a view to finding out about any support role that agency might play in addressing emerging needs among AODT Court participants.

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<sup>46</sup> Reviewer feedback has reported that since the fieldwork period Odyssey House has introduced the 12-step programme.

### **Clarity on peer support worker information sharing**

Since the formative evaluation, the rules about information sharing have been clarified for peer support workers within the context of the AODT Court. Previously, peer support workers had discretion to decide whether or not to disclose information revealed in their interactions with AODT participants. This approach was inconsistent with the AODT Court's need for transparency of information sharing to balance judicial and treatment requirements, and potentially created risk for the peer support workers. Feedback from peer support workers suggested the move towards open disclosure has not affected their relationships with participants.

## **10.3 Stakeholder perceptions of what is working well**

### **The treatment steering group and the treatment/court interface**

The treatment steering group, including treatment provider CEOs, judges, cultural representatives, and managers of CADS, case management, and peer support was regarded by the treatment providers as a strength of the AODT Court. It was a forum for openly discussing problems and a willingness to reach compromise was thought to contribute to its success.

Stakeholders said that good relationships and communication at all levels between the treatment providers and the courts had enabled the resolution of most issues. Meetings and phone calls between the lead provider CEO and judges had facilitated this. Treatment providers had also been welcomed into the courts and the judges had been welcomed into the treatment centres. Clear communication between all involved in the AODT Court team and network was also seen as a strength and was important when working with the complex behaviours of the participant group.

### **Improved pre-treatment preparation and pre- and post-treatment accommodation**

There are perceptions among some stakeholders that the rate of early discharge (either when participants discharge themselves or are discharged) from treatment programmes may have reduced. This reduction was thought to have been because of the treatment readiness programmes coupled with a preference to house participants in the community for a period to prepare them for a residential programme. The availability of more community beds, particularly at Wings Trust, had meant new participants could be released from prison earlier and could be prepared for residential treatment. This accommodation also provided a safe and supported living environment post-treatment. The new housing coordinator position was also proving invaluable as participants had moved through the phases.



*The housing coordinator is able to work with individuals around their housing needs and very importantly that... not everyone needs to be in supportive housing, some people can actually live independently with their families with the right support. Philosophical things that apply to you and me also apply to people in the drug court; they want to live with their families, they want to live with their partners and loved ones; we just need to make it as much as possible a safe and drug free. Stakeholder*

### **A range of treatment options**

Some stakeholders believed the AODT Court was well resourced in terms of treatment beds and community based programmes, while others were concerned about the length of waiting lists. Although there were waiting lists on most programmes, the system was thought to be working better through greater prioritising and flexibility. There are a number of different options so that the type of treatment can be tailored to participant need in terms of intensity, length, and whether community based or residential. For example, participants with physical health issues, specific family commitments, and who would not cope with the intensity of a residential therapeutic community had the option of a good quality day programme. The increased emphasis on day programmes was seen as a strength, particularly the 90 day programme being run by the Salvation Army.

### **The 12-step movement**

The emphasis on participation in the 12-step communities continued to be seen as a huge strength of the AODT Court. Stakeholders said that the strong links with the 12-step movement meant that there was on-going mutual help within the community for participants working through the phases and for graduates.

### **Benefits for treatment providers**

The experience of working together in the context of the AODT Court had brought the treatment providers and treatment networks closer together. All of the treatment providers interviewed commented on the far-reaching benefits of the collaborative relationship formed as a result of the implementation of the AODT Court. They spoke of an improved competence and renewed focus on client outcomes. The treatment providers were very enthusiastic about the AODT Court and believed it had the potential to change lives.

## **10.4 Stakeholders' perceived challenges**

### **Responsibility for continuing care**

The case management team stated that continuing care is not generally available for all AODT Court participants. Some treatment providers offer continuing care in the form of supported accommodation and support groups, but this was not co-ordinated for all AODT Court participants. The work of supporting those who have completed treatment through lapses was tending to fall on the case management team who did not have the capacity to do this work and believed that this was the responsibility of the treatment providers.

### **Need for more resources for treatment in Auckland**

Treatment providers stated that demand for treatment in Auckland was high, from the community and from others in the justice system as well as from the AODT Court.

Moreover, new treatments that were being introduced, such as MRT, were an additional cost to the treatment providers. Stakeholders said an additional dedicated on-going day programme linked with the AODT Court in Auckland was also needed, with other services such as counselling and drug testing attached. There would be less stigma for AODT Court participants attending a programme dedicated to them. One treatment provider thought that as the pilot progressed, there was room to move resources from areas under less pressure into areas under more pressure; for example, assessment resources were less utilised once the AODT Court reached capacity, but more case management and peer support was needed as more participants moved into phases two and three.

### **Judicial and clinical differences**

While relationships between treatment providers and the AODT Court had been positive, stakeholders stated there remained some tension between the clinical leadership and judicial leadership in their philosophical stances and in each meeting their responsibilities and requirements. This was most evident when there was disagreement over particular cases, for example deciding a treatment recommendation or dealing with negative behaviour. The clinical staff, in particular, could become uncertain as to where their accountabilities lay in these situations in that that they did not know whether they were accountable to clinical leaders or to the judge.

Stakeholders also spoke of philosophical differences, for example over whether harm reduction or abstinence was the goal of treatment; or how much self-efficacy should be expected as opposed to doing everything for a participant to ensure they succeed. There was also divided opinion over the effectiveness of MRT and whether it is an ethically sound model to use with the AODT Court participants.

### **Defining the peer support workers' role and managing their capacity**

Based on feedback from stakeholders and an international drug court judge interviewed in the formative evaluation, having peer support workers in the AODT Court is unique to the New Zealand pilot and of interest internationally. Stakeholders commended the inclusion of peer support workers in the AODT Court, noting that they provide participants with evidence that recovery from addiction is possible. As in the formative evaluation, there is evidence that the boundaries of the peer support workers' role are not clearly defined and they continue to lack capacity to deliver to the expectations of their unique role.

Peer support workers have a caseload of over 20 participants (a caseload of 15 was deemed more ideal). At times, peer support workers step in to assist other team members who are under pressure to meet the requirements of the Court (e.g. case managers with their reporting, getting HOP (travel) cards or other incentives, transporting participants to court when the Operational Assistant is not available).<sup>47</sup> Undertaking these wider activities can be in conflict with the philosophy that underpins peer support workers. Examples include: being asked to take participants to appointments conflicts with seeking to build participants' self-efficacy to attend appointments on their own; and undertaking reporting for case managers creates a directive relationship rather than a facilitative one. The Ministry of Health (2014) has undertaken a review of the peer support worker role. It is hoped this report will enable the development of strategies to address caseload and role boundary issues for peer support workers.

*There is even more to be gained from the peer support role than what we are currently getting. They have the experience of addiction and their understanding*

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<sup>47</sup> The Operational Assistant is a new role introduced to the AODT Court treatment team since the formative evaluation.

*of building on personal strengths and what I like to term, 'getting a life'. This term is about when you take drugs and alcohol out of someone's life you have to put other meaningful things in. The peer support have been through that process and built themselves significant family friends, social relationships, and work and education training. They are experts in how to do that when you feel like it is an impossible dream... If the peer support workers were freed up a bit more to do what they were trained to do then we would get more personal responsibility from our participants and we would use some of their skills and strengths a bit better. They do too much running around work when they have a whole load of valuable expertise that could be used better. Stakeholder*

## Unmet needs

Stakeholders identified the following unmet needs.

- All stakeholders spoke of an on-going need for housing for participants. Housing was needed to: reduce de-motivating time spent on remand in custody; avoid treatment decisions being based on a lack of safe living arrangements; accommodate participants in transition; and provide long-term accommodation, which is increasingly needed as more participants are finishing treatment and needing safe housing to support them in their recovery. The court spends much of its time on housing needs. More transitional beds for women are also needed.
- Stakeholders stated that there was a need for programmes and support services dedicated to women. Because of the small number of women participants it was difficult to provide dedicated services, but women could find it difficult to cope with generic programmes and services which tended to be male dominated. Treatment providers stated that equal access to services for men and women was a chronic problem in the AOD treatment sector. Childcare was an important issue. Specialised trauma and abuse counselling was also needed, especially for women. A treatment leader said that there is good evidence for addressing this at the same time as addiction treatment.
- Some stakeholders suggested that psychological and psychiatric specialist services were needed for participants with antisocial personalities and mental health issues. Psychologists and psychiatrists could advise the treatment team on matters such as seriousness and risk and pharmacological treatment, and provide neuropsychological assessment for those with apparent cognitive disability. The knowledge, expertise, evidence based practice, and a sound rationale for different models provided by these advisers would strengthen case management.
- Some stakeholders thought there was a need for a social worker to assist participants with getting access to basic life needs, such as clothing<sup>48</sup>, budgeting, dentistry, applications to WINZ, and employment.<sup>49</sup>
- Section 8 of this report discusses the lack of a Māori AOD treatment provider in Auckland.

## 10.5 Participants' experience of treatment

A majority of the current participants reported positive experiences with treatment providers. They commented that their programmes of rehabilitation included within treatment provider facilities, counselling, and attendance at AA meetings.

<sup>48</sup> Clothing Angels, a small volunteer agency, is providing some clothing for participants.

<sup>49</sup> Review feedback also suggested that access to medical services is an important issue.

A majority agreed with these forms of treatment to assist in their recovery. Some participants commented they were initially not used to the treatment environment which required them to talk openly and honestly about their experiences and delve deep into the core issues of addictions and personal, emotional and psychological issues. Participants often found this challenging, and establishing trust was key to having such discussions.

Those who had previous residential treatment attempts were more aware of what was going to be involved, and could adjust to the environment a bit easier.

*I was in treatment before so I knew what to expect and I knew it was a whole other place. Going into residential my first day it wasn't as freaky as for other people, it was pretty alright for me getting into that part of the treatment. Current participant*

Some also reported that maintaining relationships with other people in the treatment facility was difficult as they are with the same people for an extended period and have minimal contact with people not in the facility.

*When you are in treatment what makes it hard is outside influences. Relationships and things like that. You're there 24/7 at rehab and you can't leave and you are there for months. Just keeping those relationships going is hard. You have visitors once a week but it's pretty much no contact... You have no freedom. Current participant*

While participants overall found the treatment providers to be great value, some participants felt that particular treatment providers were more valuable or suitable for them than others, particularly for those who had previous treatment attempts and already knew about treatment at different places. One participant, for example, did not enjoy Odyssey House because it was not a spiritual programme and there was no 12-step programme.<sup>50</sup> There are also instances of participants running away from treatment that they did not like. Finding a treatment provider that met participants' individual needs was considered important, and some noted this was done through experience of trial and error.

Some participants acknowledged and liked that their treatment plans were designed specifically for them and their treatment needs, that it wasn't a one-size-fits-all approach, and that everyone in the AODT Court had a pathway. Participants tended to trust that the plan set for them may be different to others and that it was in their best interests.

*I was watching other women or men getting released from the prison and going to Wings, doing it that way, I didn't realise we have all got our own separate, case managers and the team sort it out for us so we've got our own ways. Participant*

*I had no idea how much support was available in the community through things like CADS or Higher Ground. I had no idea all of these places existed. The court team were able to introduce me to that network and advised me about which programmes were best for me to participate in. They build me the road map and then I just got on and did it. Participant*

### **Exited participants' experience of treatment programmes**

Comments and experiences of exited participants in relation to treatment included the following:

<sup>50</sup> Odyssey House has since introduced the 12-step programme.

- Most exited participants had been involved in treatment and mentioned Odyssey House, Higher Ground, CADS, Wings Trust and the Salvation Army Bridge. All exited participants had attended AA meetings.
- Although some of the exited participants had been informed that the AODT Court was not an easy option, participants said that it was harder than they thought it was going to be. Several commented that they experienced a lot of emotions and were not used to opening up or sharing their feelings.
- Two exited participants said that they struggled with the Higher Ground programme as it touched on deep and personal issues. This appeared to be due to participants not wanting to share their stories because of the emotions that this brought up for them.
- Exited participants said that their own “selfish needs” were challenges to staying on track. Not wanting to let others down was the main motivation for trying to stay on a programme.

### **Non-AOD support needs**

Participants also talked about a range of programmes and supports they were receiving (including Man Alive, gambling programmes, parenting programmes, and MRT) or other needs. Accommodation and financial support were sometimes raised as a concern for participants. Some participants reported difficulty trying to find somewhere to live near the court they could afford, if their current accommodation was not appropriate. Some participants felt financial pressure from being in the AODT Court given that they have been unable to work for much of the time.

*Well I have been on the sickness benefit since I have been with the court. It kind of does my head in. I have enough money from them to pay for my rent and my food and stuff but nothing left over. I would like to earn a lot more money so that I can go out for dinner now and again or go to the movies or put more gas in my car and stuff like that, buy clothing, etc. Participant*

## **10.6 Evaluative assessment**

### **Evaluative assessment**

- Overall, the AODT Court treatment process is working well. Several positive aspects of treatment have been sustained or improved since the formative evaluation, such as good relationships and communication between the AODT Court and the treatment network, and the close relationship with the 12-step fellowship movement.
- Developments including the treatment readiness programmes, use of a broader range of programmes, and increased community accommodation options have further strengthened AODT Court treatment processes.

### **Areas to strengthen**

- Continue to clarify the role and workload requirements of key treatment roles.
- Provide numeric data to obtain a clearer understanding of treatment use and pathways.
- Consider whether further services can be made available where there are unmet needs such as mental health services<sup>51</sup>, social worker services, services for women, and kaupapa Māori AOD treatment services.

<sup>51</sup> While serious mental health issues are an exclusion criteria, the AODT Court acknowledge that some mental health issues will commonly co-occur with AOD dependency.

- Consider whether coordination of continuing care may be developed and how this can be balanced with increasing self-efficacy.

## 11. AOD testing

This section of the report outlines the findings from interviews with all stakeholders, including the AODT Court team, treatment providers, and the ESR.<sup>52</sup> After a brief overview, it outlines changes since the formative evaluation, considers stakeholders' perceived areas of strength and challenge, outlines the participants' experience of the testing regime, and forms an evaluative assessment of the AOD testing for the AODT Court.

### 11.1 Brief overview

All participants in the AODT Court are required to undergo regular and random AOD testing through all phases of the AODT Court programme. 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 regime. ESR subcontracts G4S for the SCRAM<sup>53</sup> anklets (which allow for 24-hour electronic monitoring of alcohol consumption). ESR has overall responsibility for 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.

The formative evaluation found that stakeholders considered the AOD testing to be a very important, yet problematic area of the AODT Court process. Suggested ways of strengthening implementation were: to facilitate agreement between the AODT Court and ESR on the expected timeliness and quality of reporting; to review the quality of testing in residential treatment facilities; and to investigate alcohol testing once SCRAM anklets were removed. The location of community-based testing sites was also not ideal for participants to access.

### 11.2 Changes and developments since the formative evaluation

Stakeholders outlined a number of changes to improve the AOD testing regime since the formative evaluation. Mid 2014, the contract between the Ministry of Health and ESR was renegotiated and became a schedule of the wider contract between the Ministry and ESR, and the scope of the service widened. The changes were:

- ESR rather than a contractor has assumed responsibility for collections in Auckland. This involved the recruitment and training of an ESR-employed team of five workers from varying backgrounds (including nursing and policing), plus a coordinator. The ESR manager in Wellington provides oversight through regular trips to Auckland. ESR has

<sup>52</sup> Institute of Environmental Science and Research

<sup>53</sup> Secure Continuous Remote Alcohol Monitor

developed Standard Operating Procedures based on a standard (ASNZ4308) for workplace AOD testing. The team are to follow the protocol, report any behaviour that could be deemed an incident, and are trained to de-escalate incidents.

It is emphasised that the collections team are to treat participants with respect but maintain a professional distance. The protocol is designed to eliminate risk around adulteration or substitution of the sample.

- Since mid 2014, ESR, rather than treatment providers carry out testing of AODT Court participants in residential treatment. ESR generates a random schedule, notifies key staff in treatment centres of the days for testing, and all AODT Court participants in the centre are called out of their programmes for sample collection on the premises.
- Random testing is now carried out on each participant five times rather than four times per fortnight.
- When requested by the judge, the ESR team carries out spot testing in the District Court building on court days; this is useful for participants who have missed tests and are appearing in court. Results are available immediately but samples are also sent to the laboratory for testing.<sup>54</sup>
- Full laboratory testing rather than on-site testing is carried out on every sample, which means that ESR can core-test for a wider range of substances including alcohol and synthetic cannabis. Breath testing has ceased.
- One central clinic has been established in Dominion Rd, which is very accessible by train and bus.
- Accountabilities are built into the reporting process for logging, investigation, follow up and reporting on issues to the AODT Court coordinator through a fortnightly KPI report. After every collection day a report is emailed to the AODT Court coordinator listing participants who did not attend, who disclosed use, or declared medication. Negative and positive results are sent a day or two later and there is a weekly report that can be uploaded into the AODT Court database. There are quarterly reports to and meetings with the Ministry of Health.

### 11.3 Stakeholders' perceptions of what is working well

Stakeholders are generally in agreement that the AOD testing regime is improving and becoming more reliable as a result of the changes, although some changes need more time to bed-in. Reporting has improved and fewer errors are being made.

A benefit of improved systems coupled with lessons from overseas drug courts is that judges report being more confident taking action over a breach. Spot tests at court were found to be particularly useful.

ESR and the treatment providers said that the testing regime in treatment centres was now working well after initial difficulties establishing a system that worked and was least disruptive to the programme. The relationship between the ESR team and the treatment staff has strengthened.

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<sup>54</sup> Reviewer feedback stated that spot testing at the AODT Court is not currently provided for in the contract between ESR and the Ministry of Health, and therefore this service has not been continued since the fieldwork period.



## 11.4 Stakeholders' perceived challenges

### Children at the clinic

ESR stated that the collections team faced a significant issue over participants bringing their children to the clinic despite this practice being forbidden. When participants arrive at the clinic for their drug test and bring children, the policy is to record the participant as a missed test. ESR staff see that the participant has met the compliance requirement to turn up, but the policy around children puts the staff under pressure to record it as a missed test. Staff occasionally become aware that children are being left on the stairs or in the street while the participant is in the clinic. In these situations, especially when there was good reason for the children being with the participant, it was a dilemma whether to record a missed test.

### Reporting issues

Real-time test results are accessible to the AODT Court coordinator, case managers and judges through a shared interface with ESR called E-Screen. The US-based service is sometimes not available and there is a high likelihood that it will be withdrawn. As described in 11.2 above, alternative reporting by email has also been instituted. While reporting has improved, the AODT Court coordinators from time to time became aware that incidents had occurred that had not been reported.

### Team capability

ESR stated that there were challenges for the new collections team in learning and adhering to the protocol. One issue was learning to keep a professional distance from the participants, despite their many contacts (130 per year).

ESR had twice neglected to update the 0800 number message so that the pattern of testing days was repeated, which impacted on the integrity of the random process. ESR stated that the integrity of the process was improving as the team built capability.

### Active avoidance of detection

The integrity of the system was difficult to maintain in the face of participants well practised in concealing evidence of their substance use. One stakeholder observed that there is considerable information available on the internet on how to avoid detection in an AOD test and that participants were well aware of this information.

### A call for observed testing

Judges have requested that the Steering Group approve a change to directly observed testing to verify the sample collection, rather than the current use of indirect observation by means of strategically placed mirrors. On the basis of practice internationally, and in light of incidents where participants have tried to cheat the drug testing, they believed that this would improve the integrity of the system. ESR argued that the indirect method was used in prisons, more suited to a context such as the AODT Court where a participant did not have the right to refuse the test, less costly, and that direct observation was more suitably carried out by a health professional.

## **New substances**

New substances not being tested for are emerging and some substances cannot be detected. ESR said there needs to be periodic review of the panel of drugs being tested.

## **Clinic premises**

The new premises on Dominion Road were unsuitable as they were on a first floor and only accessible by stairs. This presented staff safety and participant accessibility issues. New premises have been found 200 metres away on the same road.

## **SCRAM (electronic monitoring) issues**

The ESR believed participants should transition off the SCRAM electronic monitoring bracelets after 90 days but the period of use was frequently much longer as the AODT Court required that participants have SCRAM monitoring for longer. ESR stated that the equipment required servicing and the length of use limited the availability of the bracelets for new participants. The loss of some bracelets when participants absconded or were discharged was also an issue, but better systems had been put in place to prevent this.

# **11.5 Participants' experience of testing**

## **Current participants' experience**

All participants knew that the testing was imperative to their success in the programme. Participants commonly spoke about having to ring up the 0800 number not knowing if they will need to be tested, suggesting the testing is randomised as intended. For some participants, the AOD testing was something that they had to adjust to for the AODT Court. Participants believed it was important to have testing and stated their experience of testing was generally good.

*We call a message line each morning to see if our group is testing for the day...we ring up and see what time we have to be in by. So we go in and show our ID cards and they tick us off on the list to say we appeared for the day and they have their facilitators there who keep a close eye on us and make sure we aren't doing anything shady with the urine test. They get us to sign some name tags and label them and then that is it done until the next time. I think it's good. It's more of a conscious thing. Knowing that I have those coming up, it is just another little thing that reminds me to stay sober. It is encouraging.* Current participant

The random nature of the testing made it difficult for some participants to make plans. For example, the requirement to present for random testing was thought to intrude on family outings and other extra-curricular activities, and for some potential employment, particularly for those in phase three. Some participants had problems around travelling to testing stations. However, overall participants considered the accountability from AOD testing outweighed any difficulties experienced.

*The only disadvantage of testing is having to ring up at 7am like I have no problem with waking up at that time but they might say testing is between 12.30-4.00 and if I needed to be somewhere at that time for the whole day then I have to rearrange my whole day just to meet the requirements. Then you organise it to*

*be the next day because you might not have testing but then the next day you could have testing again so it is kind of hard.* Current participant

*The testing for me is good, without the testing who knows, I more than likely might have fallen off the wagon, so it's kept me safe, I appreciate it and I'm glad I'm still having to do it. It's a good thing for me. I mean it's a hassle, it is a bloody hassle, especially now that I'm out in the community I have to get myself to testing and that, beforehand when I was at Odyssey they just came to Odyssey.... But it's no big deal I mean you've just got to do what you've got to do.* Current participant

### **Graduates' reflections**

Graduates stated that testing became normal for them. For many testing helped keep them sober and drug free. One participant commented that they were able to manipulate the alcohol test for over a year until the testing process was changed. The consequence of a positive test however, was their removal from the rehabilitation facility and the AODT Court programme. They were very upset by this, and commented that they had learnt a lot about themselves. They returned to the programme and started a new pathway for their recovery.

Overall views included:

- AODT testing helped participants to abstain from drugs and alcohol. One graduate said that random testing was "brilliant".
- Drug testing helped to set the day knowing that one could not use and drink.
- SCRAM bracelets were generally viewed as essential.

### **Exited participants' reflections**

All exited participants agreed that drug testing was necessary and saw this as part of the programme and a way of them being able to stay on track. The HOP (public transport) passes were appreciated, and enabled participants to get to and from drug tests. Exited participants said that random testing helped keep drug addiction away because they didn't want to let people down and they did not want to lie.

*Yeah it did help because I knew as soon as I get a positive 'bam!' I'm back in jail. I didn't want that after everything was going so good I didn't want to let everyone down. Otherwise I would have been on drugs if I didn't have that testing, I would have been like every other addict just slime my way through it like all those other people going in with fake urine and stuff.* Exited participant

## **11.6 Evaluative assessment and areas to strengthen**

### **Evaluative assessment**

- All areas of the AOD testing have strengthened since the formative evaluation, resulting in improved integrity of the testing regime. Some changes are still consolidating and some areas are yet to reach optimal performance, such as reporting and the capability of the testing team in relation to learning and adhering to the protocol.

### **Area to strengthen**

- Continue consolidating the changes to the AOD testing processes and improving testing reporting.

## 12. Exit and termination

This section covers the process for exiting the AODT Court either voluntarily or through termination. This section draws on interviews with the AODT Court team, treatment providers, AODT Court Steering Group and exited participants to outline changes since the formative evaluation, and perceived strengths and challenges in the exit and termination process.

### 12.1 Brief overview

Participants can be terminated from the AODT Court due to a number of situations (refer section 4) or can voluntarily exit the AODT Court. When exited, an exit hearing is held and a report prepared.

At the exit hearing, whether the participant is exited will depend on the circumstances of the case, with a decision reached after input from all relevant members of the AODT Court team. If an exit decision is reached at 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.

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

### *Formative evaluation insights*

The formative evaluation found that there was insufficient information to assess the implementation of the exit process against what was intended at that early stage. Feedback from stakeholders indicated mixed views on when someone should be exited from the AODT Court and whether appropriate sentences were imposed on those exited. Further, questions were raised about the level of support available to those participants exited from the AODT Court.

### 12.2 Number and profile of cases exited or terminated

In total, of the 205 cases accepted into the AODT Court, 74 (36 percent) had been exited as at 28 April 2015. Seventeen participants exited voluntarily (23 percent). Of those terminated (77 percent of exited cases), the majority were due to policies associated with failure to answer District Court bail or a non-appearance warrant to arrest (49 percent), or

the court directing a course of action, due to, for example, further offending (51 percent) (Table 11).

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 (graduations) from drug courts are around 47 percent. This suggests that, on average, 53 percent of participants do not complete.

As noted in the formative evaluation report, feedback from an international drug court judge interviewed suggests more recent figures have had 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.

The international comparison suggests that the termination rate of 36 percent is acceptable. Care is needed in this international comparison as other jurisdictions use different eligibility and termination criteria. Further some stakeholders (as discussed below) believe there is too much leniency in the application of the exit criteria.

**Table 11: Reason for being exited by the two AODT Courts and total**

Reasons given for exiting	Auckland		Waitakere		Total	
	Count	%	Count	%	Count	%
<b>Total exited voluntarily and termination</b>	<b>41</b>		<b>33</b>		<b>74</b>	
Total exited voluntarily <sup>(1)</sup>	10	24%	7	21%	17	23%
Total terminations <sup>(1)</sup>	31	76%	26	79%	57	77%
Terminated because failed to appear <sup>(2)</sup>	16	52%	12	46%	28	49%
Terminated at direction of AODT Court <sup>(2)</sup>	15	48%	14	54%	29	51%

**Source: Ministry of Justice Research and Evaluation, 28 April 2015, unpublished data.**

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

1. The base is the count of all exited cases (total exited voluntarily and termination)
2. The base is the count of terminated cases, not the count of all exited cases.

### ***Profile of exited and terminated AODT Court participants***

Tables 12 and 13 shows the demographic profile of those who have been exited from the AODT Court up to 28 April 2015. Comparison across the two AODT Courts shows fairly similar patterns of exits.

Compared with those currently in the AODT Court (section 7.5), exited participants are more likely to be aged between 18 and 34 years, be of Pacific ethnicity, have an offending type of 'not EBA (other)<sup>55</sup>, and have a RoC\*RoI score in range.

<sup>55</sup> The proportion of participants with an 'EBA' offence type is about the same for exited and current participants. The difference is with the 'unknown' offence type. There are no exited participants with an offence type recorded as 'unknown', while 23 percent of the current participants are recorded with an 'unknown' offence type.

**Table 12: Demographic profile of cases exited or terminated from the AODT Court**

	Auckland		Waitakere		Total	
	Count	%	Count	%	Count	%
<b>Total</b>	<b>41</b>		<b>33</b>		<b>74</b>	
<b>Gender</b>						
Male	35	85%	30	91%	65	88%
Female	4	10%	3	9%	7	9%
Transgender	2	5%	0	0	2	3
<b>Age</b>						
18-24	9	22%	9	27%	18	24%
25-34	21	51%	15	45%	36	49%
35-44	10	24%	7	21%	17	23%
45-54	1	2%	1	3%	2	3%
55+	0	0	1	3%	1	1%
<b>Ethnicity<sup>(1)</sup></b>						
Māori	18	44%	18	55%	36	49%
European	13	32%	11	33%	24	32%
Pacific peoples	7	17%	4	12%	11	15%
Asian	2	5%	0	0	2	3%
Unknown	1	2%	0	0	1	1%
<b>Offending type<sup>(2)</sup></b>						
EBA <sup>(3)</sup>	7	17%	8	24%	15	20%
Not EBA (other)	34	83%	25	76%	59	80%
Unknown	0	0	0	0	0	0
<b>RoC*RoI Score</b>						
In range	34	83%	27	82%	61	82%
Not in range	2	5%	5	15%	7	9%
No Roc*RoI on file <sup>(4)</sup>	1	2%	0	0	1	1%
Roc*RoI missing <sup>(5)</sup>	4	10%	1	3%	5	7%
<b>RoC*RoI score for those with an 'not EBA (other)' offence type<sup>(6)</sup></b>						
<b>Base</b>		<b>n=34</b>		<b>n=25</b>		<b>n=59</b>
Less than 0.5	0	0	1	4%	1	2%
0.5	8	24%	4	16%	12	20%
0.6	12	35%	10	40%	22	37%
0.7	7	21%	6	24%	13	22%
0.8	2	6%	4	16%	6	10%
Unknown	5	15%	0	0	5	8%

Source: Ministry of Justice Research and Evaluation, 28 April 2015, unpublished data.

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

Unknown responses are possible where incomplete information has been provided.

1. Ethnicity has been coded using Statistics New Zealand's prioritised ethnic response method.
2. Offending type is the primary engagement charge
3. Primary engagement charge is EBA and there are no other non-driving related active charges. EBA includes charges for driving with excess breath/blood alcohol or refusing to provide a sample.
4. The Department of Corrections does not have a RoC\*RoI score for the defendant.
5. A RoC\*RoI score was not recorded at the time the case appeared for the Determination Hearing and has not been recorded as at 28 April 2015.
6. RoC\*RoI scores have been rounded down to the nearest integer, e.g. a score of 0.673 is recorded as 0.6.

## Types of exited participants

Discussions with stakeholders have identified three broad groups of participants who are exited from the AODT Court, specifically:

- *Not-for-me* – This group of participants tends to perceive the AODT Court as an easy option to get out of a custodial sentence. During phase one, they tend to recognise the work and commitment involved in the AODT Court and opt out. This group may also be facing a relatively shorter sentence, which may limit their commitment to the stringent demands of the AODT Court.
- *Ongoing offending* – These participants may be actively trying to address their AOD addiction. However, their offending continues due to wider circumstances such as partner offending.
- *No further treatment options available* – For a small number of participants, the AODT Court treatment options do not address the complexity of their addiction or co-existing problems. In these cases, the AODT Court runs out of treatment options for the participant and they must therefore exit.

## 12.3 Changes and developments since the formative evaluation

The challenges noted with termination in the formative evaluation continue, namely mixed opinions on when someone should be exited from the AODT Court and whether appropriate sentences are being imposed on those exited (discussed in 12.4 and 12.5). Unlike in the formative evaluation, stakeholders did not comment on the level of support available to those participants exited from the AODT Court. However, exited participants did comment on having no support and some were actively trying to rebuild support networks.

The main change to the termination process is the planned introduction of exit interviews with those who graduate or are exited from the court. The purpose of the exit interview is to inform the AODT Court and the Ministry what is working well and what needs to be improved. The interviews will be conducted by the court coordinator.<sup>56</sup>

## 12.4 Stakeholder perceptions of what is going well

Overall, there are mixed perceptions about the exit process from the AODT Court. Some stakeholders perceive that the exit process is working well with an appropriate focus on case-by-case decision making. In contrast, others feel the exit process could be further strengthened (refer section 12.5). This dichotomy reflects the differing perspectives and philosophies across the stakeholders working within the AODT Court.

### Second chances in the AODT Court and for exited participants

Feedback from stakeholders suggest that over the last 18 months the AODT Court has become more understanding of relapses in the AOD recovery journey. In this context, it is appropriate for current participants who have relapsed to be given opportunities to remain in the AODT Court if the court is satisfied that the circumstances warrant retention. For example, participants who demonstrate they are commitment to the programme, working

<sup>56</sup> Following data collection the evaluation team have been informed that it is unlikely that the court coordinator will be conducting the exit interviews because they do not have time to do so.

hard on their recovery and being open with the court. If exited, participants may be given the opportunity to re-enter the AODT Court, if they come back before the District Court.

*We are very patient, especially at the beginning, but after 14 months in court you should be engaged and know what you are doing; the first few months can be a rocky road and the judges are very patient with them. Stakeholder*

*A whole lot of people have gamed it – frequent liars are always going to exit because they think it is a game to begin with. Another opportunity to get them off the hook and then when they come up against the judges who are not what they think they are they quickly realise that this isn't for them. I think they are given every opportunity to understand the consequences and every opportunity to see what an advantage it could be. They are doing the best they can and these are the people that we need to give the opportunity and if they don't do it perhaps they might do it next time. Stakeholder*

### **Benefits gained by exited participants**

Stakeholders comment that participants who are exited from the AODT Court have benefited from their time in the court. Key benefits noted are changes in their offending or addiction behaviour, improved parenting skills, better relationships with whānau or employment outcomes. Exited participants interviewed also acknowledge the benefits they gained from being in the AODT Court (refer section 12.6).

*He's never worked a legal job in his life! But he got exited, but he's working now as [name], and they're retraining him. Stakeholder*

## **12.5 Stakeholders' perceived challenges**

In contrast, other stakeholders perceive that there are too many second chances and that sentencing processes could be strengthened.

### **Too many chances**

A range of stakeholders believe that some participants are receiving too many chances to remain in the AODT Court. For some, this reflects that other stakeholders are seen to be too personally invested in participants and not recognising that the AODT Court is not working for the participant, or that participants are 'gaming' the process. These stakeholders are concerned that this sends a negative message to other participants – one that has been acknowledged by participants interviewed.

*I think relapses and lapses are normal as part of an addict trying to recover absolutely. But for the ones who take it seriously you might see one or two relapses, and they pull up their socks and get on with it. With the ones that consistently breach and breach for weeks in a row then you've got to wonder. Technically going to drug tests for example is a proximal goal. It's not hard to meet, all we ask is you call the 0800 number, and go to your drug tests. That's all we are asking but if you are consistently not doing it, it makes you wonder how seriously you are taking this. Stakeholder*

*There's this little part of me that just wants to play up and rebel just to let them know I'm human. I see there's so many other people, they use, they still drink, they get into trouble and I think, 'Gee why are you fellows still here?' I get really angry about that why don't they just give them one chance. I do believe we*



*should only have one chance. We've had all the chances we can in the criminal justice system. This if I understand it is the last resort, I just get a little bit hōhā with some people that get given first, second, third chances. You know they gap it from the rehabs all this sort of thing, why are they giving them the light of day. Maybe I'm too hard but this is how I understand it, get with it or get out.* Current participant

### **Suggestion to have more explicit exit criteria**

To address concerns about participants being given too many chances, some stakeholders suggested making the exit criteria more explicit and less open to interpretation, particularly with regards to complying with treatment and/or testing requirements.

### **Sentencing by AODT Court**

Exited participants may be sentenced by an AODT Court judge or by a District Court Judge. Based on stakeholder feedback, participants being exited appear to be mainly sentenced by an AODT Court judge. In this context, the AODT Court judges are seen as best placed to take into consideration the participants' time and involvement in the court in their sentencing. However, some perceive this to be a potential conflict of interest which may result in reduced sentences. The latter raises questions about how sentence outcomes are perceived by other participants in the AODT Court or those entering the court.

*There could be arguments both ways because it could be a case where the judge who has seen their rehabilitation over the last however many months they've have been there, they are in the best position to judge. At the same time another school of thought is there should be independence when it comes to sentencing because whatever progress they have had to date in the court clearly did not lead to a good outcome so how much that should really be factored into account. Should it be another judge who is completely independent of the court to sentence?* Stakeholder

## **12.6 Exited participant feedback**

The four exited participants interviewed were incarcerated in Auckland-based prisons, and were interviewed at their facility. These participants were exited from the AODT Court for a range of reasons including possession of drugs, AOD use, and traumatic life events or struggling to cope with the deep emotions triggered by treatment that resulted in their drug and alcohol use. The recurring view of exited participants interviewed was that they did not know what they had until they had lost it, or it had been taken away. All spoke of the leniency and patience of the AODT Court judges.

All participants had a history of repeat offending and therefore had a long association with the Court system. Information provided, and the encouragement of their lawyers, had been the main catalyst for their introduction into the AODT Court. Their lawyers saw the AODT Court as a pathway to bring about changes in their lives. A majority of the participants felt that the AODT Court pathway was a lot harder than they had expected. They felt that people had to be ready and to be prepared do it, and not half-heartedly.

*Nah, I thought it was going to be easy, I thought I could lie my way through treatment like I thought I could at Higher Ground. Oh no no they dig right into you, you can't put a mask on that's for sure, you can't lie, especially when it's bringing stuff up like that. [What's hardest about the court?] Being honest, because being*

*an addict I didn't realise how much you lie. People would ask me things and I just blatantly lie because I don't know them. I don't want them to know me and things like that because it's better like that, the less people know the less they can hurt you, that's how I grew up anyway. It's a s\*\*\* life!* Exited participant

The AODT Court gave these participants “a taste” of what life could be and what recovery felt like. One participant had set up a good network of support outside of prison, including a mentor. All participants were grateful and appreciative of the lessons they had learned from the AODT Court. One person said that they would be dead had he or she not been in the programme.

From comments made, it is evident that participants had changed during the process of engagement in the AODT Court. A majority acknowledged that their behaviour had changed for the better. For one client, she commented that her intention was to “lie her way through the drug court” however she could not. This participant had also returned to church activities, which had given her inspiration. Other changes reported by exited participants included:

- engagement with whānau and a sense of family pride
- changed friends as they no longer associated with people from their past
- clarity of mind.

*I'm thankful for the drug court, straight up. They're the reason I've made the decision to go clean and if it wasn't for them I wouldn't be where I am today thinking about my future or thinking about getting a job, I've come to the conclusion I want to work in alcohol and drugs and that's all thanks to the drug courts. I'm studying for it and I'm actually going that's my long term goal is to be in drug and alcohol services. I want to give back. That's what drug courts taught me, it's not all about me and I wouldn't be where I am today if it wasn't for them, I might be in prison but I'm free as far as I'm concerned. I'm free from all the shit and I just can't wait to get out and actually do it. Four days and counting. I know that I am going to go back to drug court in the next six months after I'm out and just say to judge that I am thankful and if it wasn't for them I wouldn't have come this far.* Exited participant

On being exited from the programme, all support networks available while in the AODT Court were lost. Participants noted a sense of abandonment, and at least one participant reverted back to their drug of choice before being sent to prison. The exit process was described as emotionally very difficult.

*I slipped up basically, I didn't want to leave if I had my way I would have kept going but obviously they stretched their resources as much as they could and I had to leave... Once they decide that you are out, you're out, and that's it. On your own so I had to build up a whole new network and had to find my own supports and I had to do that all from inside which isn't easy. But I reached out and I wrote to as many people as I could, Salvation Army I did the works. I wrote them I took it upon myself to reach out.* Exited participant

## 12.7 Evaluative assessment and areas to strengthen

### Evaluative assessment

- While opinions across the AODT Court team differ on when to exit participants with repeated relapses, the overall termination and exit processes for the AODT Court are being operationalised as intended. The exit rate from the AODT Court is comparable with drug courts in other jurisdictions.

### Areas to strengthen

- Continue to monitor and reflect on exit and termination processes, in particular when to exit after continued lapses or breaches.

## 13. Graduation

### 13.1 Brief overview

To graduate from the AODT Court, participants are required to meet the following criteria:

- completion of treatment plan
- satisfactory attendance at relapse prevention/recovery based supports (e.g. 12-steps, peer support meetings)
- appropriate progress made with other personal/educational/vocational goals
- evidence of clear commitment to living an alcohol and drug free lifestyle
- engagement in full time work or study or suitable community-based activity
- no unexcused absences from scheduled services or court-required appointments for at least 14 consecutive days
- a minimum of 180 consecutive days of demonstrated sobriety.

Graduates take part in He Tākitini celebration of graduation at a marae or another suitable community venue, and a graduation and court-based celebration at sentencing. Participants may also have a graduation event on completion of their AOD treatment programme.

Graduates are sentenced by the AODT Court judge, as per the Sentencing Act 2002, and completion of the AODT Court is taken into account as a significant mitigating factor. The judge prepares the sentencing decisions noting, for example, what participants have achieved, engagement in programmes, number of days of sobriety, what happened in restorative justice (as appropriate), and the formal sentence with any special conditions. The judge also explains what their sentence would have otherwise been.

### 13.2 Changes and developments since the formative evaluation

The formative evaluation report did not explore the graduation process as at that time the AODT Court was just over one year into the pilot, no participants had graduated and graduation processes were being developed.

Since the formative evaluation in 2014, community probation officers have been introduced to the AODT Court and attend the hearings and pre-court team meetings. The court also plans to introduce an exit interview process, where graduates are interviewed by the AODT Court coordinator to inform the AODT Court and the Ministry as to what is working well, and what might be improved.<sup>57</sup>

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<sup>57</sup> Following data collection the evaluation team have been informed that it is unlikely that the court coordinator will be conducting the exit interviews because they do not have time to do so.

### 13.3 Graduating from the AODT Court

#### **Number of AODT Court graduates**

As of 28 April 2015, 35 cases have graduated from the AODT Court. This equates to 17 percent of cases accepted into the AODT Court.<sup>58</sup>

There is variation between the courts in the proportion of cases that have graduated (Table 14). Twelve percent of cases accepted into the Auckland AODT Court have graduated (12 cases from 99 accepted), and 22 percent of cases accepted into the Waitakere AODT Court have graduated (23 cases from 106 accepted).

It is unclear why there is a variation between courts. Some explanations to consider are the commencement date of cases relative to the point in time of data collection (whether there are differences in when the bulk of cases were accepted), the length of time to progress through the phases, the overall length of time to graduation, and the differences in the participants across the court (as previously stated, stakeholders suggest Auckland AODT Court seems to have more cases with unique and complex issues).

**Table 14: Cases graduated from AODT Court**

	Auckland		Waitakere		Total	
	Count	%	Count	%	Count	%
Accepted into AODT Court	99		106		205	
Graduated	12	12%	23	22%	35	17%

#### **Profile of AODT Court graduates**

Table 15 details the demographic profile of those who have graduated from the AODT Court.

Compared to cases currently in the AODT Court, the age and gender profile is similar. Graduated participants are more likely to have an EBA driving offence type,<sup>59</sup> and are more likely to have a RoC\*RoI score not in range.<sup>60</sup>

Graduated participants are less likely to be Māori (26 percent of graduates, compared with 57 percent of current participants). There is insufficient information to determine the reasons for this difference. Possible explanations to explore include the complexity of the cases and the time required to graduate.

The extent to which these differences reflect trends about who is graduating cannot be determined at this point in time, as participants are still working through the programme.

<sup>58</sup> A further 54 percent of cases accepted into the AODT Court are currently working through the programme.

<sup>59</sup> The proportion of participants with 'not EBA (other)' offence type is about the same for graduated and current participants. The difference is with the 'unknown' offence type. There are no graduated participants with an offence type recorded as 'unknown', while 23 percent of the current participants are recorded with an 'unknown' offence type.

<sup>60</sup> The proportion with a RoC\*RoI score in range is similar across current and graduated participants. The difference is in the proportion with the score missing. There are no graduated participants with a missing RoC\*RoI score, while 31 percent of current participants have a RoC\*RoI score missing.

**Table 15: Demographic profile for all cases graduated from AODT Court**

	Total Count	%
<b>Total</b>	<b>35</b>	
<b>Gender</b>		
Male	30	86%
Female	5	14%
<b>Age</b>		
18-24	3	9%
25-34	13	37%
35-44	11	31%
45-54	7	20%
55+	1	3%
<b>Ethnicity<sup>(1)</sup></b>		
Māori	9	26%
European	15	43%
Pacific peoples	8	23%
Asian	2	6%
Other	1	3%
<b>Offending type<sup>(2)</sup></b>		
EBA <sup>(3)</sup>	15	43%
Not EBA (other)	20	57%
<b>RoC*RoI Score</b>		
In range	18	51%
Not in range	16	46%
No Roc*RoI on file <sup>(4)</sup>	1	3%
Roc*RoI missing	0	0
<b>RoC*RoI not in range by offence</b>		
Not in range and facing EBA offences	11	69%
Not in range and facing other offence	5	31%
<b>RoC*RoI score for those with an 'not EBA (other)' offence type<sup>(5)</sup></b>		
<b>Base</b>		<b>n=20</b>
Less than 0.5	5	25%
0.5	6	30%
0.6	3	15%
0.7	4	20%
0.8	2	10%

**Source: Ministry of Justice Research and Evaluation, 28 April 2015, unpublished data.**

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

Unknown responses are possible where incomplete information has been provided.

1. Ethnicity has been coded using Statistics New Zealand's prioritised ethnic response method.
2. Offending type is the primary engagement charge
3. Primary engagement charge is EBA and there are no other non-driving related active charges. EBA includes charges for driving with excess breath/blood alcohol or refusing to provide a sample.
4. The Department of Corrections does not have a RoC\*RoI score for the defendant.
5. RoC\*RoI scores have been rounded down to the nearest integer, e.g. a score of 0.673 is recorded as 0.6.

## Time to graduation

It is anticipated that the AODT Court programme will take between 52 and 78 weeks to complete (12 - 18 months), or longer if warranted (Ministry of Justice, 2014). Of the 35 participants graduated to date, AODT Court administrative data shows that the majority of participants (around 61 percent) are completing within this expected time period (Table 16).<sup>61</sup> No cases graduated faster than the expected minimum time period of 52 weeks.

Fourteen of the 35 participants (around 40 percent) took longer than 78 weeks to complete the AODT Court programme. While the AODT Court handbook anticipates that there will be cases longer than 78 weeks, it is not known if the proportion of cases found to be longer is greater than, or in-line with, expectations. Further clarification of expectations is required, as is ongoing monitoring of the time to graduation and investigation into any patterns emerging as more participants graduate.

The length of time to graduation has implications on work-load, resources and operational processes for the court. It also impacts on availability for new cases to be accepted into the AODT Court, and has implications for planning for the end of the pilot (e.g. when to stop accepting new referrals into the pilot programme).

**Table 16: Length of time between acceptance into the AODT Court and graduation**

	Auckland		Waitakere		Total	
	Count	%	Count	%	Count	%
<b>Base</b>		<b>n=12</b>		<b>n=23</b>		<b>n=35</b>
Less than 60 weeks <sup>62</sup>	0	0%	2	9%	2	6%
60 - 69 weeks	4	33%	6	26%	10	29%
70 - 79 weeks	4	33%	5	22%	9	26%
80 - 89 weeks	2	17%	7	30%	9	26%
90 - 99 weeks	1	8%	1	4%	2	6%
100 weeks or more	1	8%	2	9%	3	9%

Source: Ministry of Justice Research and Evaluation, 28 April 2015, unpublished data. Percentages may not add up to 100% due to rounding.

## 13.4 Graduation ceremonies

Two graduation events take place for those graduating the court, a graduation ceremony at the AODT Court when the participant completes their programme and is sentenced by the AODT Court judge, and the He Takitini ('the many who stand together') celebration of graduation held every six months. There is also a celebration for participants when they graduate from their AOD treatment programme.

These celebrations are viewed by some as fusion of the graduates back into their community, whānau, hapu and iwi. He Takitini graduates have become role models for those entering the AODT Court and are a living testimony of kaupapa whānau oranga (whānau recovery – living a life of recovery).

<sup>61</sup> For the final process evaluation, when there is likely to be a greater number of participants who have completed the AODT Court programme, Litmus will explore the time taken to graduate by a range of demographic variables, including the RoC\*RoI score, to assess if there are any differences in the time taken to complete.

<sup>62</sup> The two cases less than 60 weeks are within the expected time period.

At the court room ceremony participants are invited to speak and describe their journey through the AODT Court in open court. The judge addresses them, as does the police prosecutor, case manager and defence counsel. Any support people are also invited to speak. Graduates receive a pack consisting of their 12-step meeting cards, community work cards, their 'before and after photo' congratulations card from the police, and an encouraging letter from the AODT Court judge on behalf of the court. Then the judge sentences the graduate. A haka is performed and the AODT Court Pou Oranga formally farewells the graduates from the court. The court then resumes back to the standard process of monitoring cases.

To date there have been two AODT Court He Takitini ('the many who stand together') graduation celebrations. The inaugural He Takitini/graduation celebration was hosted by Mana Whenua Ngati Whatua, at Orakei Marae in November 2014. The second He Takitini took place at Hoani Waititi Marae in March 2015. He Takitini reflects a commitment to include processes for Māori in the AODT Court process, and is an example of a unique aspect of the court design to reflect the New Zealand context.

He Takitini is a celebration of the work and focus of the AODT Court graduates. It is attended by kuia, kaumatua, the AODT Court team and broader stakeholders, Ministerial officials and senior staff, treatment providers, current and intended participants of the AODT Court, past graduates, and whānau. Selected speakers address the attendees, graduates receive their graduation pounamu, haka is performed, and the ceremony ends with sharing of kai.

Whānau are invited to the court room ceremony and He Takitini. It seems whānau are more likely to attend He Takitini.

## 13.5 Transition to the community after graduation

### *Role of community probation*

The role of community probation is to attend court, provide advice, prepare provision of advice to courts (PAC) reports, pre-sentencing reports, and monitor and support graduated participants who are sentenced to a community based sentence. Community probation involvement ensures a streamlined process for the reports, and court exit reports to community probation. Community probation are also able to provide some background information at the Determination Hearing stage, where applicants have previously been under their supervision, and can offer assistance with employment.<sup>63</sup>

The role of the community probation officers is evolving as they learn how they best fit into the AODT Court. There are some suggestions that the flow of information to community probation officers could be improved, to ensure they are well informed of matters relating to their role.

There is currently one community probation officer per AODT Court. Some reflected that further resources may be required as more participants enter phase three and graduate from the AODT Court, particularly if intensive supervision is a common sentence.

<sup>63</sup> Reviewer feedback also noted the Department of Corrections has been assisting with providing referrals to a six-week work readiness programme.



Community probation officers have mandatory standards for sentence management (e.g. the frequency of visits with offenders under their supervision). There are, however, some differences with sentence supervision for AODT Court graduates to ensure a more offender-centric approach. For example, community probation officers hold meetings in the home or workplace of the graduate. Graduates are not required to go to community probation offices to limit the risk of exposure to past associates. Home visits also give probation officers better insights into how graduates are coping, whether there are new risks, and creates an opportunity to get feedback from others living in the home (where applicable).

The case management is also different for AODT Court community probation officers, compared to standard officers. The AODT Court community probation officers have fewer people in their caseload with more time spent per person, particularly for those on intensive supervision as the approach is very intensive with close oversight and monitoring.

## **Sentencing**

Participants are sentenced by the AODT Court judge. Graduates are sentenced to supervision or intensive supervision with community probation. The decision on the type of supervision rests with the judiciary, and it is informed by community probation's pre-sentence report recommendations.

Initially, supervision was favoured for graduates given they have completed their AOD treatment and are engaged in training or work. A sentence of supervision tends to be about 12 months and gives community probation flexibility to determine the amount of contact required, for example, weekly, fortnightly or monthly meetings depending on how well the graduate is tracking.

Some graduates found the transition difficult and required more support as they transition away from the intensive support and monitoring from the AODT Court (see below). While each graduate continues to be reviewed case-by-case, in order to provide more support and oversight, intensive supervision is now the default sentence unless deemed unnecessary.

*We have decided to default to intensive supervision, which can combine with judicial monitoring and regular reports. We switched it because it is our sense that they need a little bit more support and oversight from the probation officers; it is tough for them, they have been in this world where there is a lot of support and they have become very connected, but it's important to take those training wheels off and more support is better. Stakeholder*

Intensive supervision may last between 12 and 24 months, weekly visits for the first three months, and can include a requirement for judicial monitoring, providing greater oversight from community probation officers and the judiciary. Some stakeholders considered the default of intensive supervision to be appropriate. Others raised queries on the use of intensive supervision as the default as it impacts on the ability of community probation officers to use their professional judgement on how much supervision a graduate needs at a given point in their transition into the community, and determine where their time and resources are best spent. Where a graduate is tracking well, the mandatory requirement of weekly meetings may interrupt the graduate's work or study.

## After AODT Court

After graduation, the therapeutic support provided by the AODT team ends, and case managers and peer support are no longer in contact with graduates. All supervision is by community probation. While probation officers are purposefully chosen to have an understanding of AOD issues, and understand the AODT Court, the role is not a therapeutic relationship. In some instances, graduates have sought further contact from case managers to support their recovery, and some case managers have reported being re-contacted by graduates.

Stakeholder feedback suggests some people have transitioned well. Others have struggled with the transition into the community. A small number of people have not transitioned well and had significant relapses soon after graduation.

The initial period after graduation appears to be the most difficult and is considered a high risk for relapse. Moving away from the AODT Court is difficult for some participants as the AODT Court has become like a family, where the needs of the participants are the centre of attention: participants are encouraged and applauded, AOD testing helps people maintain compliance, and sanctions are imposed for non-compliance.

*You expect them to have done so much work on understanding and getting their structures and understanding what their triggers are, all that sort of stuff, but the reality is that they often find themselves very isolated and find themselves missing the court – a sense of belonging, a sense of whānau, some of these men in particular go and stand up in front of that judge and they get applause whether they've got two day[s] clean or 250 days... and then that all ends. And graduation is this huge thing – with hakas and medals and photographers – and then “now I'm just out in the world with my addiction trying to manage all these things going on and there's a bottle shop and no one would know if I actually went in.” And this can be really hard. Stakeholder*

*Some can cope with it, they are ready to move on. Others appear that they are ready to move on but then they struggle not having that support because some of the people that go through the court reconnect with family members and reconnect with relationships, others don't have that pro-social support. When you go from having all the support of the case managers and the team who know you and even the people that are testing, to having not a lot of support after that, it is hard for them... an improvement could be that transitional period but it is a case-by-case basis and so it depends on the individual. Stakeholder*

Feedback from the team suggests participants who are more likely to transition well are those who have AOD support in place in the community, such as 12-steps, or a continuing care programme, and pro-social support such as re-connection with family.

Those who do not transition well do not have strong AOD support in place in the community such as AA or NA, are not part of a 12-steps community, and have not had sufficient time in the community developing self-efficacy with the support of peer support workers.

*[The treatment team] are not always going to be there to provide that support. People that we have supported and worked with quite closely up until graduation have then felt like they have no support after they graduate. So I feel like most of my time should be spent trying to link people into community support and helping them to be self-sufficient in their recovery... when people get to the stage of graduation they should have built their own support and that is what life is about because we are not always going to be there to help. We can have hundreds of*

*graduates and we can't support them all, it's not feasible, but they could support each other or have their own supports.* Stakeholder

*They really need support, much more than what probation can give them... The AODT Court was like a security network we wrap around them and then all of a sudden it's gone.* Stakeholder

Where there is a relapse, community probation are able to send graduates to programmes if required and if resources allow. However it is noted that the access to resources is more difficult when they are no longer part of the AODT Court. For those on supervision orders, there is also an option for community probation to enter a request for the sentence to be cancelled and substituted for intensive supervision, which mandates weekly contact with community probation and includes judicial monitoring.

## 13.6 Strengths and challenges

### ***Stakeholder feedback on what is working well***

#### **Community probation**

Stakeholder feedback suggests the inclusion of community probation is working well. In particular, consistent and suitably trained community probation officers are able to build a relationship with AODT Court participants during phase three and provide an ongoing connection to the AODT Court. The hand-over between case managers and community probation is considered seamless. This is facilitated by community probation being up-to-date on cases from attendance at the AODT Court hearings and pre-court team meetings, and by attending the monthly meetings case managers hold with phase three participants.

There is also an interface between community probation and the judiciary through bi-monthly meetings which are important for strengthening the connection, and embedding and fine tuning the role of community probation in the AODT Court.

#### **Graduation**

Stakeholders generally considered the celebration of graduation from the court to be a positive way to mark the success of the participants and therefore the AODT Court. While recognising the benefits of marking the successful completion of the AODT Court, some stakeholders raised queries about the ceremonies (refer below).

Stakeholders also reflected that graduations impact on participants' experiences, as witnessing people tracking well and graduating can have a motivating effect for new and current participants.

*Success breeds success. If you have cases in a nice smooth stream and the court is going well, new participants see others graduating, it's a win win. Whereas if you have a court where the cases are older and motivation is lower you might not have so many people graduating, which has a flow on effect on the new people coming in.* Stakeholder

## **Stakeholder feedback on challenges**

### **Community probation role**

Timely communication to probation officers from the AODT Court team and within community probation could be further improved. Community probation officers receive most information from being in court and from case managers, they are not linked in to the AODT Court team interface.<sup>64</sup> There have been instances of decisions being made that have not been well communicated to community probation officers, and instances of officers not receiving updated court lists.

After an initial period of adjusting and embedding the community probation role into the AODT Court, documentation of the role is required to ensure clarification of the scope of the role for the officers and others in the team (while keeping within probation officers' legislative roles and responsibilities). Some areas of the role still appear to be unclear, for example, whether it is the role of the AODT Court community probation officers to write reports for AODT Court applicants who are declined entry.

While having consistent community probation officers at the AODT Court is seen as a strength for continuity of relationships, there is a gap in the number of staff who are trained in the AODT Court to be able to cover leave and a need for succession planning to manage changes in personnel.

### **Graduation**

Feedback from some stakeholders suggests that the focus in the lead up to graduation is on whether participants meet the criteria for graduation (e.g. that they are in training or employment, refer 4.3), with less focus on the support they may need post-graduation.

Some stakeholders raised queries about the appropriateness of holding graduation ceremonies in the court room with preference given towards ceremonies being held on the marae, and retaining the formality of the court environment. There were also concerns about the impact the court ceremonies had on the timing of the court day, creating longer days for the AODT Court team and participants, and additional workload in organising for the ceremony.

Concerns were also raised on the amount of ceremonies and their purpose. With two AODT court graduation events and a graduation event from successful completion of treatment programmes, some stakeholders reflected that there were too many celebrations. Some stakeholders queried whether all the ceremonies add value to the graduates' AOD recovery, how comfortable the graduates feel attending the ceremonies, and whether having multiple events is aligned with best practice.

### **Transition to the community**

Team members commonly raised concerns about the transition from the AODT Court to the community. Some stakeholders thought more support was required after graduation, particularly during the initial transition period. There appear to be few options available for continuing care programmes in the community. Some stakeholders reported that the lack of continuing care created a gap in the therapeutic support available for participants after the intensive support from AODT Court ended.

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<sup>64</sup> The Shared Workspace Service is an igovernment logon service that provides a private secure channel for information sharing, hosted by the Department of Internal Affairs.

Other stakeholders suggested that the AODT Court programme needed a greater focus on developing self-efficacy, and increasing the responsibility participants have to do things for themselves before they leave the AODT Court.

### **Documenting policies and practices**

Further clarification of the policies and practices is required as the graduation processes evolve, to ensure all team members have the same understanding of the graduation processes and practices. More detailed descriptions of the graduation processes in the AODT Court handbook and other relevant documents would aid in formalising graduation processes.

## **13.7 Participant experience**

### ***Participant experience of graduation***

All graduates interviewed participated in the AODT Court room ceremony and He Takitini. At least one also attended a graduation ceremony from their AOD treatment programme.

Overall, graduates reflected on feelings of pride and anxiousness leading up to graduations. All of the ceremonies were a reminder to them of what they had done and how much they had achieved. One participant described the graduation from a treatment provider as follows:

*It set up like this. I was sitting here and it was me and my mum and the other graduates and when you're sitting in that chair, to make it from when you come in on day one and you make it to that chair, that's what really sunk in that night.... [I felt] proud because I never thought I'd make it. Before I never made it anywhere, all I knew how to do was play up. Graduated participant*

Some were anxious about leaving the security of the court and the relationships that they had developed with the team, as trusted and consistent relationships are considered important.

*I got all emotional and I cried because I didn't want to say goodbye to these wonderful people who have been in my life for two years, that's why I was so emotional to be honest and then what judge [name] says it's not goodbye you can come back anytime you want to say hello. Graduated participant*

For the court room ceremony, the graduates said that it was “weird” and “intense”, in particular, having the police congratulate participants. One graduate did not like having so much attention focused on them. Others commented that it felt good, they enjoyed hearing praise and having photos taken, and having other AODT Court participants congratulating them on their achievement.

Graduates interviewed commonly said that preparing and delivering a speech in the courtroom was challenging. For some, this was because they were not comfortable speaking publically about themselves and their experiences on their AODT Court journey. For others, it was because graduation was an emotional time to remember and pay tribute to those that had supported them. For these reasons, the speech for graduation was considered more difficult than speaking for phase applications.

Graduates noted that He Takitini was an event which helped to cement for them the success of completing the programme. One graduate described the experience as “magic”. Participants seem at ease with marae protocol having been exposed to, and practised, tikanga Māori at the AODT Court. Some had not been onto a marae and had looked forward to the experience.

Overall, it was considered a celebration of achievement, which for some participants could be shared with family, whānau and other support people. For some participants, graduation is also a celebration of reconnecting with whānau, for others with their iwi.

*There was a real buzz and what was nice was that each of the folk went up and friends or family were going ‘wohoo’, I didn’t have anyone there unfortunately but again it was just nice to see that people are getting that support from their family and it wasn’t just - Oh well at least you didn’t go to jail this time. Graduated participant*

While the graduation ceremonies gave all participants a sense of pride, some were uncertain about the number of graduation ceremonies.

*It started at [treatment provider] when I got my graduation there, I got it there and I got one at the court that day, I got my graduation there, and then I got one with the marae. So by that time I was pretty much graduated out but it was, it made me feel proud of myself. Graduated participant*

One graduate commented that at first they did not think they needed a second ceremony at the marae, however, once there they were overwhelmed and humbled by the ceremony due to the large number of treatment providers, whānau and support people and at that point realised how AOD use impacts on so many people.

*I probably went along to that somewhat blasé because I well I’ve graduated I know my recovery’s been good, I’ve enjoyed it, but do I need another celebration you know? But when I saw the number of people that were there I actually felt quite overwhelmed and humbled realising for the dozen alcoholics and the likes ‘look at the s\*\*\* we’ve stirred up through our behaviour’. Friends, family, this enormous network of organisations and institutions and people who are here because of us. I think for me that was a very very visible piece of evidence of what being an alcoholic and addict (dysfunctional in society, drink driving whatever other crimes), I started to see some of the real consequences of that in one place. For me that was quite profound, it was a real kind of wow and that was from 14 - 15 months in the process... it certainly had a much bigger impact on me personally than I expected. Graduated participant*

### **Participant experience post the AODT Court**

There appears to be limited transitional support for participants graduating from AODT Court into the community. Graduates believed that there was little structure in place in the community to support their recovery, despite realising that their addiction was ongoing. While they can attend AA meetings, they did not provide them with enough structure as there was no accountability or responsibility for attendance. One graduate preferred a continuing care outpatient programme that required weekly attendance, lasted up to two years, as well as an expectation of attendance at AA meetings.

*It's up to you, no more drug testing so you can do what the hell you like, you don't have to go to AA meetings although you should because your recovery if you don't maintain it you are exposing yourself but there's no handover, once you are finished you're done; that's it... You leave your criminal stuff, you leave your monitoring behind, you leave the court people behind you leave that support behind as well, you don't leave your disease behind, it comes with you. If you've come into this with a drug problem or an addiction or alcohol you've still got it, you're just not using, your recovery has to be ongoing.* Graduated participant

Some graduates, who had a support network in place, found that this was important in their transition to the community because, although they had graduated from the AODT Court, they had to continue to manage their addiction. They reported that good support was important for maintaining sobriety. This included other people in recovery, a partner, and retaining connection with a treatment provider, sponsors, and other support people.

Overall, graduates reported that having support in place after graduation is important to aid in the transition to the community, particularly during the initial stages. Some graduates felt they needed more AOD recovery support in the community during this stage as much of the support from the AODT Court team had ended. Some participants continued to contact their case workers seeking support.

### ***Participants' reflections on outcomes they had achieved***

Overall, graduates reported that the AODT Court programme helped them stay focused on their journey of recovery, which graduates were continuing to work on after the AODT Court. Graduates commented that since stopping their AOD use their thinking is clearer, they feel happier, and they are more honest and open. Previously, graduates reported they were constantly lying, paranoid, and their thoughts were "clouded" by drug use.

Graduates felt that they were more able to cope with challenges to their recovery through the tools learnt during AOD treatment. For example, being able to identify and manage triggers such as old friends, hunger, tiredness, loneliness and stress.

Graduates said that the AODT Court helped to open new doors in their lives. For example, graduated participants were re-engaging with family members and whānau, accessing employment, developing new friendships, and starting new hobbies, all of which were attributed to their successful journey through the AODT Court programme.

## **13.8 Evaluative assessment and areas to strengthen**

### **Evaluative assessment**

- Processes for graduating<sup>65</sup> from the AODT Court have developed and continue to evolve as more participants reach this stage, and the AODT Court team reflect on what works and what does not work. The graduation processes have not yet reached a steady state, as stakeholders and some participants raised concerns about the transition from the AODT Court to the community.

<sup>65</sup> Processes for graduation refer to: the graduation ceremonies, the processes leading up to graduation and preparing participants to leave the AODT Court environment, and the period after leaving the AODT Court.

### **Areas to strengthen**

- Consider the number of graduation events and their purpose in participants' ongoing recovery journey.
- Consider what is required to further aid the transition of graduated participants (e.g. considering the extent to which self-efficacy is being developed during the programme, and the level and type of support after graduation).
- Improve the timeliness of information communicated to community probation officers, and continue to clarify and document the role scope.
- Clarify the accepted proportion of cases that take longer to graduate than the anticipated maximum of 78 weeks to enable interpretation and evaluative assessment on whether this is within expectations.
- Continue to monitor and observe the time to graduation, including investigation of trends as more participants graduate from the court. The length of time to graduate has implications for resources and the flow of participants through the AODT Court.



## 14. Overall evaluative assessments and areas for strengthening

### 14.1 Overall assessments

Overall, the AODT Court is operating as intended as specified in the AODT Court handbook (Ministry of Justice, 2014). An ongoing process of reflective practice has resulted in ongoing developments and improvements in the operation of the court since the formative evaluation.

There is a broad level of support for the AODT Court among the team, governance, wider stakeholders, local community groups and organisations, treatment providers, AODT Court participants and whānau.

Since the formative evaluation the AODT Court is, in many respects, reaching a 'steady state'. Further development and refinement of the some areas, such as graduation processes, continue as the AODT Court evolves and the team learns what works and what does not.

There are inherent challenges with a therapeutic court in balancing the philosophies, priorities and perspectives of treatment, judiciary and justice sector. Overall, the AODT Court team is working well together and the challenges of working in this cross-sector environment continue to be navigated and managed.

The AODT Court team members have invested time and commitment beyond what is contracted as they want to meet the expectations of the court, and because of the team's belief in the court and commitment to support the participants. In some roles, the work-load is unsustainable and staff are at risk of burn-out.

### 14.2 Evaluative assessments across the AODT Court pathway

- In the main, the governance of the AODT Court is working as intended in the pilot's design.
- The processes for identifying defendants and determining eligibility are working as intended and seem to have reached a steady state.
- The operation of the AODT Court is working well and as intended. Concerns about workforce capacity continue with AODT Court team members investing time and commitment beyond what is contracted or sustainable.
- Tikanga Māori processes are in place and have largely been embraced in the AODT Court.
- There is increased victim involvement in the AODT Court since the formative evaluation. However, there is room for further consideration into appropriate victim involvement in the AODT Court.
- Overall, the AODT Court treatment process is working well. Several positive aspects of treatment have been sustained or improved since the formative evaluation, such as good relationships and communication between the AODT Court and the treatment network, and the close relationship with the 12-step fellowship movement.

Developments including the treatment readiness programmes, use of a broader range of programmes, and increased community accommodation options have further strengthened AODT Court treatment processes.

- All areas of the AOD testing have strengthened since the formative evaluation, resulting in improved integrity of the testing regime. Some changes are still consolidating and some areas are yet to reach optimal performance, such as reporting and the capability of the testing team in relation to learning and adhering to the protocol.
- While opinions across the AODT Court team differ on when to exit participants with repeated relapses, the overall termination and exit processes for the AODT Court are being operationalised as intended. The exit rate from the AODT Court is comparable with drug courts in other jurisdictions.
- Processes for graduating<sup>66</sup> from the AODT Court have developed and continue to evolve as more participants reach this stage, and the AODT Court team reflect on what works and what does not work. The graduation processes have not yet reached a steady state, as stakeholders and some participants raised concerns about the transition from the AODT Court to the community.

### 14.3 Areas to strengthen across the AODT Court pathway

Governance, operational management, training:

- Consider ways to increase the understanding of the Steering Group role at a local level. Reflect on the usefulness of the judges' memo to increase the operational understanding amongst the Steering Group.
- Develop an induction tool for new AODT Court members at both a court and agency level to enable effective handovers and maintain clarity of roles.

Determining eligibility for the AODT Court:

- Continue to develop processes for early identification of significant mental health issues that cannot be accommodated by the court.
- Reflect on whether further actions can be undertaken to decrease the time participants remain on remand in custody, while waiting for a residential treatment programme or safe housing.

AODT Court:

- Develop documentation and guidelines that clearly detail the different AODT Court team roles and role boundaries.
- Continue to monitor and reflect on the balance between support and self-efficacy for phase three participants (also refer to graduation).

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<sup>66</sup> Processes for graduation refer to: the graduation ceremonies, the processes leading up to graduation and preparing participants to leave the AODT Court environment, and the period after leaving the AODT Court.

- Continue to facilitate discussion of administrative details outside of court time to reduce time taken during court hearings.

#### Meeting Māori cultural needs:

- Further work is required to embed an understanding of tikanga in the AODT Court, cement relationships with Mana Whenua, and enhance the ability of the AODT Court team to work with whānau.
- Consider the role scope and capacity for the Pou Oranga role.

#### Victim engagement:

- Further discussion and consultation between victim advisors, Police, and the AODT Court to clarify the best process for involving victims in the AODT Court (including restorative justice meetings) and to clarify roles.

#### Treatment:

- Continue to clarify the role and workload requirements of key treatment roles.
- Provision of numeric data is required to obtain a clearer understanding of treatment use and pathways.
- Consider whether further services can be made available where there are unmet needs such as mental health services<sup>67</sup>, social worker services, services for women, and kaupapa Māori AOD treatment services.
- Consider whether coordination of continuing care may be developed and how this can be balanced with increasing self-efficacy.

#### AOD testing:

- Continue consolidating the changes to the AOD testing processes, and improving testing reporting.

#### Exit and termination:

- Continue to monitor and reflect on exit and termination processes, in particular when to exit after continued lapses or breaches.

#### Graduation:

- Consider the number of graduation events and their purpose in participants' ongoing recovery journey.
- Consider what is required to further aid the transition of graduated participants (e.g. considering the extent to which self-efficacy is being developed during the programme, and the level and type of support after graduation).
- Improve the timeliness of information communicated to community probation officers, and continue to clarify and document the role scope.
- Clarify the accepted proportion of cases that take longer to graduate than the anticipated maximum of 78 weeks to enable interpretation and evaluative assessment on whether this is within expectations.

<sup>67</sup> While serious mental health issues are an exclusion criteria, the AODT Court acknowledge that some mental health issues will commonly co-occur with AOD dependency.

- Continue to monitor and observe the time to graduation, including investigation of trends as more participants graduate from the court. The length of time to graduate has implications for resources and the flow of participants through the AODT Court.

## 14.4 Future focus

As the pilot moves closer to the end of its known duration, consideration is needed on the implications of the end stages for the AODT Court and participants. In particular, attention is required on:

- how to ensure staff remain engaged and transition to the next state
- how to manage the AODT Court list and new referrals as the pilot draws to a close
- assessing the transferability of the AODT Court model to other areas, particularly with regard to resources.

While the findings from the process evaluation are largely positive, the success of the AODT Court will, in part, be determined by how well the AODT Court is achieving its intended outcomes (refer section 2). In particular, how well the AODT Court is reducing re-offending rates. The AODT Court is a substantive investment and its success will also be determined by the extent to which the outcomes achieved are cost effective. The outcomes and cost effectiveness of the AODT Court will be assessed at the end of the pilot period.

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