

Proposed Legal Services Model

Te Whare Whakapiki Wairua

(Alcohol and Other Drug Treatment Court
Auckland and Waitākere)



Contents

CONTENTS	2
1. INTRODUCTION.....	3
1.1 BACKGROUND.....	3
1.2 PURPOSE	3
2. HOW THE AODT COURT OPERATES	4
2.1 THE AODT COURT MODEL	4
2.2 THE COURT DAY.....	4
3. THE AODT COURT LEGAL SERVICES TEAM	5
3.1 THE ROLE OF LEGAL SERVICES TEAM MEMBERS.....	5
4. THE LEGAL SERVICES MODEL.....	7
4.1 THE CURRENT MODEL	7
4.2 THE PROPOSED MODEL	8
5. SUPPORT FOR THE LEGAL SERVICES MODEL.....	10
5.1 APPOINTMENT REQUIREMENTS	10
5.2 PAYMENTS	11
5.3 OPERATIONAL POLICY.....	11
5.4 TRAINING.....	11
5.5 QUALITY ASSURANCE AND PERFORMANCE MANAGEMENT	11

1. Introduction

1.1 Background

Te Whare Whakapiki Wairua, the Alcohol and Other Drug Treatment (AODT) Court, began as a pilot in November 2012 at the District Court in Auckland and Waitākere. In December 2019, the Minister of Justice announced the Government's commitment to making the pilot AODT Court in Auckland and Waitākere permanent.

The Court aims to break the cycle of offending by treating the causes of that offending. It provides an alternative to imprisonment for people whose offending is driven by alcohol and/or drug substance use disorders.

The goals of the AODT Court are to:

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

More information about the Court can be found on the [AODT Court website](#).

1.2 Purpose

An [AODT Court Outcomes Evaluation Report](#) undertaken in 2018-2019, made a number of recommendations to further strengthen the Court.

The updated legal services model is proposed to support the permanent AODT Court at Auckland and Waitākere as well as address one of the recommendations of the Evaluation Report which was to review the existing Defence Counsel and Supervisor roles to determine the most effective and efficient structure.

This document seeks your feedback on the proposed legal services model for the Auckland and Waitākere AODT Court.

2. How the AODT Court operates

2.1 The AODT Court Model

The AODT Court operates on a pre-sentence model, where defendants who plead guilty to their offences and meet other criteria can be referred to the programme to address alcohol and drug substance use disorders driving their offending.

Once accepted into the AODT Court, participants are provided a treatment pathway depending on their individual needs and go through three phases as part of the AODT Court programme. A participant's progress is monitored, and participants are required to attend court regularly. The frequency of court appearances depends on the phase the participant is in, as well as their progress. For example, a participant in Phase 1 of the programme may be required to attend court fortnightly while a participant in Phase 3 may be required to attend court monthly.

The Court has a combined maximum capacity of 100 participants at any one time, with 50 participants at each site.

2.2 The Court Day

The AODT Court sits once a week in the Waitākere District Court (on a Wednesday) and Auckland District Court (on a Thursday).

The court day is split into two sessions: the pre-court meeting and the open court session.

The pre-court meeting starts at 8:30 am. The presiding Judge, Case Manager, Court Coordinator, Legal Services Team, Police Prosecutor, Pou Oranga (wellness and Māori cultural advisor), Peer Support Worker and Specialist Probation Officer make up the AODT team who attend the pre-court session. The Judge and AODT Court team discuss participants' progress, any challenges and treatment plans. AODT Court participants are not present at this session.

The open court session starts at 1.00 pm. Family and whānau are encouraged to attend. The AODT Court runs until all participants have appeared. Around 25 participants appear at a court session.

3. The AODT Court Legal Services Team

3.1 The role of Legal Services Team members

AODT Court Defence Lawyers need to provide AODT participants with good quality legal representation while working collaboratively with members of the AODT Court team.

Legal representation includes representing a participant in the AODT Court and in the standard Criminal Court as outlined below:

- representation in the AODT Court includes representation on bail matters, treatment non-compliance and, if directed by the Judge, at whānau hui
- representation in the standard Criminal Court may include representing a participant at sentencing, when a participant exits the AODT Court before completing the programme. Note that if an existing AODT Court participant is arrested for a breach of a bail condition or on new charges, they are represented by a Duty Lawyer following their arrest. The participant's AODT Court Lawyer assumes responsibility for the new charges if they are transferred to the AODT Court.

In addition to representing a participant in Court, we propose that Defence Lawyers must be able to:

- evaluate a participant's legal situation and ensure their rights are protected
- advise participants on their legal rights and options in relation to treatment, programme conditions and sentencing outcomes
- apply knowledge about AOD dependency issues, stay updated on the participant's progress, support their programme participation and compliance, and make submissions for the consideration of the Court on rewards and incentives
- work effectively and collaboratively as a member of the AODT Court team
- manage and maintain case files to the required standards
- contribute to the education of other Defence Lawyers in the AODT Court team
- maintain a good working relationship with Duty Lawyers in the Criminal Court
- improve knowledge and champion Te Reo Māori and Tikanga
- remain up to date with the AODT Court training
- attend Judge-led AODT Court training days
- take direction from the AODT Court Legal Services Team Leader.

AODT Court Team Leaders must be able to also:

- provide professional leadership to the Defence Lawyers in the team
- be responsible for managing legal representation of AODT Court participants on the day and allocate cases to Defence Lawyers

- sign time sheets for Defence Lawyers, and monitor and approve time recorded, as appropriate
- manage quality assurance for their team. This includes file reviews as part of the Ministry of Justice's Legal Aid Provider Services Quality Framework
- maintain a good working relationship with the Duty Lawyer Supervisor in the Criminal Court.

Please give us your feedback



We want to know...

- *Do you consider that the expectations of the Defence Lawyer role are reasonable?*
- *Do you consider that the expectations of the AODT Court Legal Services Team Leader role are reasonable?*

4. The Legal Services Model

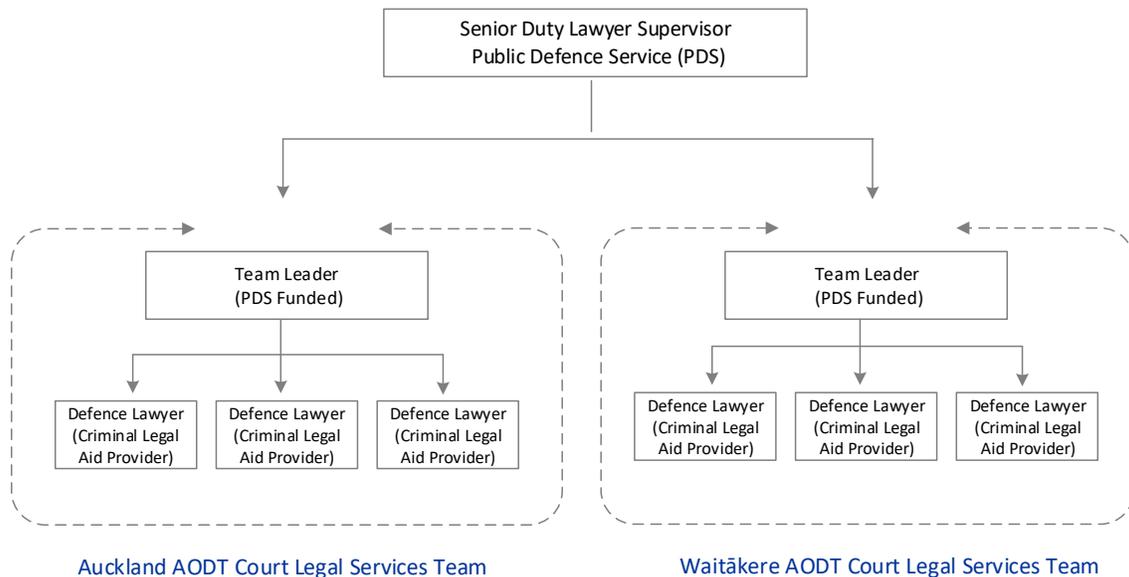
4.1 The current model

Each AODT Court has a separate Legal Services team. Each team has a Team Leader (funded by the Public Defence Service), and 3 Criminal Legal Aid Providers.

All team members are rostered to attend court every week, for the duration of the whole court day, starting at 8.30 am and finishing when all scheduled participants have appeared before the Judge.

Each Defence Lawyer has a caseload of around 14 to 15 cases. Each Team Leader has a caseload of around 5 to 6 cases.

The current Legal Services Team Structure



4.2 The proposed model

The proposed model aims to address one of the recommendations of the 2018-2019 Outcomes Evaluation Report, to review the Defence Counsel and Supervisor role to determine the most effective and efficient structure for the AODT Court. The proposed model also intends to future-proof legal services to the AODT Court by extending the pool of Defence Lawyers. This will provide opportunities for Defence Lawyers with an interest in a therapeutic approach to justice.

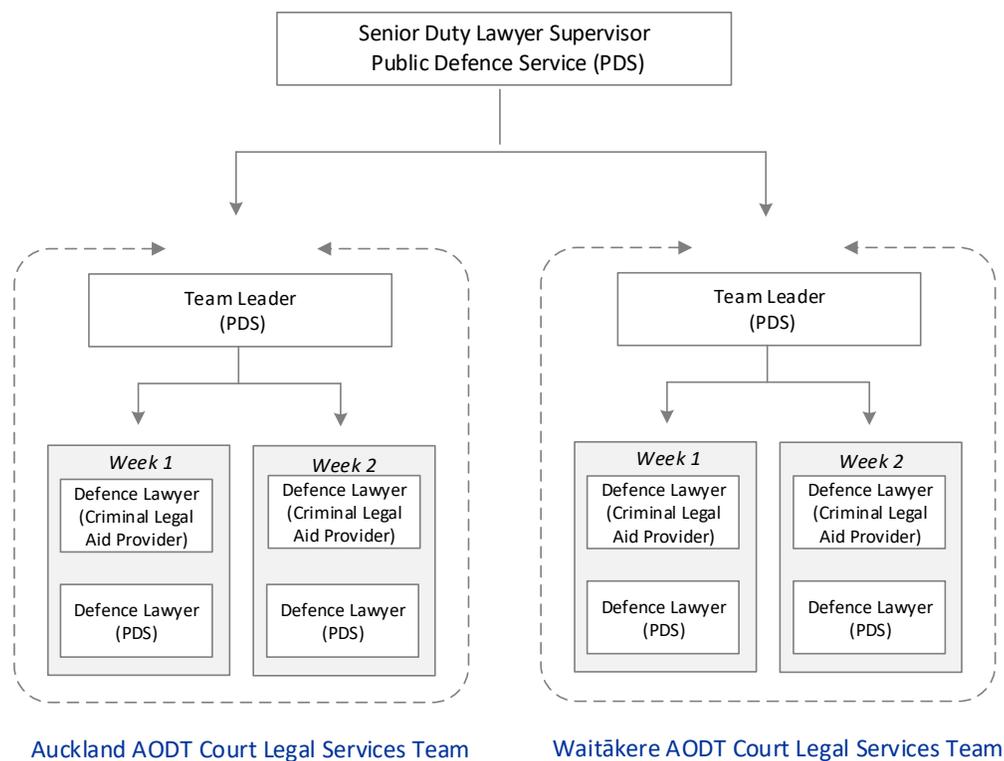
Each AODT Court is proposed to continue to have separate Legal Services teams. Each team will have a Team Leader from the Public Defence Service (PDS) and have 4 Defence Lawyers. Defence Lawyers will be from the PDS and Criminal Legal Aid Providers in private practice.

Defence Lawyers will be rostered to attend court every alternative week for the duration of the Court day, starting at 8.30 am, and finishing when all scheduled participants have appeared before the Judge.

Team Leaders will be rostered to attend court every week, for the duration of the whole court day, starting at 8.30 am and finishing when all scheduled participants have appeared before the Judge.

Each Defence Lawyer is proposed to have a caseload of around 10 to 12 cases. Each Team Leader is proposed to have a caseload of around 5 to 6 cases.

The proposed Legal Services Team Structure



Please give us your feedback



We want to know...

- *Do you consider that attendance at AODT Court every alternative week, is a reasonable expectation for Defence Lawyers?*
- *Do you consider that the case load of 10 to 12 cases for Defence Lawyers is reasonable?*
- *Do you consider that the case load for Legal Services Team Leaders of 5 to 6 cases is reasonable?*

5. Support for the Legal Services Model

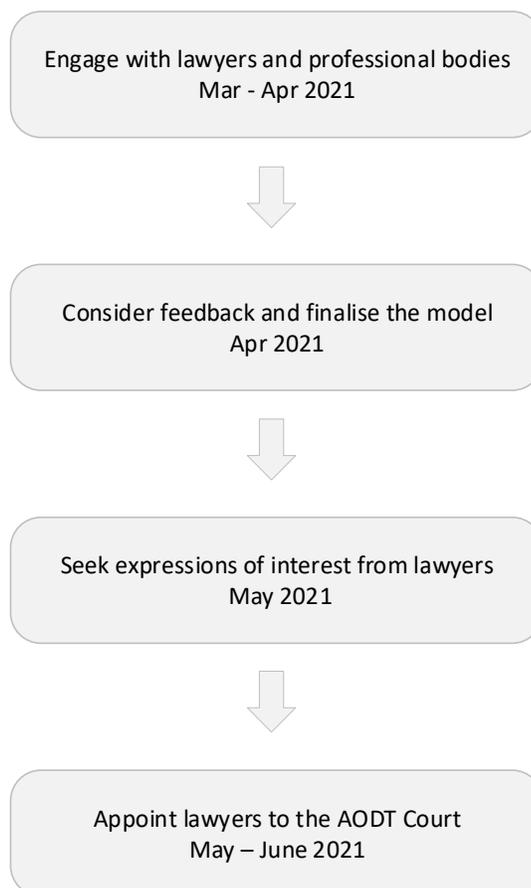
5.1 Appointment Requirements

Criminal Legal Aid Providers with Duty Lawyer approval will be invited to submit an Expression of Interest to the Secretary for Justice. Criminal Legal Aid Providers with PAL level approval and at least 3 to 5 years criminal law experience will be preferred. PAL level approval will ensure participants exiting from the AODT Court to have continuity of legal representation in the standard Criminal Court.

Defence Lawyers will be selected following an assessment against set criteria, which will be made available in May 2021.

Under the proposed model, Defence Lawyers will be rostered for a set period, to be determined on a case by case basis. This will allow Defence Lawyers with an interest in a therapeutic approach to justice to also be appointed to the AODT Court.

The process proposed is below:



5.2 Payments

Payment to Defence Lawyers is proposed as follows:

- Defence Lawyers will be paid a daily rate for their attendance in Court. This will equate to payment for 11 hours attendance, which acknowledges:
 - attendance in AODT Court for the duration of the whole day - court sittings can run late depending on the numbers of appearances on the day
 - attendance at a whānau hui, which may be required on occasion, at the direction of the presiding Judge
 - other attendances or preparation that may be required between court sittings.
- Additional payments will be made for attendance related to bail variation matters and sentencing appearances for exiting AODT Court participants (as required)
- There will be no payment for attendance at Judge-led AODT Court training days. Legal aid payments can only be made for the provision of legal services. This training is compatible with the Continuous Professional Development (CPD) framework of the New Zealand Law Society (NZLS). The NZLS will award CPD points to lawyers attending Judge-led AODT Court training days.

5.3 Operational Policy

An Operational Policy is being developed to support the legal services model. The Policy will set out payment, reimbursement and administrative procedures to support operational decision-making for AODT Court Legal Services teams.

5.4 Training

Training resources are being developed to support the legal services model. AODT Court Legal Services team members will be required to remain up to date with the AODT Court training.

5.5 Quality Assurance and Performance Management

The Ministry is developing a Quality Assurance and Performance Management framework to ensure court participants receive consistent high-quality representation and to promote continuous improvement. Once developed, this framework will also apply to the Legal Services teams in the AODT Courts.

Please give us your feedback



We want to know...

Do you consider that Defence Lawyers need additional training to represent participants in the AODT Court?

Do you have any further feedback?

Ministry of Justice
Tāhū o te Ture

justice.govt.nz

info@justice.govt.nz

0800 COURTS

0800 268 787

National Office

Justice Centre | 19 Aitken St

DX SX10088 | Wellington | New Zealand

