
**KEI MUA I TE AROARO O TE RŌPŪ WHAKAMANA
I TE TIRITI O WAITANGI**

BEFORE THE WAITANGI TRIBUNAL

WAI 2750

IN THE MATTER OF **the Treaty of Waitangi Act 1975**

AND

IN THE MATTER OF **Kaupapa inquiry into claims concerning
Housing Policy and Services**

**CROWN BUNDLE OF EVIDENTIAL FACT SHEET FOR
TĀHŪ O TE TURE – MINISTRY OF JUSTICE**

5 Poutū-te-rangi | March 2021



CROWN LAW

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1.	Basic information	<p>Title of policy / programme: The Court of New Beginnings – Te Kooti O Timatanga Hou (TKTH)</p> <p>Year introduced: 2010</p> <p>Still current?: Yes</p> <p>Administering agency(ies): The programme is led by the judiciary. The Ministry of Justice provides administrative support to and monitoring of the Court.</p> <p>High level summary of policy/programme: TKTH in Auckland deals with offenders who are homeless. It operates at the Auckland District Court in Central Auckland and sits once a month. The aim of the Court is to ensure that the necessary social and health supports are provided to participants to address the underlying causes (legal, social, and health-related) of the offending and the homelessness while also holding offenders accountable and ensuring that victims’ issues are addressed. There is a similar Court in Wellington called the Court of Special Circumstances (SCC).</p> <p>Overlapping/Related policies/programmes: The Ministry of Justice is responsible for administrative support and monitoring of TKTH but TKTH operates independently from the Government. Therefore, TKTH was not purposely developed with the intention of informing or impacting other housing policies.</p> <p>Other agencies involved in development, implementation, or ongoing administration: The list of agencies currently involved include: Ministry of Justice, Department of Corrections, New Zealand Police, Work and Income, Kāinga Ora, Waitemata District Health Board, City Mission, Odyssey House and Lifewise.</p>
2.	Aims or Objectives of the Policy / Programme	<p>The objective of TKHT is to reduce the chronic and repeat offending in Auckland’s inner city by those who are homeless and have ongoing untreated mental illness and/or substance abuse issues or those who are intellectually impaired through either injury or disability.</p> <p>TKTH provides a mechanism for coordinated service delivery for homeless participants who engage in persistent low-level offending.</p>
3.	Description of Policy / Programme	<p><u>The Court of New Beginnings – Te Kooti O Timatanga Hou (TKTH)</u></p> <p>The Court process involves a non-adversarial, coordinated, inter-agency approach to addressing the legal, social, and health-related issues that have led to participants’ offending and their homelessness. As well as holding participants accountable for their offending, and ensuring that victims’ needs are addressed, the Court also aims to provide the necessary social and health</p>

		<p>supports to address the underlying causes of the offending and the homelessness. These social and health supports include a therapeutic plan and TKTH plan. The therapeutic plan is compiled by the social worker in conjunction with the participant and it is adopted into the TKTH plan prepared by the Court. It covers addressing any health-related needs and alcohol/other drug issues, and supporting positive pro-social goals and accommodation if required.¹</p> <p>TKTH provides a rehabilitative wrap-around service that aims to address the underlying causes of offending and reoffending. It facilitates rehabilitation plans designed by health professionals to:</p> <ul style="list-style-type: none"> • provide a forum to discuss and resolve problems; • address behaviours which contribute to reoffending; and • provide participants with accommodation, support to find accommodation and/or social services to address reoffending. <p>A person with special circumstances² is normally accepted into the Court after a guilty plea has been entered (or the person has been found guilty after a defended hearing). There is a coordinated approach from a multi-disciplinary team made up of the Ministry of Justice, Department of Corrections, New Zealand Police, Work and Income New Zealand (WINZ), Kāinga Ora – Homes and Communities (Kāinga Ora), Waitemata District Health Board, City Mission, Odyssey House and Lifewise.³ There is regular judicial monitoring of participants to assess their progress with their treatment plans. The Court oversees and monitors the provision of services for the individual as well as their progress with their plan. Failure to commit and comply means participants return to the mainstream Court process and the sanctions available there.</p>
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¹ Housing should be in a suitable area for the person (close to friends, whānau and support services) and provide everything that the person needs to be able to sustain tenancy, which in some cases could include supported living (housing that has onsite support and services). This is organised by key workers through referrals to Housing First or a similar service provider. Housing First seek out long-term housing according to the person's individual needs.

² A person is eligible to be accepted into the TKTH programme if he or she is assessed by the coordinator, and if necessary by a court-ordered forensic report, as suffering from impaired decision-making capacity as a result of mental illness, intellectual disability, or neuro-disability, chronic alcohol/other drug or substance abuse, and meets the below criteria for referral. A person qualifies to be considered for referral to the TKTH if he or she is: 17 years of age or older; a New Zealand citizen or permanent resident; homeless (utilising the definition set out in Appendix 1 of the TKTH Charter (see **MOJ.002.0017**)); located in the Auckland catchment area; not facing charges of serious drug, sexual offending or a serious offence of personal violence; pleading guilty or has been found guilty; suffering from or appears to be suffering from impaired decision-making capacity as a result of mental illness, intellectual disability, neurodisability, alcohol/other drug or substance abuse; willing to take part in the TKTH programme; and facing a community based sentence no more restrictive than community work and/or supervision.

³ Auckland City Mission supports TKTH with four social workers. In their everyday roles, the social workers provide various outreach activities and services, including case management, a drop-in service, community awareness events and fundraising. Duties involve advocating for clients and liaising with other services such as Community Alcohol and Drug Service (CADS), police, probation, residential treatment, and temporary housing facilities.

Lifewise also offers support to participants. TKTH participants are able to access the Housing First programme, and through this programme, may be case managed by Lifewise. The Lifewise Merge Community Peer Support Team, which is made up mainly of volunteers with lived experience of homelessness, provide drop-in support, including navigation to other services, advocacy with WINZ, and support to find housing and social connection.

Odyssey House provides residential treatment and offers opportunities to learn skills to cope with stress, build positive relationships and make connections that enable long-term recovery.

There will be a team meeting during each TKTH sitting date. At these meetings, new applications and cases set down for exit hearings are considered. Current cases are reviewed, and progress with plans is discussed, as are any support and service delivery issues that need to be resolved.

The TKTH Charter is available at **MOJ.002.0006**.

The Court of Special Circumstances

The Wellington Court of Special Circumstances (**SCC**) is a judge-led therapeutic justice initiative established by Justice Susan Thomas in March 2012. According to the founding judge, the initial focus of the SCC was on people with complex life problems with a view to intervening to interrupt the cycle of low-level crime. That is, the aim of the SCC is to reduce both the seriousness and frequency of offending by addressing the circumstances in people's lives driving their offending (e.g. homelessness, alcohol and drug addiction).

A secondary aim was to bring the community into the Court through the collaboration of those working in the legal system and those providing support services in the community.

Agencies with strong involvement at the outset were Downtown Community Ministry (an agency which works with people who are homeless in Wellington) providing accommodation and health support; Literacy Aotearoa New Zealand supporting participants with literacy needs; the Salvation Army who provided clinical assessment and coordination of the SCC; Wellington City Mission who assisted with basic needs; and WINZ to assist with benefit entitlements and housing assessments.

An important aspect of the SCC's establishment was for court participants (offenders) to have a different experience of the justice system. Those involved wanted participants to:

- be respected as a person;
- be treated with courtesy;
- have relevant services engaged with them;
- have an opportunity to speak and be heard; and
- have their individual needs considered within the justice system.

The Ministry of Justice provides administrative support for the Court.

		The SCC operates on a similar model to TKTH. The SSC has its own relevant stakeholders. The coordinator role is provided by the Duty Solicitor rather than the Salvation Army. The Salvation Army provide expert advice on addiction issues and clinical assessment for Bridge (alcohol/other drug treatment) programmes.
4.	Outline of the process to develop this Policy / Programme	<p>TKTH is an initiative led by the judiciary. The judiciary developed the principles that underpin the Court.</p> <p>The Court was based on international precedent:</p> <p style="padding-left: 40px;">“The first Homeless Court Program began in San Diego in 1989. As a unique program, homeless courts respond to a group of people in society who typically have no means to make reparations for misdemeanour criminal conduct. How homeless courts achieve success is by offering people an opportunity to resolve their outstanding criminal cases by exchanging fines, community service, and custody for their participation in rehabilitative treatment programs” (Kerry & Pennell, 2001, p.3).⁴</p> <p>Overall, international research shows that well-resourced and appropriately designed specialist courts and court diversionary programmes are effective in reducing offending, saving criminal justice costs and improving peoples’ quality of life along with their mental and physical health (Edgely, 2014;⁵ Kerry & Pennell, 2001).</p> <p>Homeless courts have been helpful in interrupting the homeless contingency chain (Mathews, 1991)⁶ by intervening through the judicial system to improve people’s quality of life through alternative responses to criminal behaviour.</p> <p>The Auckland Rough Sleeping Steering Group was influential in developing TKTH and continues to support its endeavours as part of its wider remit to help homeless populations in Auckland. The Auckland Rough Sleeping Steering Group has senior representation from the Ministry of Justice, Department of Corrections, New Zealand Police, WINZ, Kāinga Ora, Waitemata District Health Board, City Mission, Odyssey House and Lifewise.</p>
5.	Outline of steps taken to implement the Policy / Programme	TKTH has been implemented by multiple agencies. It is funded by the Ministry of Justice and the Salvation Army provides a dedicated TKTH Court coordinator. The Ministry of Justice provides funding for the service of the coordinator and administrative support to the Court. The TKTH utilises the Court facility at the Auckland District Court for its hearing activities

⁴ Kerry, N. & Pennell, S. (2001). *San Diego homeless court program: A process and impact evaluation*. San Diego, CA: San Diego Association of Governments. Retrieved 14 September 2017 from <http://www.courts.ca.gov>.

⁵ Edgely, M. (2014). *Why do mental health courts work? A confluence of treatment, support and adroit judicial supervision*. International Journal of Law and Psychiatry, 37 (6), p. 572-580.

⁶ Mathews, K. S. (1991). *Rights of the homeless in the 1990s: What role will the courts play*. UMKC Law Review, 343(362), p. 343-361.

		and Court functions. The coordinator provides case management and liaison work from the point of referral to the graduation or exiting from the Court. The coordinator conducts initial eligibility screenings, helps participants prepare for Court days and liaises with service providers. The Ministry of Justice also provides administrative support, facilities, and a court taker. ⁷ Key community service providers include the Auckland City Mission and Lifewise.
6.	Outline of monitoring and evaluation built in to Policy / Programme	<p>The Ministry of Justice receives a monthly report provided by one of the service providers.</p> <p>The monthly data provides information about the current number of participants broken down by progress status.</p>
7.	Availability of quantitative or qualitative data to demonstrate success or failures of the Policy / Programme to achieve its stated aims	<p><u>2012 evaluation</u></p> <p>An independent evaluation was conducted in 2012 by Point Research Ltd. It can be found here: lifewise.org.nz/wp-content/uploads/2016/01/homeless-court-evaluation.pdf. The 2012 evaluation revealed the following outcomes (based on a sample size of 21 participants):</p> <p><u>Arrests</u></p> <p>The number of arrests of participants dropped by two-thirds during participation. This was sustained in the six months following participation. Of those who had been arrested, the number of times they were arrested fell from an average of 7.7 times prior to participation, to 2.6 times during and after the programme. This fall in offending was commented on by both operational staff and court participants as having been influenced by the TKTH process.</p> <p><u>Prison</u></p> <p>Bed nights in prison reduced by 78 per cent during participation and by 60 per cent in the six months following participation. Health Interviewees report that court participants: lead a healthier lifestyle; are dealing with their substance abuse issues; and have higher self-regard.</p> <p><u>Emergency Department visits</u></p> <p>Emergency Department visits reduced by 16 per cent during participation and by 57 per cent in the six months following participation.</p>

⁷ The court registry staff member taking court is known as the court taker. They assist the judge to run the court and ensure the court lists and press sheets are available. While the court is sitting, the court taker's priority is to assist the judge.

		<p><u>Housing</u></p> <p>The number of participants known to be rough-sleeping decreased from sixteen to six. The number of Housing New Zealand Corporation (now Kāinga Ora) tenancies for participants increased from zero to six. The total bed nights for participants with Housing New Zealand Corporation tenancies increased from zero to 1185.</p> <p><u>Finances</u></p> <p>A number of participants interviewed commented that TKTH had helped them receive a Work and Income benefit and manage their finances.</p> <p><u>Social support</u></p> <p>Some participants have reported better relationships and more frequent contact with family. Where appropriate, respondents had been introduced to organisations that could support them to reconnect with loved ones and their community.</p> <p><u>2018 evaluation</u></p> <p>An independent qualitative evaluation for TKTH was conducted by Auckland Council and University of Auckland in May 2018. Findings from the evaluation suggested that:</p> <ul style="list-style-type: none"> • The TKTH team have a shared understanding of the court’s aims and goals and showed immense respect and compassion for the situations and challenges faced by people living without stable housing; • TKTH participants highlighted numerous procedurally just practises that promoted validation, confidence, trust, and respect. Participants felt supported, encouraged and motivated to make positive lifestyle changes; and • Cultural responsiveness was viewed as an imperative area for development recognizing the need for TKTH to respond to the predominantly Māori participants it engages, as well as meeting the mandate of courts to meet Treaty of Waitangi obligations. <p>The report is available at MOJ.002.0022.</p>
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