

# Theory of change of police drug diversion: A revised programme theory

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## Introduction

Police-led drug diversion (PDD) schemes have the potential to reduce the harms that are done by, and to people who use drugs (Bacon & Spicer, 2023; Spyt & Kew, 2023). They target people who are caught by the police in unlawful possession of substances that are controlled under the Misuse of Drugs Act 1971. They divert these people away from prosecution and criminal penalties and towards educational and/or therapeutic interventions (Stevens et al., 2022). This document lays out our initial theory of change of how such schemes work, in order to inform our evaluation of them.

The identification of how a programme is supposed to work is an important step in realist evaluation (Pawson & Tilley, 1998). An initial programme theory provides a framework for thinking about the implications of potential combinations of contexts, mechanisms, moderators and outcomes that may be found in the evaluation. The elements of that initial theory provide sensitising concepts; things to look out for in the evaluation. The programme theory is initial, in that it leaves space for the discovery of other, less expected features of the intervention and its contexts.

Here we present the revised programme theory which informs our research project on PDD schemes in Thames Valley, West Midlands and Durham. We based the first version – which informed our initial research design - on a realist review of alternatives to criminalisation that was created by the lead investigator of the PDD project, with colleagues, for the Irish government (Stevens et al., 2022). This was based on literature published by June 2018. For the PDD project, Helen Glasspoole-Bird carried out a rapid review, using similar methods, of relevant studies published since then. This includes studies in two systematic reviews that were published since 2018 (Blais et al., 2022; Harmon-Darrow et al., 2022). Much of this new evidence comes from American LEAD (Law Enforcement Assisted Diversion) programmes. They have spread rapidly across the USA from their origins in Seattle (Collins et al., 2015a, 2015b).

We also tested the ideas that emerged from the literature in stakeholder workshops in each of our evaluation areas and in a national workshop. All workshops included representation of people with direct experience of being policed, as well as police services and diversion service providers.

The concepts and possibilities that we have identified will inform our use of three overlapping realist frameworks in our research on PDD. These are:

- EMMIE: effects, mechanisms, moderators, implementation, and economy (Johnson et al., 2015).
- VICTORE: volition, implementation, contexts, time, outcome, rivalry, emergence (Cooper et al., 2020)
- A conceptual framework for fidelity, which identified four components each of adherence (content, coverage, frequency and duration) and moderators (intervention complexity, facilitation strategies, quality of delivery, participant responsiveness) (Carroll et al., 2007).

## Contexts

Contexts are the pre-existing conditions that will affect the mechanisms that are triggered by the evaluated intervention. In the published literature and with stakeholders, we identified relevant contexts at four levels: area, health service, criminal justice, and individual.

Area-level contexts include crime opportunities, health inequalities, local drug markets, and the level of population density (urban/rural). For example, areas with low levels of physical and mental health, that have high levels of criminal opportunity, with active drug markets that are sparsely populated may be more difficult areas in which to provide interventions with positive outcomes. These may also be areas with most need for diversion services, where such services can make a bigger difference. This is an example of the contingent complexity to which the theory of change sensitises us.

The availability and quality of local health services that are available to drug-involved suspects will also affect their likelihood of benefiting from such services if and when they need them. This will include drug treatment and harm reduction services, but is not limited to them. Other services that promote physical and mental health will also be important. If potential divertees have had negative experiences with local healthcare services, they may not want to be diverted towards them (Joudrey et al., 2021).

The criminal justice environment in which the intervention operates will be hugely influential on the operation of PDD. This will include the broad influence of police officer numbers and training, the policing priorities and philosophy of senior police leaders (e.g. Chief Constables and Police and Crime Commissioners), and relationships between police and local communities. More specifically, there are very wide variations in the use of out-of-court disposals between areas, even before we consider the effect of diversion schemes (Transform Justice, 2023). So the results of comparison of areas that do or do not have specifically named diversion schemes need to take this into account. We also know, from decades of policing research, that police officers at street level operate with a wide range of discretion (Pearson & Rowe, 2020; Reiner, 2000). PDD schemes rely heavily on the use of this discretion to divert people into PDD interventions.

The attitudes and training of police officers are therefore crucial contexts for understanding how PDD schemes work. For example, challenges in securing and maintaining police officer buy-in and keeping open lines of communication regarding the program's goals, objectives, policies, and procedures ultimately led to the termination of LEAD in San Francisco from January 2021 (Magaña et al., 2022). Barberi and Taxman (2019) identified police culture as the biggest barrier to using diversion and alternatives to arrest.

Such effects will depend on local policing cultures, relationships and resources. In stakeholder workshops, we learnt that police use of technologies, including body-worn cameras and mobile apps, also affects the operation of diversion. The alternatives to diversion to which drug-involved suspects are exposed if they are not diverted, or if they are punished for non-compliance with diversion, will also depend on the attitudes and behaviours of prosecutors and sentences. Communication between different parts of the criminal justice system can be problematic. Effective communication and intersectoral collaboration were named as factors in the success of New Mexico's LEAD program (Blais et al., 2022).

There is a range of characteristics of the individuals who are targeted by diversion schemes that will affect how they operate. This will include, their age, maturity, class, race, sex and gender identity, and how these features interact with staff of police services and intervention providers. Their past

experiences and current living situation will also affect their likelihood of positive outcomes, as will the intersections between their various identities and histories. Childhoods of poverty, trauma, adverse experiences (including adverse contact with the police and courts) increase the likelihood that young people will move towards – and stay in – criminal careers (McAra & McVie, 2007, 2012; Wiley & Esbensen, 2016). Their current employment and education opportunities will affect their engagement with and success in PDD. If they have been or are being victimised by domestic violence, exploitation or other forms of abuse, this will also have an effect. Whether the person already has a criminal record – and of what type and recency – will also affect their ability to access and benefit from PDD.

## Target groups

In theory, PDD schemes will be open to a wide range of people who are caught in possession of drugs. In our research and initial work with stakeholders, we identified two groups of drug-involved suspects who are particularly likely to be addressed by PDD schemes. Their characteristics will most likely lead to different pathways and experiences in PDD. Within the wider group of people who use illicit drugs, there are two groups who are most likely to come into contact with the police. These are young people, and people who have problems with heroin and crack.

Children aged 17 or under are out of scope for the PDD project. Young adults still have relatively high levels of offending and vulnerabilities. People aged 18 to 24 are the group with the highest rates of illicit drug use; primarily cannabis use. It is this age group that most frequently comes into contact with the police while in possession of drugs and so will be eligible for PDD. Of all drug possession disposals between 2020-2021 in England and Wales, over 40% were for young adults aged between 18-24 (Ely et al., 2022). They may have specific vulnerabilities, including those that occur while the brain is still maturing (e.g. impulsivity). These vulnerabilities might be further compounded by police intervention - for example, the difficulty for the police of recognising the complex problems or additional needs associated with this age group (Gray et al., 2019). There is some evidence that specific diversion programs tailored to young adults lead to fewer arrests, convictions and jail admissions (Engelhardt & Lawrence, 2021). However, young adults who use illicit drugs represent a wide cross-section of the population. Many of them will not be involved in other offending (Wan & Weatherburn, 2022). This may limit the effect of PDD schemes in reducing crime (Shaw et al., 2022).

People who use heroin and crack are another group who have relatively frequent contact with the police, sometimes while they are in possession of these Class A drugs. There is also a high level of problems with alcohol among this group. They are likely to have an older age profile and a different and more challenging range of needs. For example, their vulnerability to physical and mental health problems is likely to be higher. This includes the risk of death by overdose and from chronic health conditions, such as liver disease and chronic obstructive pulmonary disease (Lewer et al., 2019). They are also likely to have a different, more entrenched pattern of offending (Black, 2020).

Among the 18-24 year old group, the most frequent offences include drug possession, violence, shoplifting, criminal damage and public order offences (Cochrane et al., 2021). For long-term users of heroin, shoplifting is the most common offence (Bennett & Holloway, 2007). Violence is less associated with heroin use, although people who have problems with heroin have very high rates of violent victimisation (Stevens et al., 2007).

We learnt from stakeholders that the second group (people with crack and heroin problems) is likely to be smaller in PDD schemes than the first group (young adults). People with more serious drug habits are sometimes diverted through other pathways than the PDD schemes we are evaluating.

## Mechanisms for positive effects

The decision to deflect<sup>1</sup> a drug-involved suspect can lead to different outcomes, depending on the schemes that are used in each area, and how officers use them. For some people, there will just be a community resolution with no alternative intervention to which the person is diverted. In some schemes, there will be a process of triage before a decision is made about the diversion pathway. In others, the person is directed at that first interaction with the police officer to attend an appointment with the diversion assessor or service provider.

Our realist evidence review (Stevens et al., 2022) suggests that such diversion may trigger mechanisms in two main causal pathways which should improve crime, health and other outcomes (as displayed on the left and right sides of Figure 1). One protects people from the negative impacts of criminalisation. The other offers opportunities to access positive support to help them to desist from drug-taking and any other offending.

First, the absence of criminalisation in diversion schemes reduces the labelling, stigmatisation, and other effects that compound mental health problems and keep people away from treatment for substance use disorders. Labelling is a well-known effect in criminology. People who are given the label of being a criminal may live up to this identity by continuing and deepening their criminal activities; an effect also known as ‘secondary deviance’ (Lemert, 1951). In contemporary British research, it has been shown that previous charges are associated with higher rates of re-offending among young people, even when controlling for baseline levels of offending and risk (McAra & McVie, 2007). Stigmatisation is a related process in which people who use drugs come to experience their identity as ‘spoiled’ (Goffman, 1968; Radcliffe & Stevens, 2008) and they come to be seen as ‘less than’ and ‘other’ to the mainstream of society (Wincup & Stevens, 2021).

In the drugs field, it has been found that such stigma presents a barrier to treatment entry and to rehabilitation through healthcare, employment, stable housing and family relationships (Lloyd, 2013; Neale et al., 2011; Van Boekel et al., 2013). Criminalisation has the effect of making it more difficult to secure these aspects of ‘recovery capital’; or the set of attributes and resources that people need in order to recover from problematic drug use (Hennessy, 2017). As people age, their ability to desist from offending is supported if they develop an alternative life story with other sources of meaning and fulfilment (Maruna, 2001). For example, Australian studies have shown better outcomes in employment, housing, family relations and social support for drug-involved suspects who were not criminalised, largely due to trends towards worse outcomes over time in the criminalised groups (Hales et al., 2004; Hughes et al., 2013). A recent Texan study showed diversion from getting a criminal record halved re-offending and boosted future employment by 50% (Mueller-Smith & Schnepel, 2021). Avoiding criminalisation also reduces the risks of a person being imprisoned, for the current offence or in the future. Imprisonment is associated with higher levels of health harms, including blood-borne viruses and death by overdoses and other causes (DeBeck et al., 2017; Farrell & Marsden, 2008).

Second, diversion can provide a pathway through individualised assessment towards drug treatment, primary care and mental health services (Friedmann et al., 2006). Our stakeholders also highlighted the importance of providing social support around issues of housing, welfare benefits, family relations, and social isolation.

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<sup>1</sup> By deflect, we mean the decision not to process somebody through the criminal justice system. This may, but not always, include diverting them to some other form of intervention. For example, issuing a simple warning with no follow-up process or intervention would count as a form of deflection that is not diversion. That form of alternative to criminalisation is known as depenalisation (Stevens et al., 2021).

Repeated systematic and other reviews have found that drug treatment ‘works’ in reducing illicit drug use and improving health, including by reducing the risk of death and infectious disease (Clinical Guidelines on Drug Misuse and Dependence Update 2017 Independent Expert Working Group, 2017). The mental and physical health of people who use drugs is generally poor, and they often lack access to health services (Bradbury & Lewer, 2021). Assessment and diversion towards treatment therefore provides an opportunity to improve the health and other outcomes of people who use drugs. It may also increase divertees’ perception of the fairness of the way they have been treated, which may also increase their prospects for positive engagement with the police and other agencies (Bradford et al., 2014; Murray et al., 2020).

## Unintended mechanisms

However, our evidence review also showed that diversion schemes can ‘widen the net’ of the criminal justice system by using formal interventions with people who would otherwise have been dealt with informally, or through a less intrusive intervention. Diversion may also ‘thin the mesh’ of the criminal justice system if it actually makes it harder for people to get out of it e.g. by using criminal penalties for non-compliance with purported alternatives to criminalisation (Cohen, 1979). There is evidence of low levels of integration between drug treatment and other healthcare services in the current English drug treatment system (Black, 2020). There is a risk that police diversion may expose more people to the negative effects of criminalisation without providing a pathway to healthcare; an example of the possible ‘dark logic’ of PDD (Bonell et al., 2015). There is also a risk that diversion may overload local treatment systems with inappropriate referrals, especially if there is an absence of adequate triage in the diversion and assessment process (Stevens et al., 2022).

The international evidence base does not suggest that threatening people with punishment for drug possession reduces levels of drug use (Gruza et al., 2018; Home Office, 2014; Kotlaja & Carson, 2018; Stevens, 2019; Vuolo, 2013). But it is theoretically possible that reducing any such deterrent effect by diverting people from punishment increases drug use and consequent harms.

## Moderators

Depending on the contexts in which they take place, these negative and positive mechanisms may be moderated by other factors to produce a range of health and other outcomes, as also displayed in the diagram on page 2. For example, criminological theory and evidence suggests that sanctions for non-compliance with diversionary and other measures are more likely to be effective if they are both swift and certain (although not necessarily harsh) (Kleiman, 2009). The swiftness of response in providing support is also an important moderator of diversion mechanisms (Blais et al., 2022).

Other moderators of the effect of mechanisms that are triggered by PDD interventions will include the fidelity with which these interventions are delivered. According to Carroll et al. (2007), the fidelity of adherence includes the extent to which the intervention actually delivered the planned content, coverage, duration, and frequency. The quality with which these services are provided will be important. Stakeholders told us that the persistence with which they followed up diverted suspects was important in influencing how many of them engaged with diversion, as was the ability of their participants to access stable housing and rewarding employment. Fidelity can be affected by the quality of management, training and support. Bacon (2022) identifies the potential of experiential learning and critical reflective practice in supporting police cultural change of the kind that can support effective diversion. This will affect the experience of people who are diverted. Barberi and Taxman (2019) reported that clients did not want to be seen or treated like criminals. They valued relationships based on compassion.

Divertees' levels of engagement in diversion programmes, and their attitudes towards them, may be affected by their cost. Two of the schemes we are evaluating come with no cost to participants, but the third scheme— in Thames Valley – does come with a cost that must be paid. This was also the case in Philadelphia's Small Amount of Marijuana Program. Johnson et al. (2020) report that just over half of defendants were unsuccessful in completing the programme, mainly due to the inability to pay the \$200 fee.

The level of and response to non-compliance will have effects on the mechanisms and outcomes of PDD. If non-compliance is largely ignored, this will reduce costs, but may also reduce the credibility and deterrent effect of police contact. If non-compliance is dealt with through criminal sanctions, this may increase the costs and the net-widening effect of bringing more people into the criminal justice system, as well as increasing perceptions of being treated unfairly. If diversion (or lack of a penalty for non-compliance with diversion) does not lead to any intervention or consequence, then it is also possible that confidence in diversion programs can be undermined. For example, New Haven's LEAD program led to polarized views in the community (Joudrey et al., 2021).

The effects of PDD may also be moderated by peer effects, in both negative and positive ways. Bringing groups of people who use drugs together may be positive in reducing the social isolation which we were told was observed in some participants in existing PDD schemes. But this may also have the effect of reinforcing negative behaviours, or providing new opportunities for drug use. For example, Chokprajakchat et al. (2022) found that participants in a residential diversion programme in Thailand formed new contacts whilst in a rehabilitative behavioural camp. They shared information on where to source drugs which they used once they had left the camp. As this example suggests, peer effects are more likely to occur in more intensively group-based interventions.

Another moderator of the use and effects of diversion schemes is the availability of alternative pathways for drug-involved suspects, and the beliefs of police and diversion staff about their value. In San Francisco, for example, the availability of a Healthy Streets Operation risked duplicating LEAD (Magaña et al., 2022). This is an interesting example of what Cooper et al (2020) call 'rivalry', the R in the VICTORE framework. In the schemes we are evaluating, there may be similar interactions with other schemes, including less intensive depenalisation schemes (which do not include an educative or therapeutic diversion), and NHS Liaison and Diversion schemes.

## Outcomes

As PDD schemes are police-led, reoffending is bound to be a key outcome. As discussed above, previous studies - including the randomised trials of Checkpoint and Turning Point in Durham and the West Midlands (Neyroud & Slothower, 2013; Weir et al., 2021) - have found reductions in reoffending (relative to similar people who are criminalised). Some US LEAD programmes have also found encouraging reductions in offending (e.g. Collins et al., 2015b; Perrone et al., 2022). But this should not be taken for granted. It will also be important to examine the type, seriousness, and frequency of offending (Shaw et al., 2022). For overall crime levels, it is more important to halve the reoffending of prolific offenders than to prevent a one-time offender from ever offending again. For levels of harm to the community, it may be more important to move violent offenders to less serious offences than to eliminate the crimes of infrequent petty offenders.

As illicit drug use is also an issue of public health, health outcomes are important for evaluating PDD schemes. Most seriously, these will include the number and type of deaths and hospitalisations that are experienced by drug-involved suspects. This will be affected – especially for users of crack and heroin – by the level of entry to and retention in drug treatment. For all people who use drugs, it is possible that the interventions to which they are diverted may have an effect in reducing their levels

of drug use and other risk behaviours. This may, in turn, reduce the probability that they get involved in accidents and incidents that may end in unplanned hospitalisation.

There are also a wide range of health and wellbeing outcomes that will be hard to measure quantitatively. These include more general physical and mental health. Our stakeholders stressed that the levels of stigmatisation and social isolation that are experienced by people who use drugs can also be affected by PDD schemes.

The pattern of outcomes is likely to be different for people with different characteristics. In particular, outcomes are likely to differ between young adults who do not have long-established problems with alcohol and other drugs and older people who do.

## Costs

The effects of PDD schemes will have impact on the costs and cost savings experienced by several parts of the public and private sectors. If PDD succeeds in improving participants' health, it may save the NHS money in reduced hospitalisations, ambulance call outs and visits to the doctor. But it may initially increase costs by giving more people access to health care in general and drug treatment in particular.

Previous studies, including the Turning Point randomised trial (Neyroud & Slothower, 2013) and the quasi-experimental study of LEAD in Seattle (Collins et al., 2019), have suggested that providing diversion schemes leads to substantial cost savings in the criminal justice system, primarily in terms of reduced costs to process people through the courts. Diversion schemes can save police time (Spyt, 2019). Diversions may be quicker for them to process than arrests, but this is not always the case, if the diversion scheme also involves complex paperwork (Joudrey et al., 2021). There may also be cost savings if PDD leads to fewer people being imprisoned or given community penalties with the probation service. Such savings will be multiplied if diversion schemes not only reduce the cost of dealing with the crime that initiated the diversion but also reduce future re-offending.

If PDD works in protecting and enhancing people's connections to family and employment opportunities, then it should also have a beneficial effect in reducing welfare benefit claims and in increasing tax revenue. Conversely, there may also be increased costs if reductions in social isolation lead to more uptake of the benefits to which people are entitled.

Any reductions in crime will have both tangible and intangible effects. The former include reduced losses to crime victims (individuals and businesses) and their insurers. The latter will include less fear and anxiety for local communities (with potential benefits for local economies) as well as reduced opportunity costs for criminal justice agencies (i.e. the ability to focus their resources on other forms of crime, rather than to create direct savings for the public purse).

## Conclusion

PDD involves complex combinations of contexts, mechanisms, moderators and outcomes. This is why we have adopted a realist approach and are using mixed methods for this study (Pawson & Tilley, 1998). We recognise some perceived limitations in the original formulation and some examples of 'realist evaluation'. These include neglect of potential learning from quasi-experimentation, and of the ways in which a variety of viewpoints – including from directly affected communities – come together in constructing the meanings and experiences of interventions. So we draw on more recent research which provides insights from both realist and experimental work (Bonell et al., 2012; Breuer et al., 2016; Byrne, 2019; Fletcher et al., 2016; Greenhalgh & Manzano,

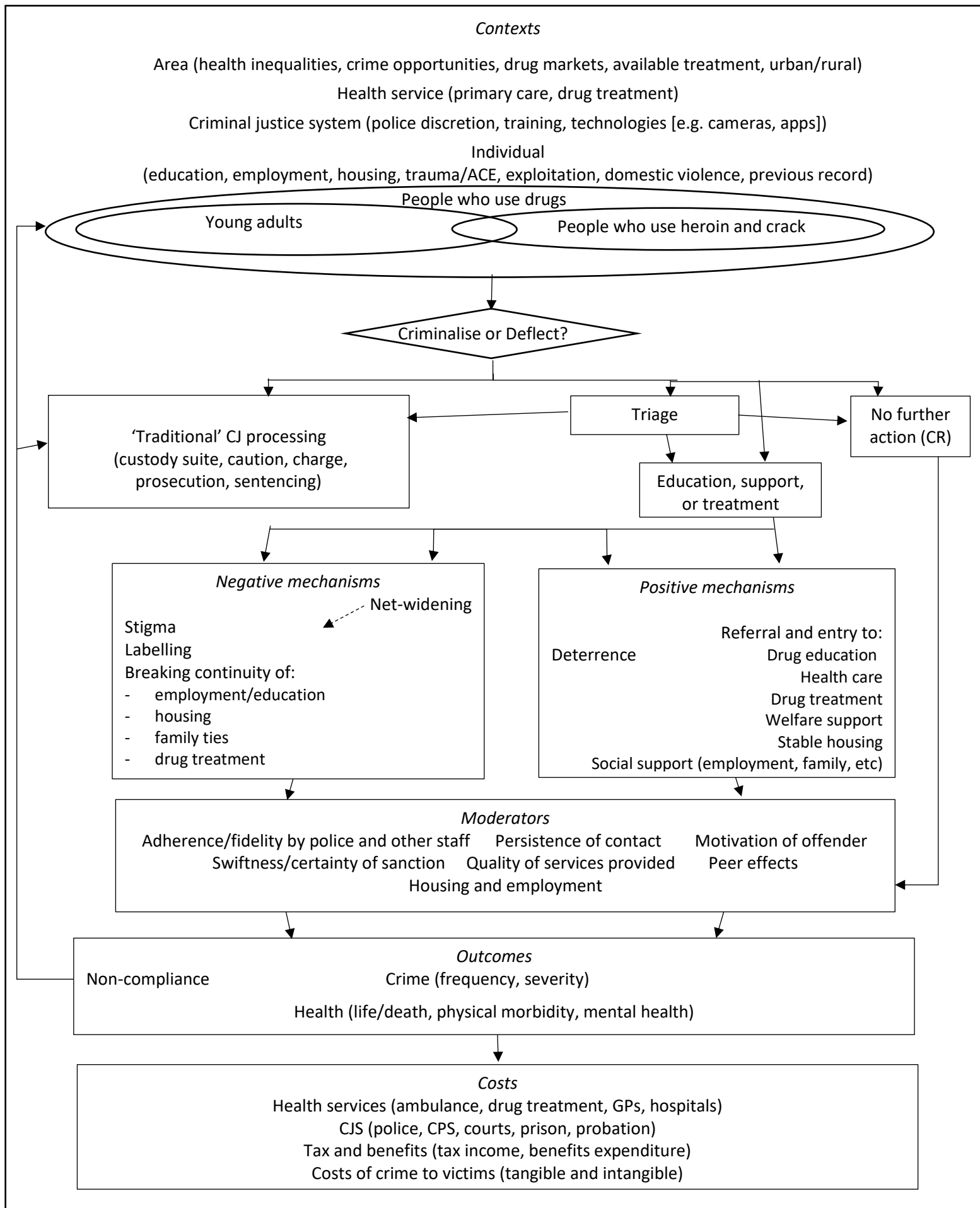
2022; Shearn et al., 2017), and aims to combine methods towards a fuller understanding of the mechanisms and experiences of studied interventions (Stevens, 2020).

This will include use of both the EMMIE and VICTORE frameworks for synthesising results (Cooper et al., 2020; Johnson et al., 2015). Our project includes direct involvement of people with lived experience as designers, implementers and disseminators of the research, in line with the *UK Standards for Public Involvement* (NIHR, 2019).

We will use and develop this refined theory of change throughout the research. It has informed our study design, will form a basis for questions in qualitative interviews and focus groups and in the analysis of fidelity, and for identifying outcomes, cost and equity effects. Our final synthesis of findings will produce a refined theory of change. This will be a realist programme theory which provides causal explanations of the effects and cost-effectiveness of PDD schemes for drug-involved suspects.



**Figure 1: Theory of change of PDD**



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