

Effective point-of-arrest diversion for children and young people



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About the authors



This evidence review has been written by the team at the **Centre for Justice Innovation**. The Centre for Justice Innovation seeks to build a justice system which everyone believes is fair and effective. Their work on effective point-of-arrest diversion for children and young people is hosted on the Youth Justice Board's effective practice hub and as part of the Youth Endowment Fund's toolkit on pre-court diversion.

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Effective point-of-arrest diversion
for children and young people

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Why read this evidence review?

Some children come into contact with the law and most are simply doing what comes naturally to them — pushing boundaries, making choices without thinking through the consequences, acting up among their peers. They may also be the victims of exploitation. Unfortunately, the consequences of being caught, arrested and convicted can be serious. For these children this affects future education and employment opportunities, and it can have a backfire effect, making children and young people more, not less, likely to reoffend.

The evidence shows that point-of-arrest youth diversion is a better way of addressing low-level criminal behaviour. Moreover, in line with the Youth Justice Board's 'Child First' strategy, point-of-arrest youth diversion is vital to the prioritisation of the child's needs, enabling a fairer youth justice system.

This review provides:

- A summary of the evidence on the harms caused by formal criminal justice system involvement for children and young people
- A definition of what point-of-arrest youth diversion for children and young people is
- An overview of the evidence base for point-of-arrest youth diversion
- Good practice principles for point-of-arrest youth diversion
- An overview of the latest research on point-of-arrest youth diversion and minoritised children and young people
- A summary of current practice and policy on point-of-arrest youth diversion.



The formal criminal justice system and children and young people

Many years of large-scale criminological research have determined that there are clear patterns of offending tied to levels of maturity.¹ Across a wide range of jurisdictions, offending behaviour (both detected and self-reported) peaks in the mid-teens before dropping steeply at the onset of young adulthood, then declining more slowly. This phenomenon is known in the research literature as the age-crime curve. While a small number of children's offending will continue long into their adulthood, the vast majority are essentially law-abiding children who are temporarily drawn into 'adolescent delinquency' and who quickly grow out of this phase as developmental maturity proceeds and self-control improves. In other words, most children grow out of crime.

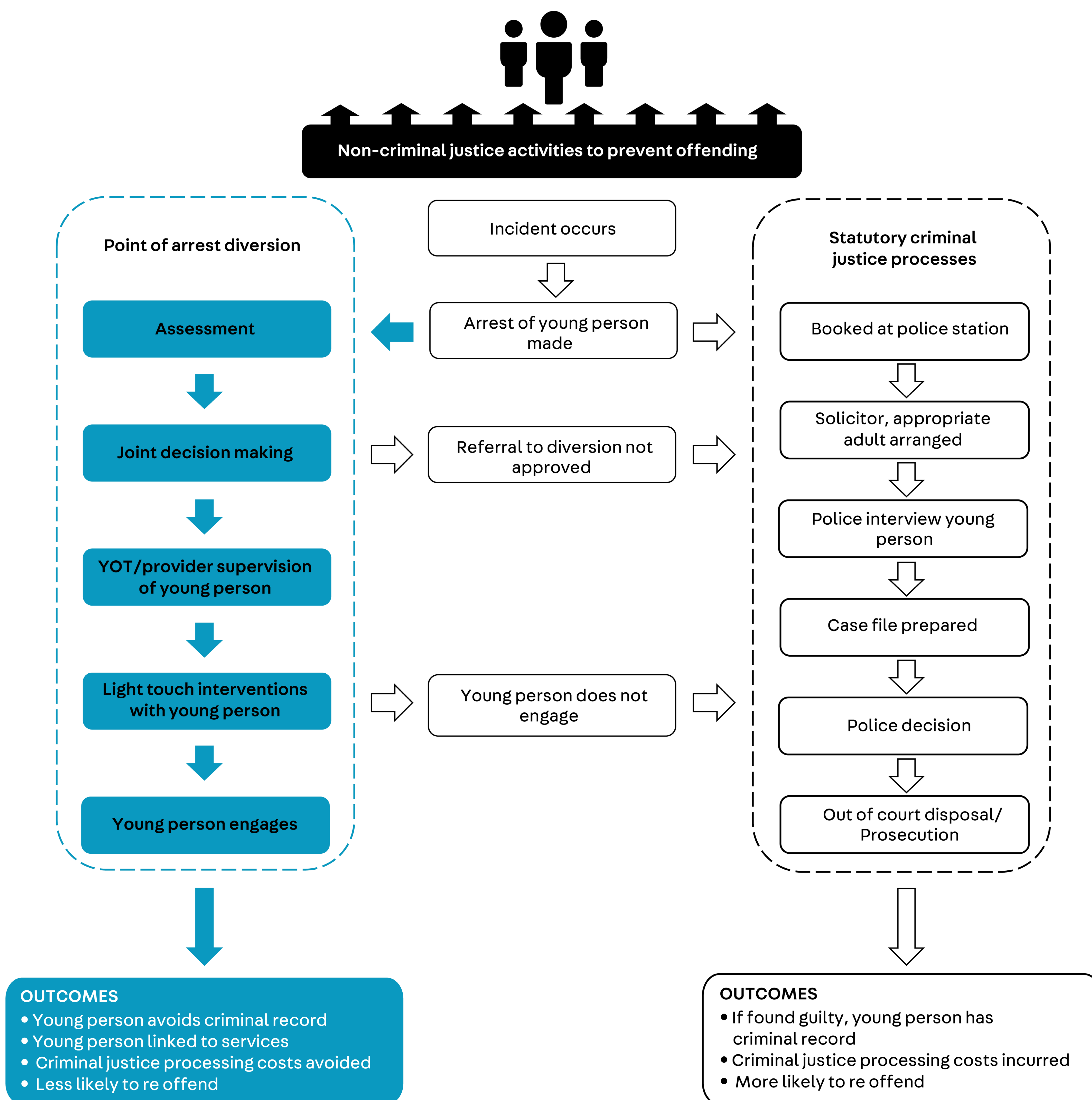
However, evidence shows that formal criminal justice system processing (by which we mean both prosecution at court and formal out of court disposals) can obstruct this process, leading to more crime. An international meta-analysis, based on a major systematic review of 29 outcomes studies involving more than 7,300 children over 35 years, concluded that formal processing "appears to not have a crime control effect, and across all measures, appears to increase delinquency... rather than providing a public safety benefit, processing a juvenile through the system appears to have a negative or backfire effect."² Similarly, UK evidence has found that children who are formally processed are much more likely to re-offend than those who are not, even when controlling for personal and offence characteristics.^{3,4}

Definitions

Point-of-arrest youth diversion offers a constructive alternative to the formal processing of children through the youth justice system. Following a referral from the police or an Out of Court Panel, point-of-arrest youth diversion gives young people the chance to avoid both formal processing (either through an out of court disposal or a prosecution in court) and a criminal record, in return for the completion of community-based interventions.

It is important to highlight what point-of-arrest youth diversion is not. First, it is not a prevention activity, keeping children at risk of criminality away from the justice system in the first place. Prevention work of this nature is clearly vital on its own terms and worthy of attention and investment. However, what we cover in this briefing is what the justice system should do with a child or young person when they are arrested (or on a clear pathway to arrest). This type of activity, what we term point-of-arrest youth diversion, should only work with children and young people already in contact with the police and who are at risk of being, or have been, arrested for a crime. It should not be used as a way of dealing with children and young people who have not been arrested (or who are not at immediate risk of arrest). Second, point-of-arrest youth diversion should not include the imposition of a statutory out of court disposal – it should be used as an alternative to one, as well as an alternative to court prosecution.





The evidence base on point-of-arrest youth diversion

International research shows that when similar groups of children – comparable in demographics, offences and offending histories – are matched, and one group is formally processed while the other is diverted, the diversion groups do better.⁵ These findings are mirrored in the UK evidence base,^{6,7,8} with one influential study concluding that the best approach to reducing reoffending by children is a policy of “maximum diversion.”⁹ The research suggests that point-of-arrest youth diversion works because it avoids children feeling labelled as, and internalising the identity of a “criminal” by the justice system¹⁰ and because it seeks to minimise and, in many cases, eliminates children’s contact with negative peer pressure.¹¹ Additionally, point-of-arrest youth diversion avoids the collateral consequences of formal processing, such as interference with education, training and employment (including school exclusion, and future labour market consequences of carrying a criminal record).

As well as delivering better outcomes for children and young people, research suggests that point-of-arrest youth diversion is likely to be more cost effective than standard system processing.¹² While the data is unpublished as it is purely for internal use, schemes that have used the Centre for Justice Innovation’s cost avoidance tool¹³ estimate that their operation has reduced the burden on the police by between 15 and 35 percent for diverted cases.

Good practice

In *Valuing youth diversion: a toolkit for practitioners*, we have codified the evidence and practice into six good practice principles:¹⁴

1. Eligibility criteria

Eligibility criteria should be set as broadly as possible and young people should be given more than one shot at succeeding. In doing so, schemes should avoid net-widening, and therefore be empowered to turn down inappropriate police referrals. There are also grounds for believing that young people should be accepted onto diversion schemes where they “accept responsibility” rather than specifically having to admit to an offence prior to participation.

2. Referral into diversion

Speed of referral is important. Effective schemes ensure diversion happens as soon as possible after arrest occurs. Therefore, schemes should make referral of young people in a diversion scheme as simple and straightforward for the police as possible. Diversion should be recognised by police as a “positive outcome” in their performance management schemes so that cases where diversion activity takes place do not simply get recorded as an “undetected” crime with no further action taken.



3. Induction into the diversion programme

Schemes should assess young peoples' strengths and needs on induction, particularly to match them with appropriate interventions. Schemes should also make their expectations of young people clear, and ensure that young people fully understand the consequences of non-compliance.

4. Case work

Where possible, schemes should separate point-of-arrest youth diversion work from statutory operations, by holding sessions physically off-site and by avoiding mixing diverted young people with those under statutory supervision. There are reasonable evidence-based grounds for believing that dedicated diversion caseworkers may be preferable to statutory caseworkers. Diversion staff should also take care with their use of language to help avoid embedding negative perceptions.

5. Programming

The programmes schemes offered via point-of-arrest youth diversion should be evidence-based and therapeutic, relatively light touch and informal, and proportionate to the initial offending behaviour.

6. Outcomes and monitoring

Schemes should regularly report back on youth engagement to the police and to referring officers. This underlines that the original case requires no further action, and ensures that frontline police are kept updated on the scheme's success. It is vital that schemes guarantee that successful engagement means that young people avoid a criminal record. Protocols should ensure that their participation should not be recorded in a disclosable manner in administrative databases.

Minoritised children and young people, and diversion

Given the emphasis placed on diversion in David Lammy MP's review of Black, Asian and Minority Ethnic* individuals in the criminal justice system in 2017,¹⁵ we have conducted significant research examining point-of-arrest youth diversion and racial disparity. In 2021, we published a rapid literature review on racial disparity and diversion,¹⁶ which cross analysed our findings with our own knowledge of existing point-of-arrest youth diversion practice, in particular, but not exclusively, our findings from our survey of point-of-arrest youth diversion practice from 2019.¹⁷ We found that:

- **Prior records:** 40% of point-of-arrest youth diversion schemes limit access to only those young people with two or fewer previous offences,¹⁸ despite research consistently suggesting that racially minoritised children in England and Wales are more likely to be arrested in situations and for behaviour White people would not.
- **Unconscious bias:** Practitioners' perceptions of Black, Asian and Minority Ethnic* children and young people may result in them being viewed as being more dangerous, less likely to comply or being unsuitable for diversion.^{19,20}



- **Risk assessment:** Risk assessments, based on previous offending histories, of minority children and young people are likely to be up-risking Black boys, because Black boys are disproportionately more likely to be arrested and convicted than similar White boys.^{21,22,23,24}

In 2022, we published results of qualitative interviewing with point-of-arrest youth diversion practitioners and young people.²⁵ We found that:

Point-of-arrest youth diversion operates in a climate of mistrust: Practitioners recognised that there can be a lack of confidence in the criminal justice system, and indeed other government interventions, felt by Black, Asian and Minority Ethnic* children and young people and their communities.

- **Formal eligibility criteria:** We found evidence that there are specific eligibility criteria, such as the requirement for a formal admission of guilt and restrictions about the number of prior offences, which can result in unequal access to diversion for Black, Asian and Minority Ethnic* children and young people.
- **A lack of knowledge about the benefits of point-of-arrest youth diversion:** A lack of information, amongst children and young people and defence lawyers, can result in Black, Asian and Minority Ethnic* children and young people disproportionately failing to access diversion.
- **Lack of engagement of family members:** A number of professionals felt that if a young person's family members did not encourage their child to participate in or engage in interventions, they would not be successful in interventions. This was especially the case for Gypsy, Roma and Traveller children.

Current practice and policy

In 2019, we mapped point-of-arrest youth diversion practice across England and Wales. We found that though point-of-arrest youth diversion is widely practiced, access to schemes varied for a number of reasons, such as eligibility criteria, referral processes and varying length of interventions – meaning the benefits of diversion are not fully leveraged in all appropriate cases.²⁶ In support of this, a 2021 scoping survey of prevention and diversion delivered by Youth Offending Teams (YOTs) was conducted by the Youth Justice Board, and found broadly similar issues.²⁷

Both surveys found that over half of their respondents reported 50% and above of their caseload was prevention and diversion. But funding arrangements – at least at a national level – have not yet been revised to reflect this, focussing primarily on workload as measured by the statutory caseload (i.e. formal out of court disposals and cases arising out of court prosecution). There is no direct funding for point-of-arrest youth diversion and the local funding arrangements that diversion schemes rely on are often changeable and short-term.

The surveys have also confirmed that YOTs are the largest funders of diversion work and they are the leading delivery provider. However, in the absence of ring-fenced funding to YOTs and increased demands in caseloads, the voluntary sector has a large part to play in supporting children and their families with voluntary prevention work (where suitable) and especially engaging with children once their time with the YOT is completed.

Our mapping work also suggests that YOTs do not have the capacity to capture and analyse the data on point-of-arrest youth diversion.²⁸ It is also not compulsory for police to record diversionary activity. The lack of consistent data collection on diversion means that police and YOTs do not always have their diversion work recognised, making it hard to understand what diversionary work is happening in each specific area. It also makes it difficult to understand how well the needs of young people are being addressed or whether particular groups are not being treated equitably.

Lastly, while the Youth Justice Board National Standards specify that YOTs should run point-of-arrest youth diversion schemes,²⁹ they are being delivered largely without clear national guidance nor enough specific evaluation of how individual schemes operate in practice.³⁰ Positive steps are being taken to remedy these issues, however. The Youth Justice Board are producing a report with recommendations for best practice in October 2022, which will support potential future funding reviews. Additionally, the Case Management Guidance for YOTs will be updated to inform YOTs and other key stakeholders of shared definitions of youth diversion. Also, the Youth Endowment Fund are planning to fund impact evaluations of point-of-arrest youth diversion schemes to further the evidence base for this practice.

* Clinks strives to use language that challenges and does not contribute to racist ideas, actions and policies. In our work we do not use this term and recognise it can be othering, assumes homogeneity, ignores intersectionality, and places recognition on some groups over others. We use it here in reference to the work of others and because removing the term might misrepresent the data and information we are referring to.

End notes

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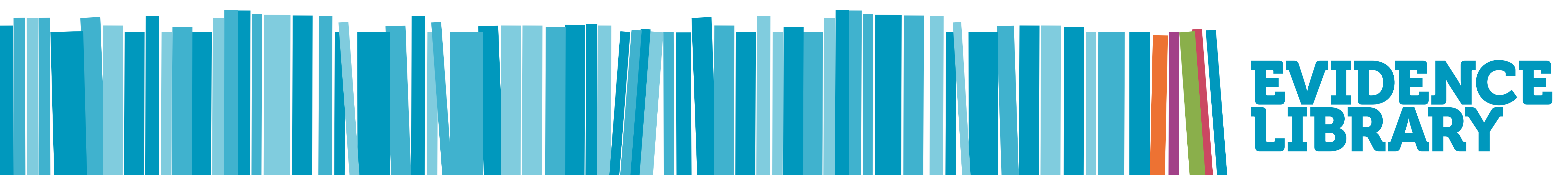
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An online evidence base for the voluntary sector working in the criminal justice system

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- 1 To increase the extent to which the voluntary sector bases its services on the available evidence base
- 2 To encourage commissioners to award contracts to organisations delivering an evidence-based approach.

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