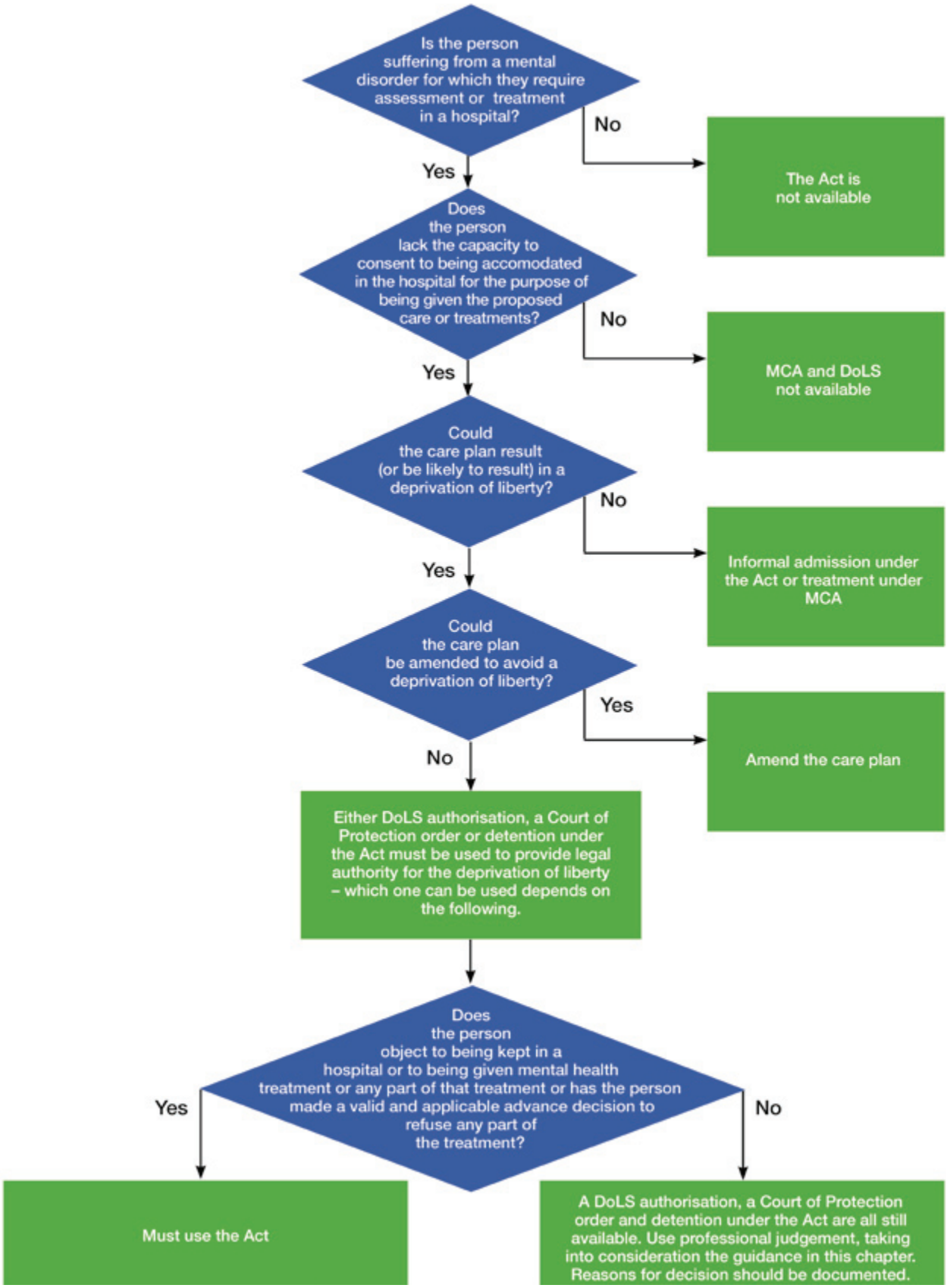Deciding whether the Act and/or MCA will be available to be used