

ACCESSING STATUTORY ADVOCACY FLOWCHART

Mental Health

Is the person subject to the compulsory powers of the Mental Health Act?

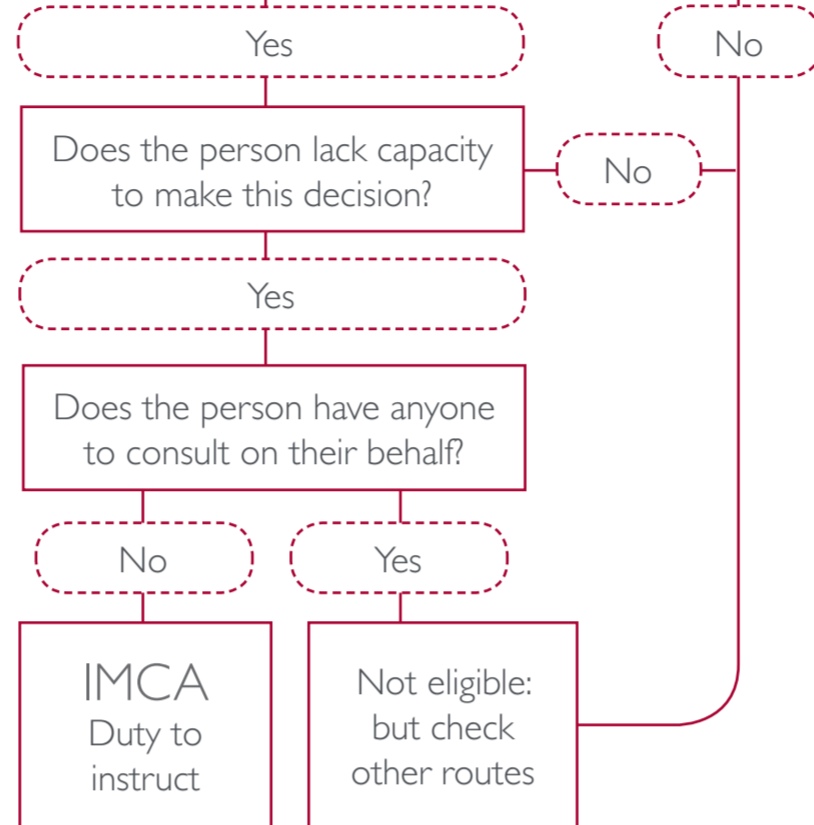
This includes:

- Being detained under the Act (but not s4, 5, 135 or 136)
- Conditionally discharged restricted patients
- People subject to guardianship
- Supervised community treatment patients
- Informal patients who are being considered for s57 treatment
- Informal patients under 18 who are being considered for ECT or s58 treatment



Medical Treatment

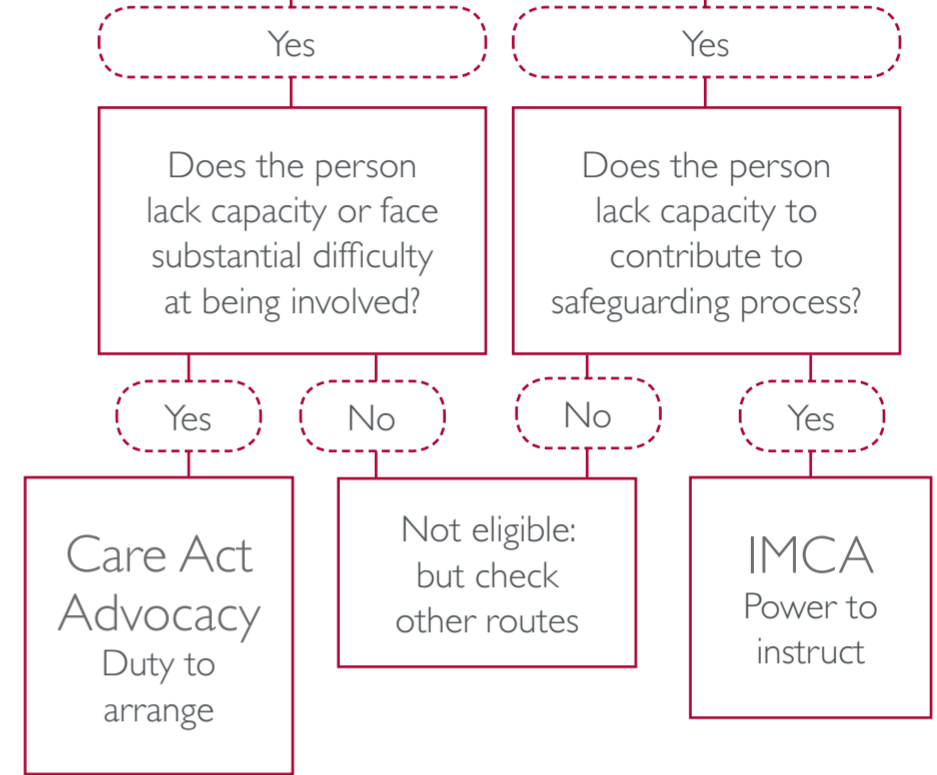
Does a decision about serious medical treatment need to be taken?



Safeguarding

Is the person subject to a safeguarding enquiry or review?

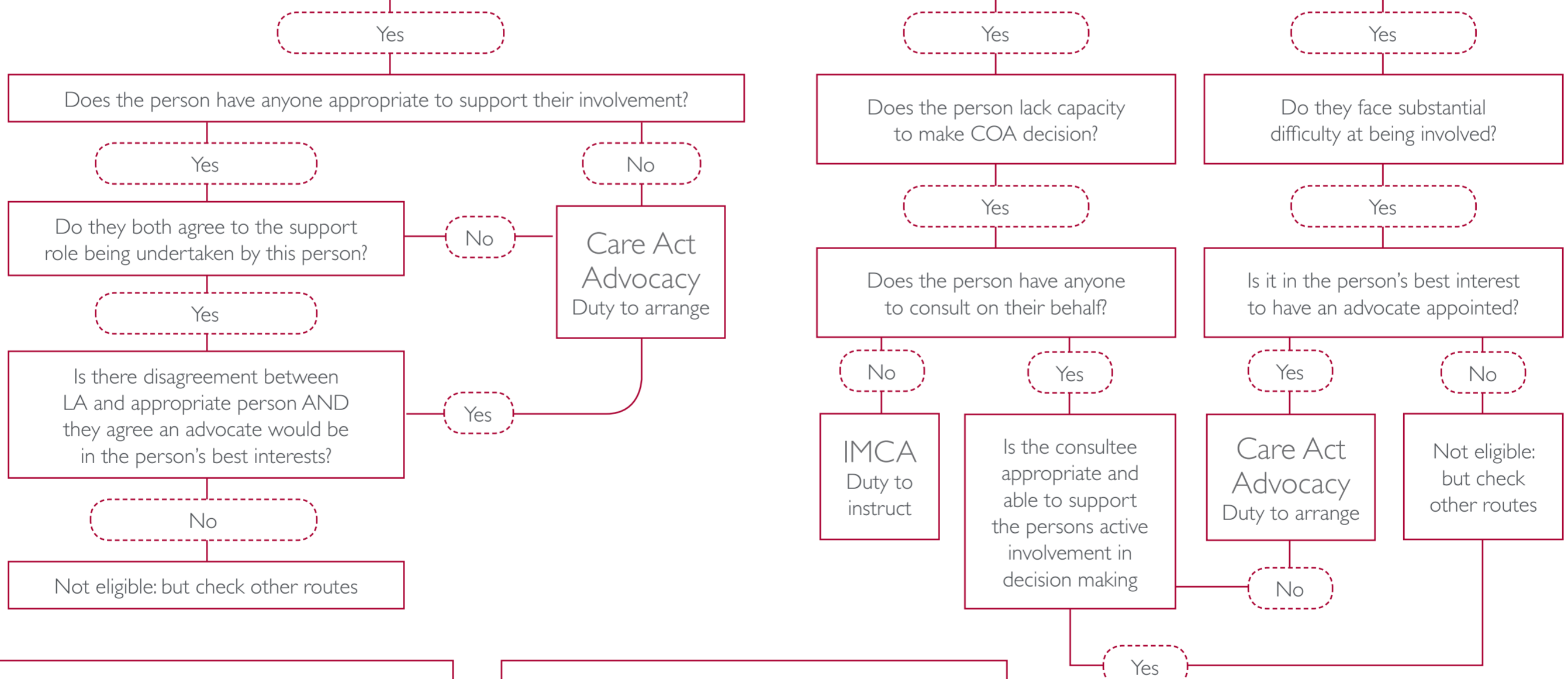
Is the person an alleged perpetrator of a safeguarding concern?



Meeting care and support needs

Does the 'carer' or person with care and support needs face substantial difficulty at being involved in the process of assessment, planning or review?

Could the decision result in a long term change of accommodation?



Key

Duty to offer (hospital managers have a legal duty to offer access to IMHA but the person has a choice)

Duty to arrange (the LA has a legal duty to arrange advocacy for an eligible person who would like one)

Duty to instruct (the decision maker has a legal duty to appoint an IMCA, no consent is required)

Power to instruct (the decision maker can appoint an IMCA but they do not need to)

Long term change of accommodation (COA). This is accommodation that is being arranged by the NHS for more than 28 days or by the LA for more than 6 weeks.

Don't forget....

- People who are undergoing more than one decision making process may be entitled to more than one advocacy referral.
- The same advocate can provide more than one role (providing they meet requirements for training and independence)
- Most people who receive IMCA support for a COA will usually always be entitled to receive advocacy under the care act for their wider care and support planning.
- If a person lacks capacity to consent (or refuse) an advocate, the decision maker must follow the Mental Capacity Act to decide whether it is in the person's best interests to have an advocate appointed.

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