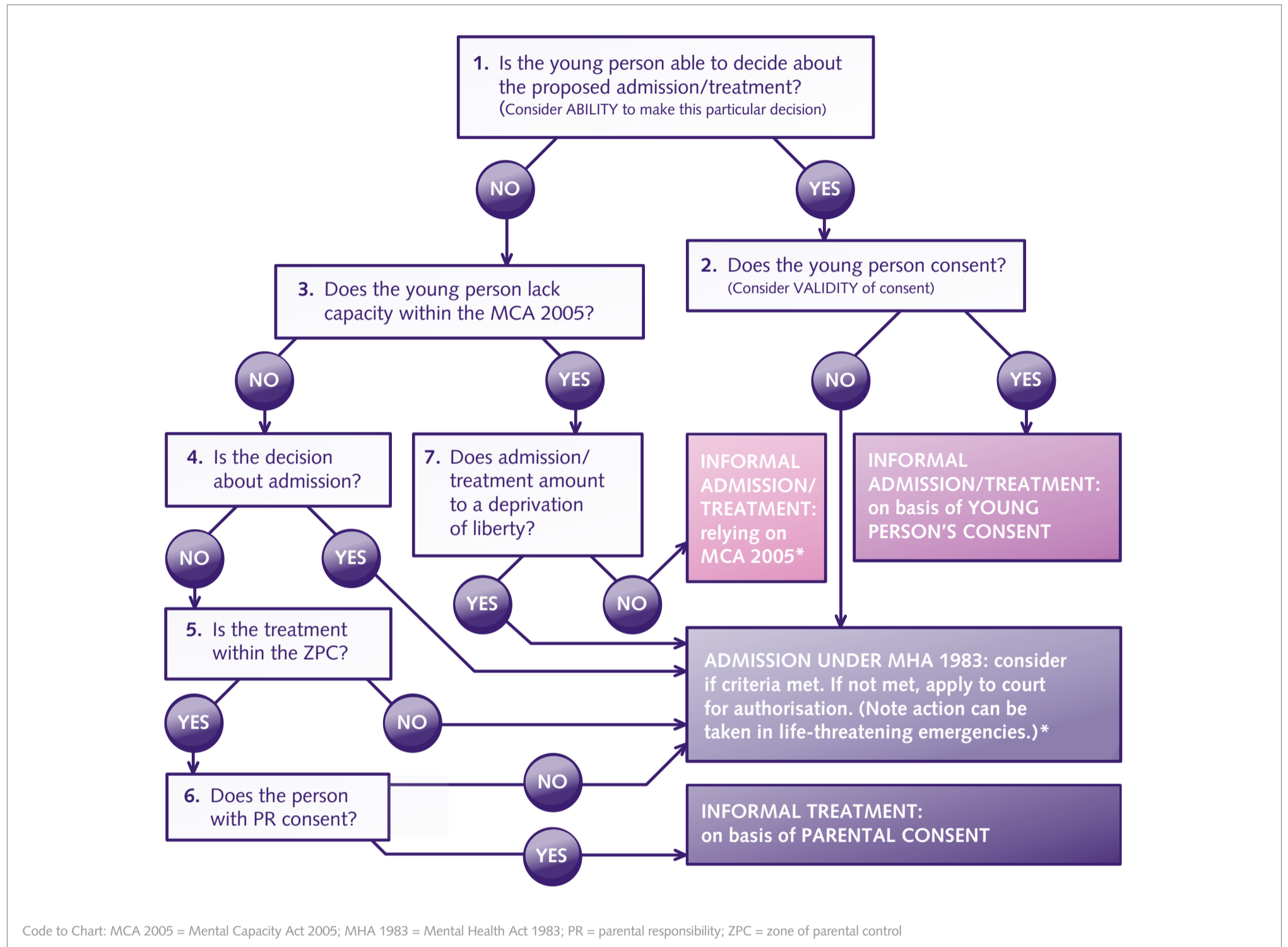


Admission to Hospital and Treatment for Mental Disorder: Young People aged 16 or 17 years old



Notes

This flow chart summarises the issues that practitioners will need to consider when determining the legal authority to admit and/or treat a young person (aged 16 or 17 years). It should be read in conjunction with 'The Legal Aspects of the Care and Treatment of Children and Young People with Mental Disorder: A guide for Professionals' ('the legal guide') in particular Chapters 3 and 4.

(Available at: www.nmhdu.org.uk/our-work/improving-mental-healthcare-pathways/mental-health-act-2007-implementationprogramme-children-and-young-peoples-workstream/).

The following notes relate to the numbers in the boxes in the flow chart. The numbers in brackets refer to the paragraph numbers in the legal guide.

1. Identify the decision(s) to be made: decisions about admission need to be treated separately from decisions about treatment as different considerations will apply to these two types of decisions.

Ascertain the young person's ability to make the relevant decision: a young person's inability to make the decision about their admission/treatment may be because either they lack capacity within the Mental Capacity Act 2005 (MCA 2005) or due to their immaturity - see (2.12-2.25).

2. Consent: The consent of a young person who is able to make the relevant decision is sufficient authority to admit (3.11) and/or treat (4.13) the young person. Note: there may be reasons for not relying on a person's consent to admission to hospital (3.8). See also the Code of Practice to the Mental Health Act 1983 (the Code) 4.9 – 4.11.

Refusal of admission by young person able to decide: Section 131 Mental Health Act 1983 (MHA 1983) provides that a young person's refusal of their admission to hospital cannot be overridden by those with parental responsibility (PR).

Refusal of treatment by young person able to decide: The Code advises that it would not be wise to rely on the consent of a person with PR to treat a young person when they are refusing treatment (4.15) - see paragraph 36.33 of the Code.

3. Inability to decide and the MCA 2005: See (2.18-2.22) on inability to make a decision due to a lack of capacity within the MCA 2005.

4. Admission and inability to decide falling outside the MCA 2005: If the young person is unable to decide about their admission to hospital but does not lack capacity within the MCA 2005, they will not be able to be admitted informally on the basis of parental consent – see section 131 MHA 1983 (3.12-3.13).

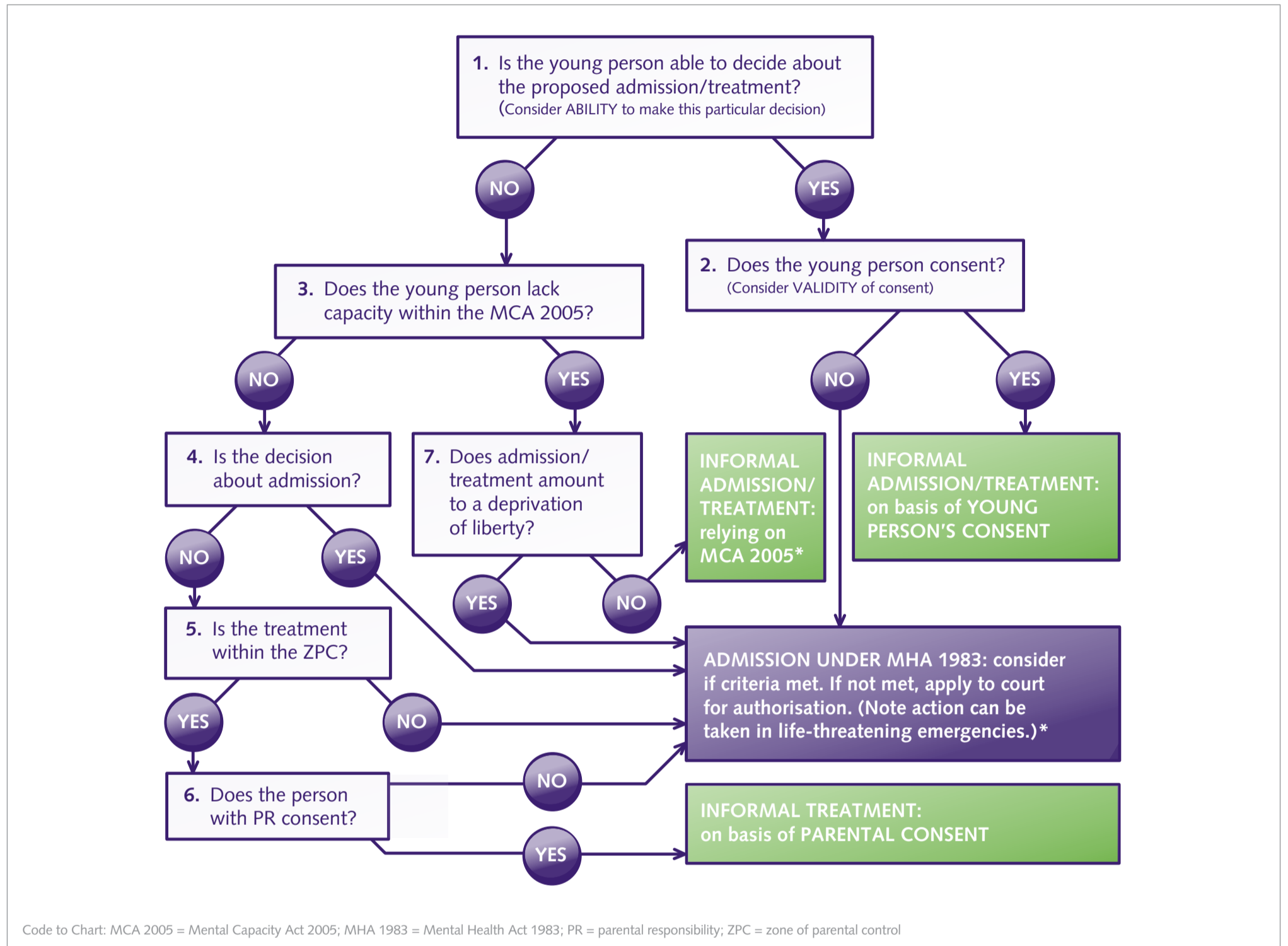
5. Zone of Parental Control (ZPC): see explanation of ZPC (2.39-2.43).

6. Parental consent to treatment: A young person who is unable to decide about their treatment may be treated if the person with PR consents provided this decision falls within the ZPC (4.16). If the decision on treatment is not within the ZPC, or the person with PR is unable/unwilling to consent to the treatment, consider whether the criteria for detention under the MHA 1983 are met. Note: action may be taken in life-threatening emergencies, see the Code 36.51 and (4.12, page 59).

7. Deprivation of liberty not authorised by the MCA 2005: The MCA 2005 cannot be relied upon to authorise a young person's deprivation of liberty – in such cases consider whether the criteria for detention under the MHA 1983 are met (see 2.49-2.51; 3.14; 4.16).

***Note:** if the young person lacks capacity within the MCA 2005 to make the relevant decision, in principle admission and/or treatment may also be possible on the basis of parental consent, but only if the decision is within the ZPC. That needs very careful consideration, especially if the admission or treatment may involve a deprivation of liberty. (For example, see case study Dan, legal guide pages 63-65)

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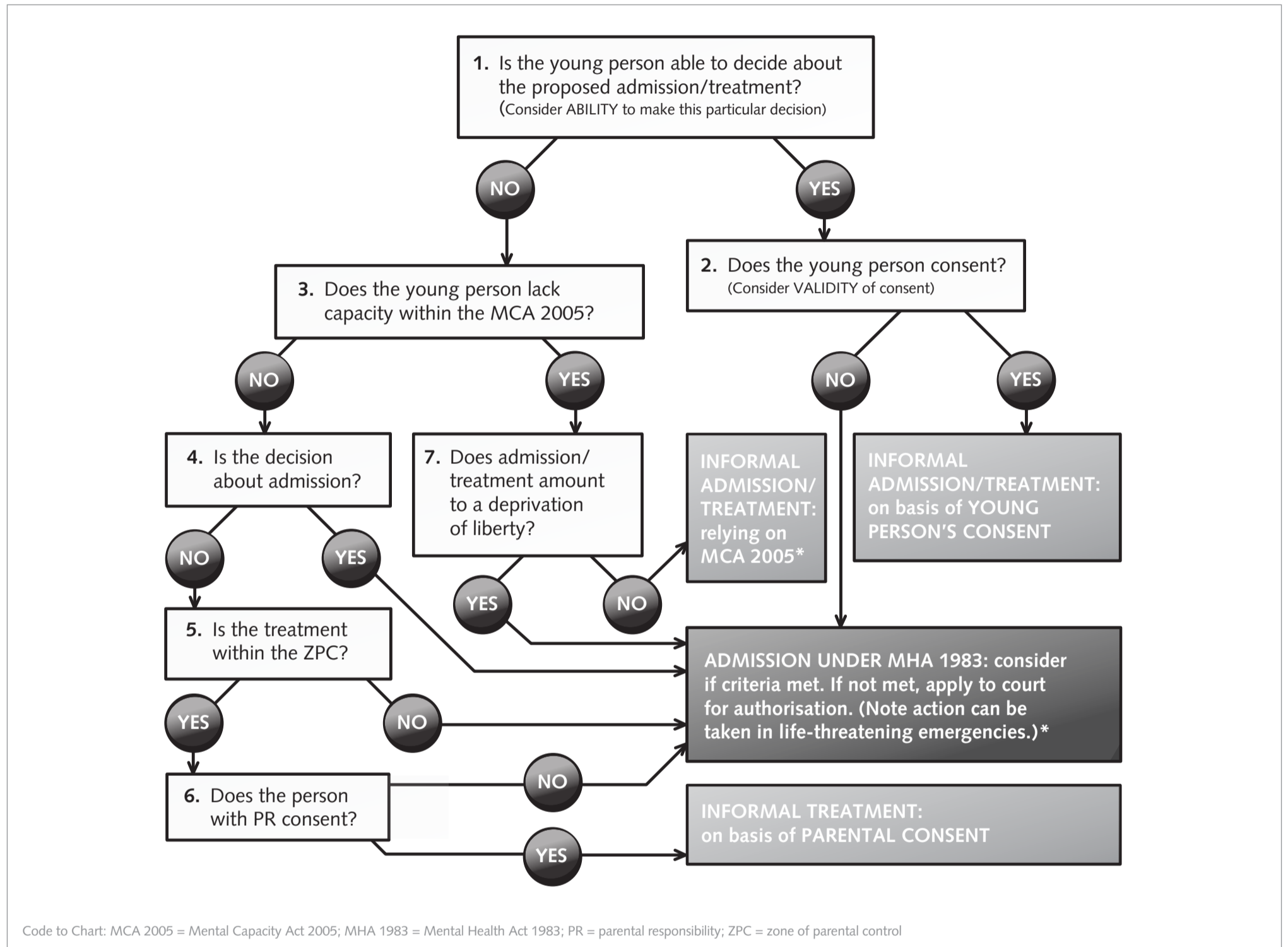
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