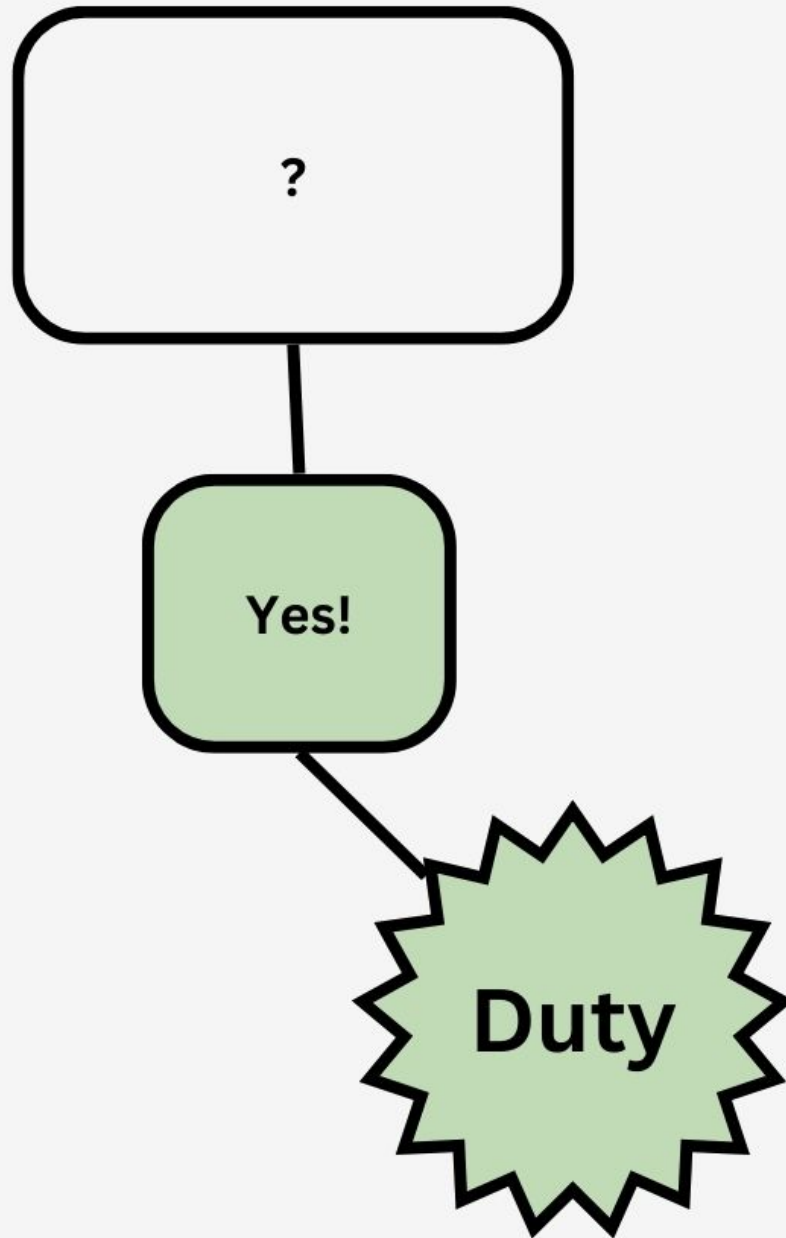
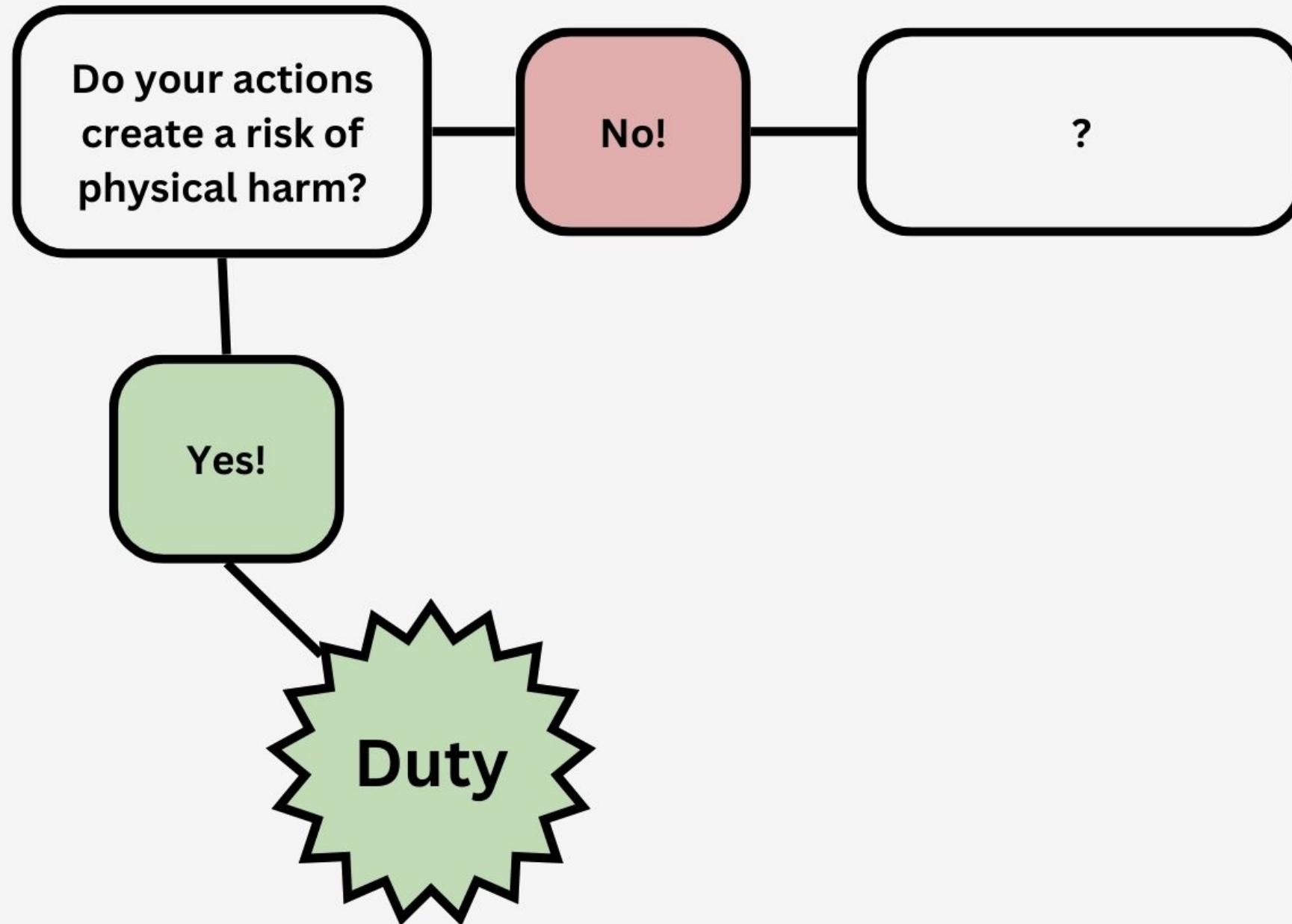


# Duties of Landowners & Occupiers

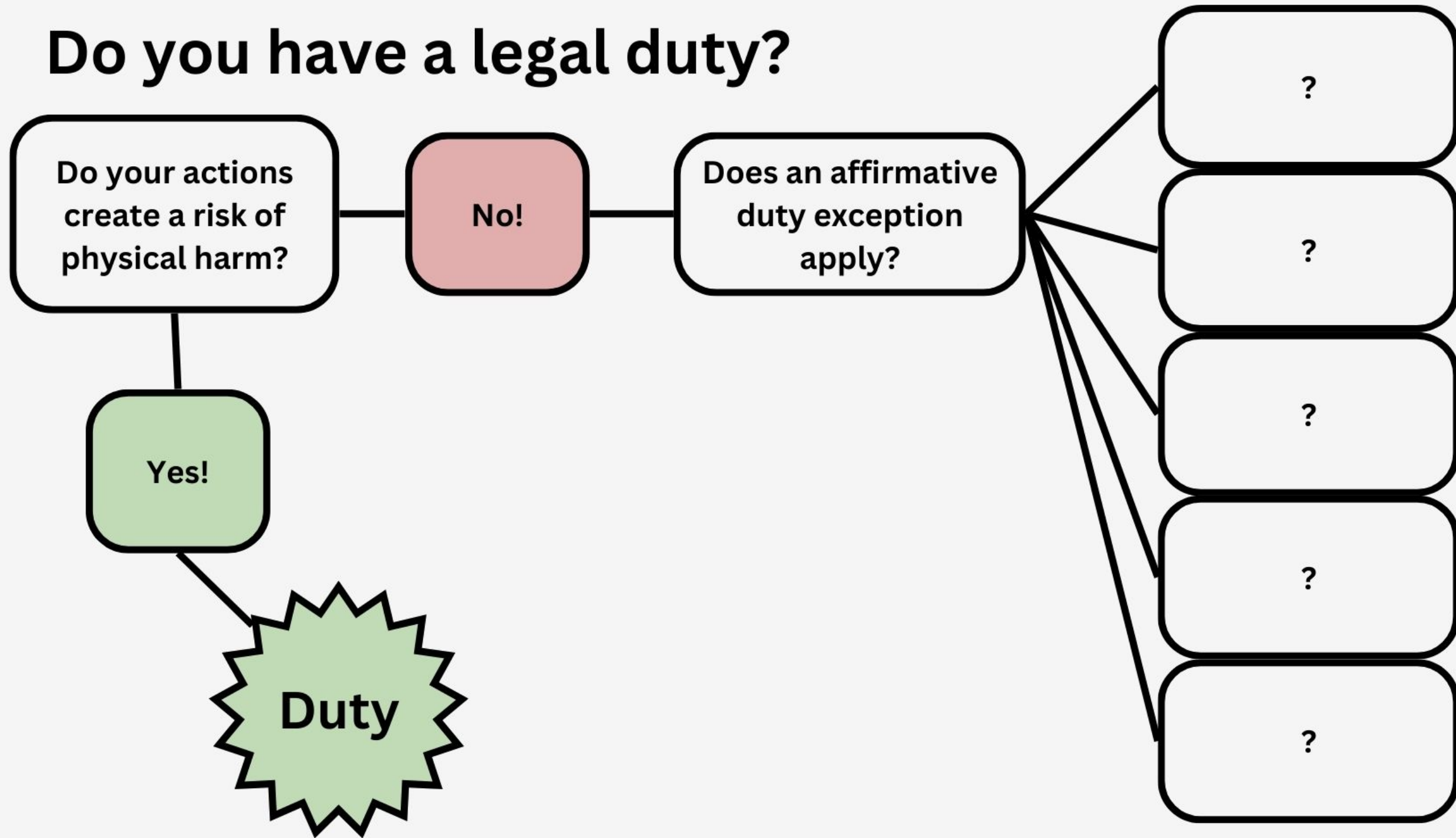
# Do you have a legal duty?



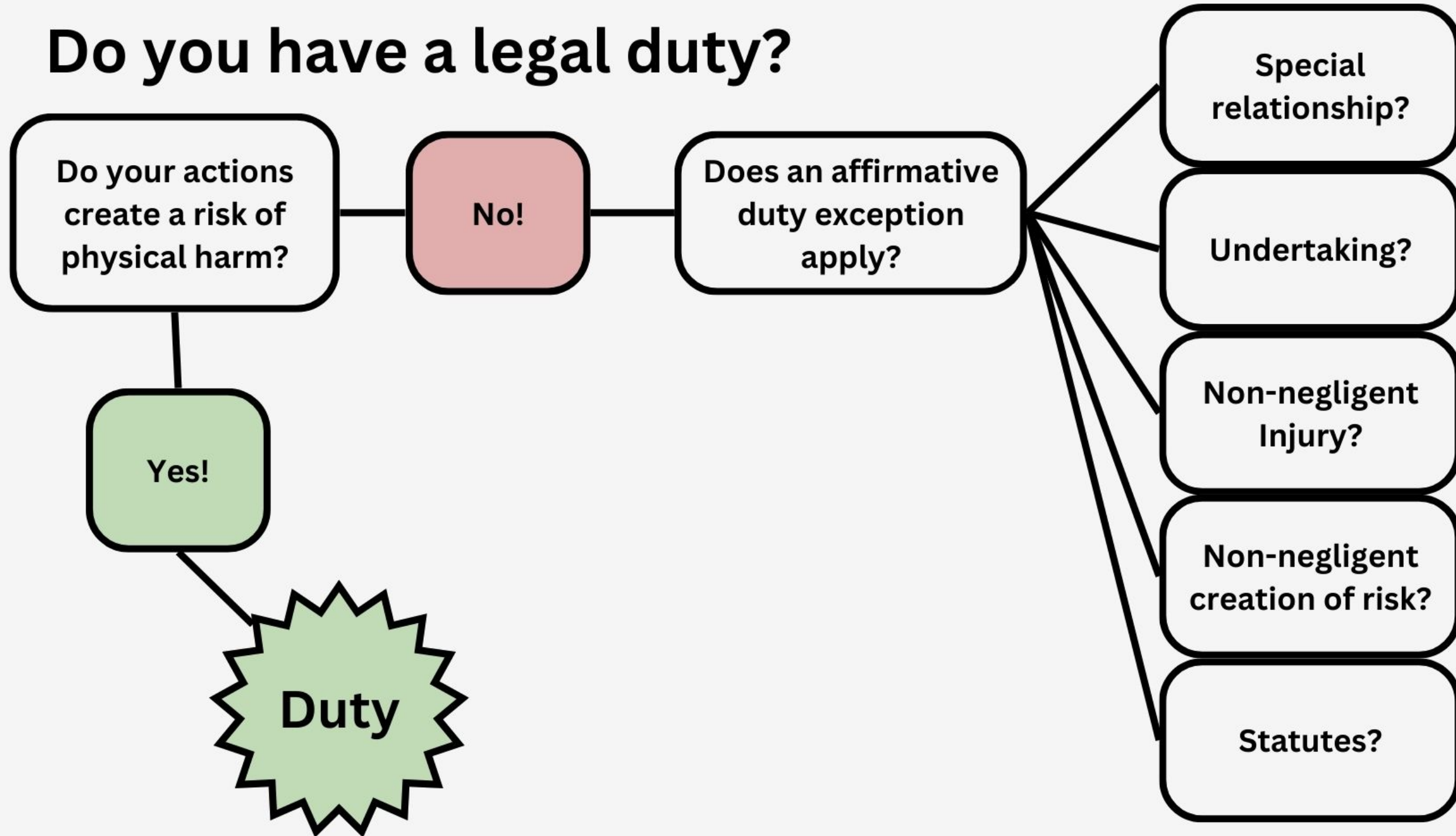
# Do you have a legal duty?



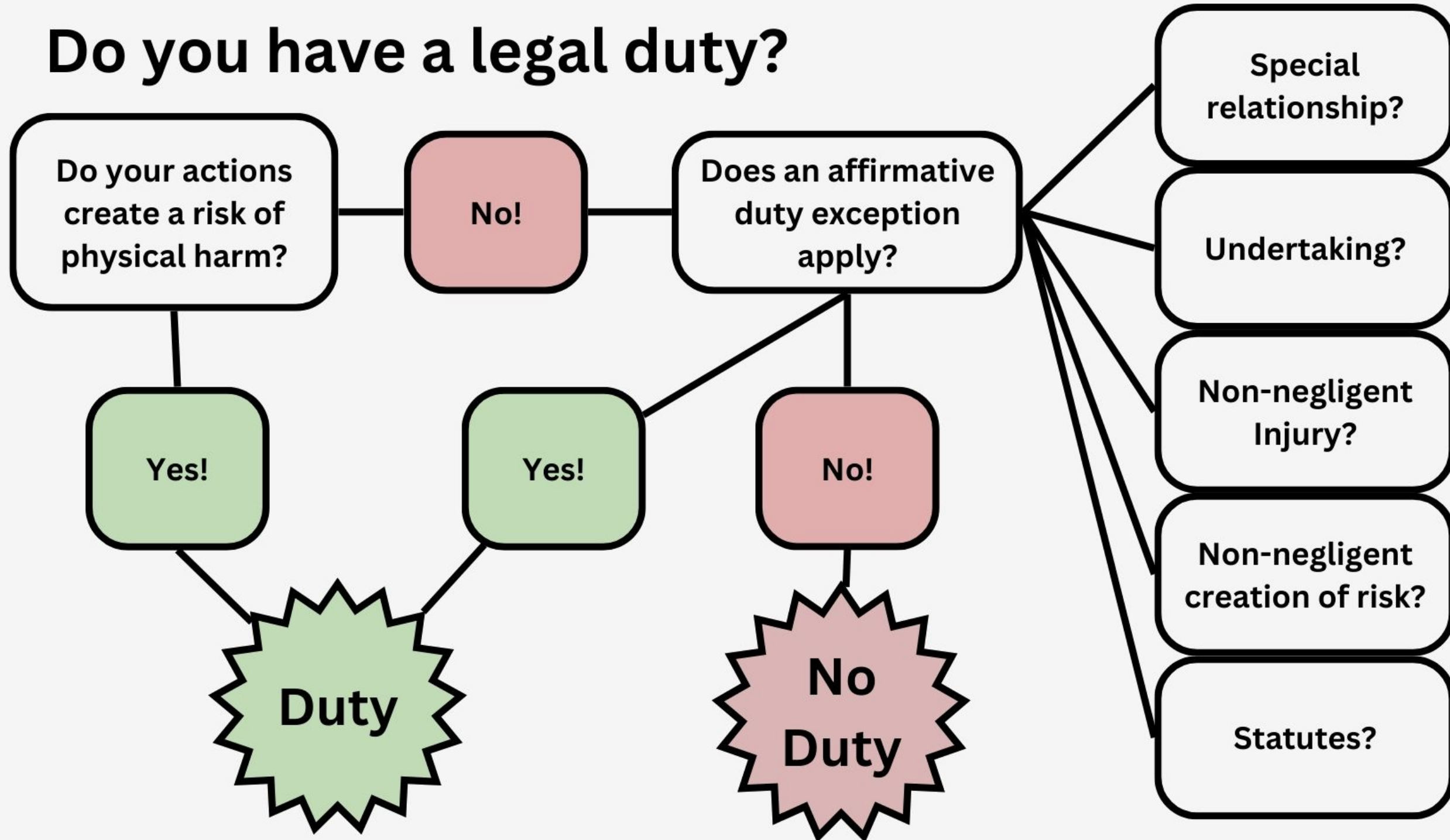
# Do you have a legal duty?



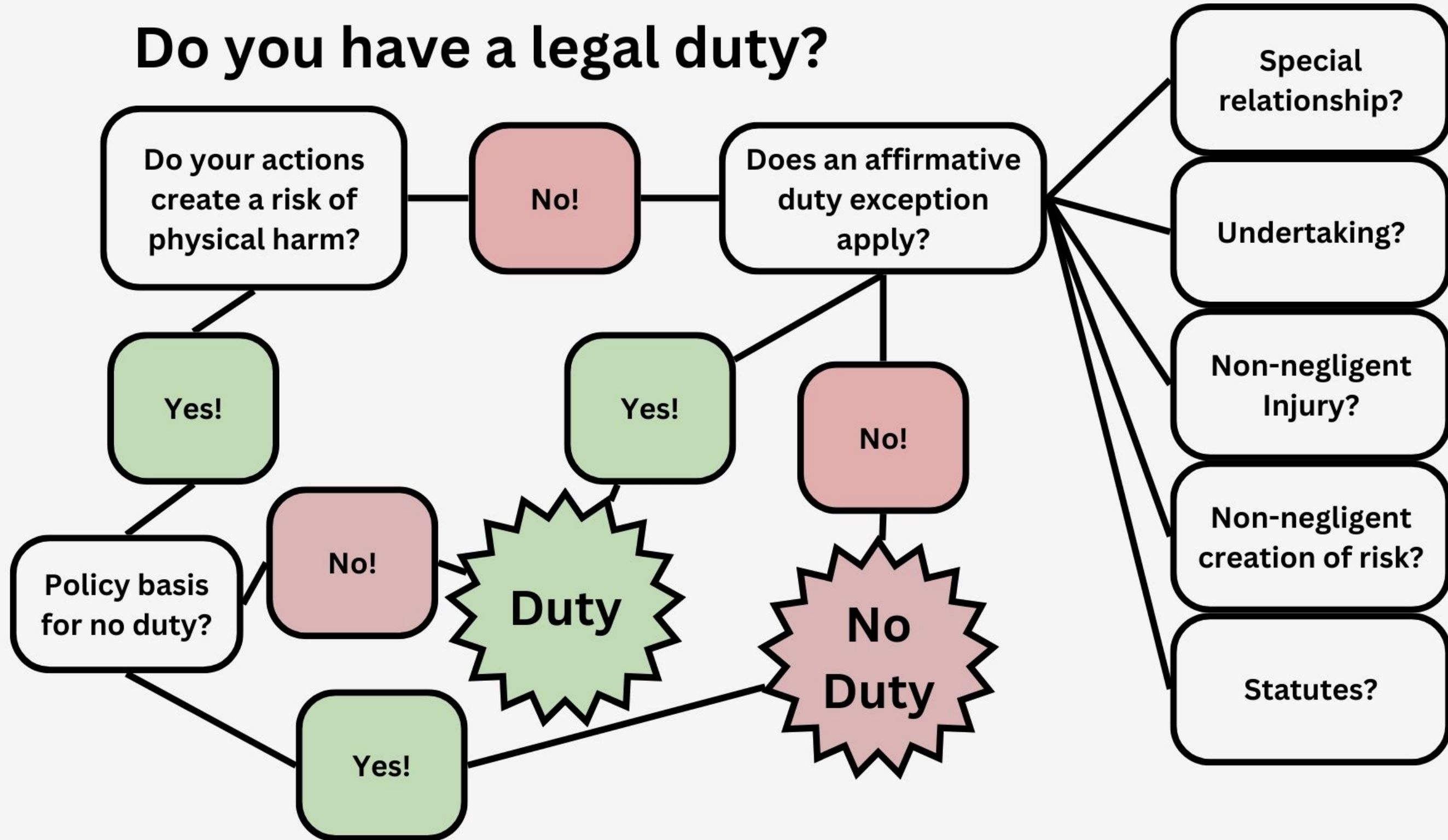
# Do you have a legal duty?



# Do you have a legal duty?



# Do you have a legal duty?



**How do we reconcile the tort of negligence with the concept of negligence?**





**I DON'T KNOW WHERE  
REASONABLE CARE GOES**

**AND AT THIS POINT  
I'M TOO AFRAID TO ASK**

imgflip.com

# Landowners & Occupiers

# Carter v. Kennedy

# Traditional View

Type of Visitor

Definition

---

???

???

---

???

???

---

???

???

# Traditional View

Type of Visitor

Definition

---

Trespasser

???

---

Licensee

???

---

Invitee

???

# Traditional View

**Type of Visitor**

**Definition**

---

Trespasser

Intruder

---

Licensee

Social guest

---

Invitee

Business guest or general public  
(if land opened to public)

# Duties Owed — Traditional View

## Trespasser

- duty not to intentionally or wantonly cause injury
- *no duty* of reasonable care (with handful of exceptions)

## Licensee

- *no duty* to inspect or discover dangerous conditions
- duty to warn or make known conditions safe

## Invitee

- duty to inspect and discover dangerous conditions
- duty to warn or make conditions safe

# Heins v. Webster County



# Modern View

Type of Visitor

Definition

---

???

???

---

???

???

# Modern View

Type of Visitor

Definition

---

Trespasser

Intruder

---

Everybody else

Not a trespasser

# Duties Owed — Modern View

## Trespasser<sup>1</sup>

- duty not to intentionally or wantonly cause injury
- *no duty* of reasonable care (with handful of exceptions)

## Everybody Else

- duty of reasonable care

---

<sup>1</sup> Or in California and the Third Restatement, a “flagrant” trespasser rather than just a plain old trespasser

**Traditional View**

**vs.**

**Modern View**

# *Heins* Dissent Hypo

A plaintiff was playing on an outdoor asphalt YMCA basketball court, fell, and was injured. The plaintiff was not a member of the YMCA and did not pay dues to the YMCA. Following the traditional view, the plaintiff was a licensee and the trial court's directed verdict for the defendant was affirmed on appeal. Following the *Heins* majority, the YMCA will be subject to lawsuits holding them to a duty to treat uninvited users of their facilities with the same standard of care as the paying members of their institutions.

The majority opinion “socializes the use of privately owned property.” “From this moment on, public and private institutions, as well as residential homeowners, must be especially aware of unknown, uninvited individuals who take advantage of their land and facilities.”

Writing for the majority, how would you respond?

# Sample Exam Question

You are a trial court judge in the state of Loyola. The facts of a case before you are as follows. A patient had been diagnosed as legally blind and had stopped driving as a result. At a routine eye appointment, the patient's optometrist told him that his vision had improved enough for him to drive again. The patient resumed driving and shortly thereafter crashed into a horse-drawn hay trailer, killing one passenger and injuring the other four.

The passengers have sued the optometrist, claiming medical malpractice. The optometrist has moved for summary judgment on the grounds that she had no duty to the plaintiffs.

How would you rule on the motion? Include your reasoning. You should be aware that the Supreme Court of Loyola recently adopted the holding and reasoning of the *Tarasoff* opinion regarding a psychiatrist's duty to third parties.