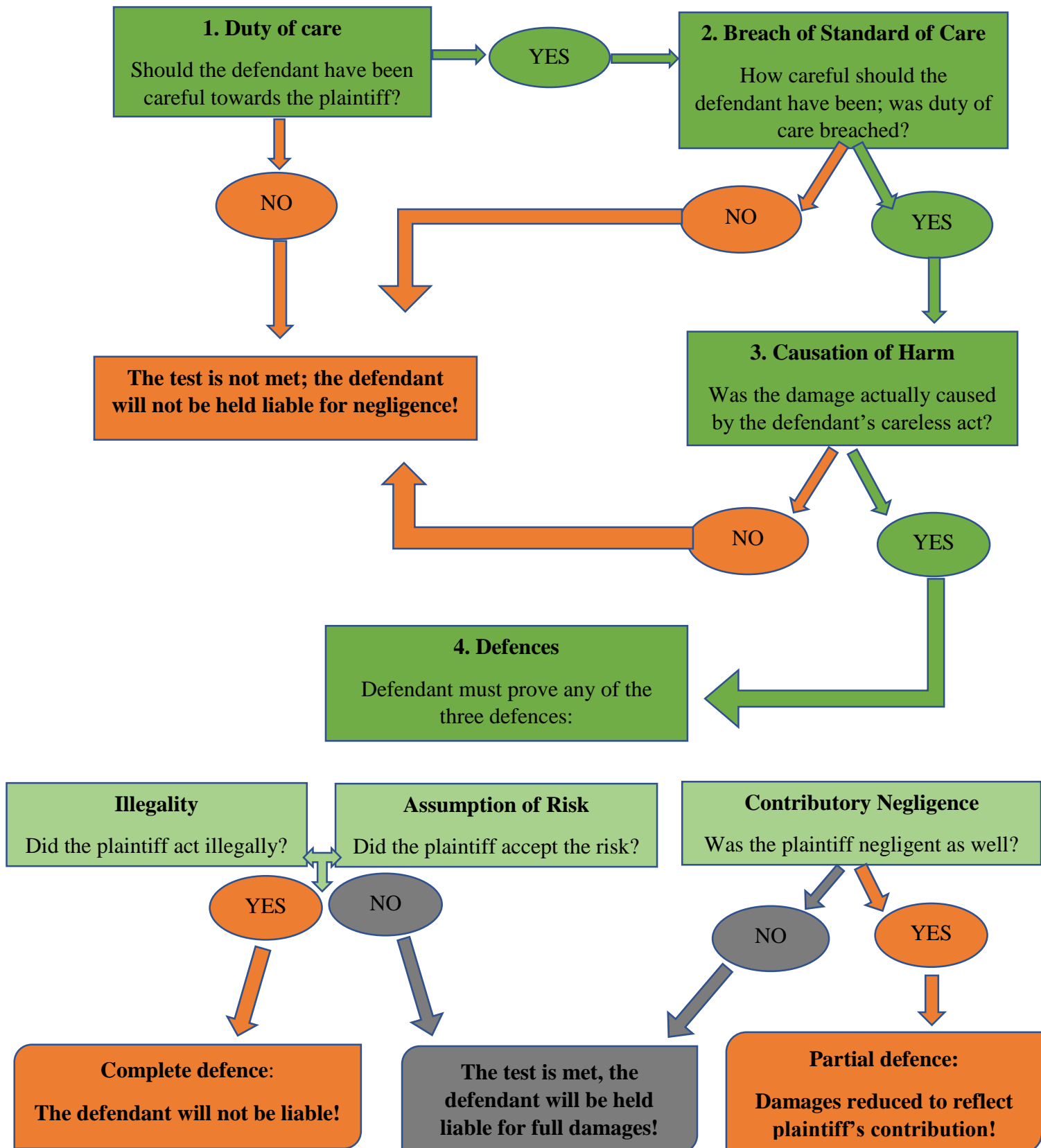


**Negligence** → Can the **defendant be held liable for carelessly causing** harm to the plaintiff?



**Definitions****1. Duty of Care**

- An obligation to use care, due diligence and skill a prudent person would use to avoid harm to plaintiff.

**Test:**

- Reasonable Foreseeability → would a reasonable person have foreseen the harm?

**2. Standard of Care**

- Determines how defendant who has a duty of care must act.

**Test:**

- Reasonable Person Test → how would a reasonable person act in this situation?
  - Professionals: Must act how a reasonable professional in their expertise would act.
  - Product Liability: refers to manufactured products.

**3. Causation**

- Defendant can only be liable if their actions caused the loss.

**Test:**

- Factual – But-for Test → Would loss have occurred but-for the breach?
- Legal – Remoteness → Would it be fair to impose liability?

**4.1 First Defence: Contributory Negligence**

- Plaintiff contributed to their own loss by their careless actions.

**4.2 Second Defence: Assumption of Risk**

- Plaintiff accepted the risk of loss, either full physical risk (signing a waiver) or a legal risk (giving up right to sue for injury).

**4.3 Third Defence: Illegality**

- Plaintiff was injured while engaged in an illegal activity.