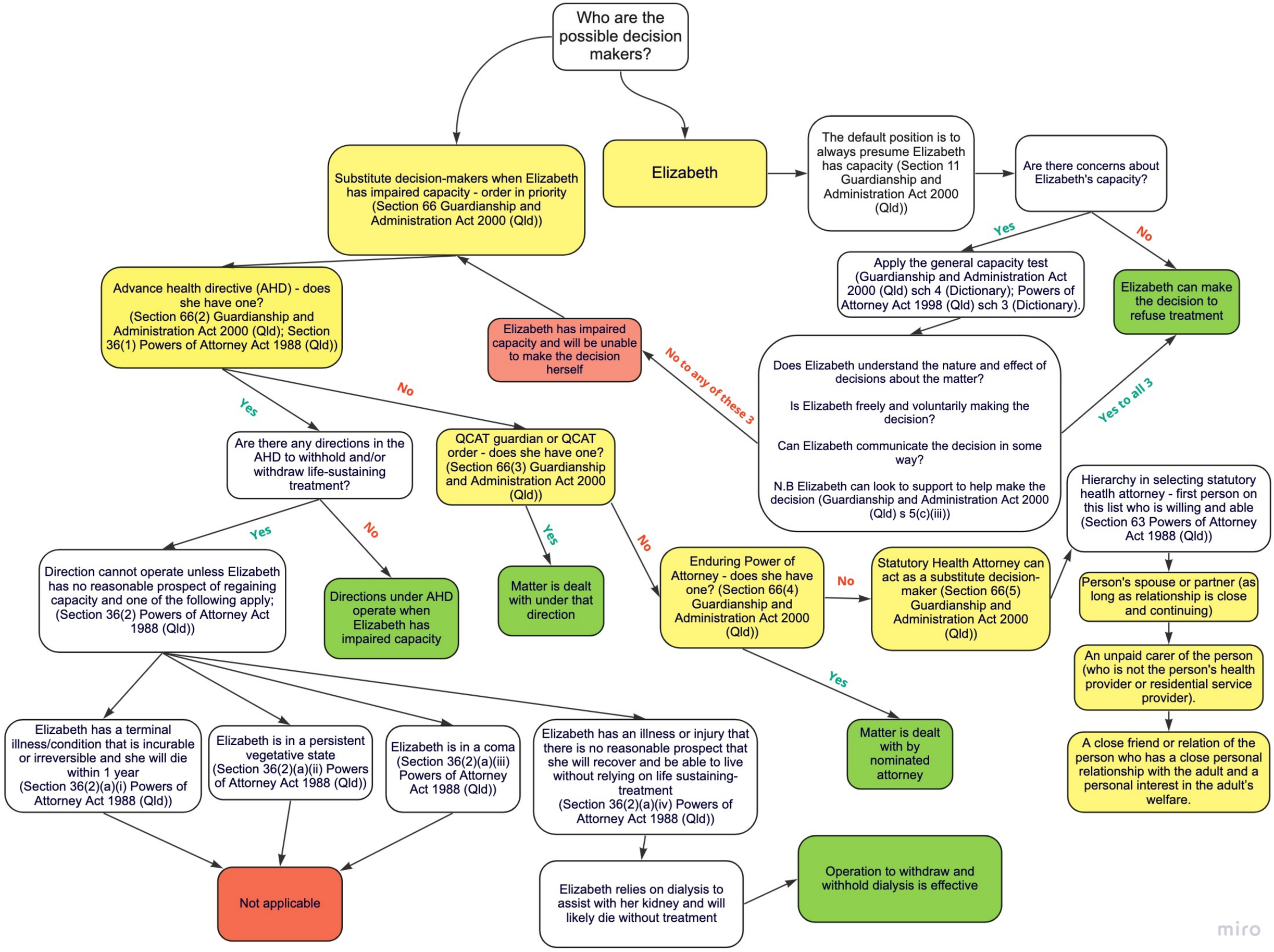
Who are the possible decision makers?
Elizabeth
The default position is to always presume Elizabeth has capacity (Section 11 Guardianship and Administration Act 2000 (Qld))
Are there concerns about Elizabeth's capacity?
Yes
No
Apply the general capacity test (Guardianship and Administration Act 2000 (Qld) sch 4 (Dictionary); Powers of Attorney Act 1998 (Qld) sch 3 (Dictionary).
Elizabeth can make the decision to refuse treatment
Does Elizabeth understand the nature and effect of decisions about the matter?
Is Elizabeth freely and voluntarily making the decision?
Can Elizabeth communicate the decision in some way?
N.B Elizabeth can look to support to help make the decision (Guardianship and Administration Act 2000 (Qld) s 5(c)(iii))
No to any of these 3
Yes to all 3
Elizabeth has impaired capacity and will be unable to make the decision herself
Substitute decision-makers when Elizabeth has impaired capacity - order in priority (Section 66 Guardianship and Administration Act 2000 (Qld))
Advance health directive (AHD) - does she have one? (Section 66(2) Guardianship and Administration Act 2000 (Qld); Section 36(1) Powers of Attorney Act 1988 (Qld))
Yes
No
Are there any directions in the AHD to withhold and/or withdraw life-sustaining treatment?
Yes
No
Direction cannot operate unless Elizabeth has no reasonable prospect of regaining capacity and one of the following apply; (Section 36(2) Powers of Attorney Act 1988 (Qld))
Directions under AHD operate when Elizabeth has impaired capacity
QCAT guardian or QCAT order - does she have one? (Section 66(3) Guardianship and Administration Act 2000 (Qld))
Yes
No
Matter is dealt with under that direction
Enduring Power of Attorney - does she have one? (Section 66(4) Guardianship and Administration Act 2000 (Qld))
No
Statutory Health Attorney can act as a substitute decision-maker (Section 66(5) Guardianship and Administration Act 2000 (Qld))
Yes
Matter is dealt with by nominated attorney
Hierarchy in selecting statutory heatlh attorney - first person on this list who is willing and able (Section 63 Powers of Attorney Act 1988 (Qld))
Person's spouse or partner (as long as relationship is close and continuing)
An unpaid carer of the person (who is not the person's health provider or residential service provider).
A close friend or relation of the person who has a close personal relationship with the adult and a personal interest in the adult's welfare.
Elizabeth has a terminal illness/condition that is incurable or irreversible and she will die within 1 year (Section 36(2)(a)(i) Powers of Attorney Act 1988 (Qld))
Elizabeth is in a persistent vegetative state (Section 36(2)(a)(ii) Powers of Attorney Act 1988 (Qld))
Elizabeth is in a coma (Section 36(2)(a)(iii) Powers of Attorney Act 1988 (Qld))
Elizabeth has an illness or injury that there is no reasonable prospect that she will recover and be able to live without relying on life sustaining-treatment (Section 36(2)(a)(iv) Powers of Attorney Act 1988 (Qld))
Not applicable
Elizabeth relies on dialysis to assist with her kidney and will likely die without treatment
Operation to withdraw and withhold dialysis is effective
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