

17 June 2014
FOIA reference: F0001934

Dear XXXX

I am writing in respect of your recent request of 19 May 2014, for the release of information held by the Civil Aviation Authority (CAA).

Your request:

“copy of the procedure that the CAA follows when it is investigating a complaint alleging that an airline has not complied with the requirements of European Union Regulation EC 261/2004”.

Our response:

Having considered your request in line with the provisions of the Freedom of Information Act 2000 (FOIA), we are pleased to be able to provide the information below.

All complaints received by the CAA alleging that an airline has not complied with the requirements of [Regulation \(EC\) 261/2004](#) are assessed in line with the CAA's internal guidance for complaint handlers which can be found attached (see attachment one).

The CAA's process for dealing with complaints about airlines and airports is published on our website and can be found using the following link:
<http://www.caa.co.uk/default.aspx?catid=2211&pageid=12725>

All correspondence received by the CAA between the passenger and their airline will be taken into account when investigating a claim. If the complaint falls within the CAA's remit and it considers there are grounds to take up the complaint with the airline, we will require additional information from the airline set out in the 'pro forma' attached (see attachment two).

On receipt of the completed 'pro forma', the CAA may challenge the position taken by the airline in order to take a view on either the right to compensation, redress or breaches of Regulation (EC) 261/2004.

In addition, a published list clarifying the “extraordinary circumstances” clause in Regulation (EC) 261/2004 can be accessed using the link below. This provides a list of incidents with corresponding reference numbers which airlines can invoke to decline compensation in the event of a flight cancellation or lengthy delay. This list is referred to by the CAA to clarify the reason the airline has given when a 'pro forma' is returned.

<http://ec.europa.eu/transport/themes/passengers/air/doc/neb-extraordinary-circumstances-list.pdf>

It should be noted that this information may be subject to change following the recent Jet2 v Huzar case at the Court of Appeal on Wednesday 11 June 2014. The CAA has published a [press release](#) which provides further information.

Our enforcement powers do not cover obtaining redress for individual consumers and we do not have legal powers to impose a solution on an airline in the same way as an ombudsman type scheme. We do use information provided in complaints to underpin our enforcement work, but we do not generally take enforcement action based on the facts in a single complaint - rather we look to ensure future compliance by addressing systemic non-compliance by a business.

Our powers, under the Enterprise Act 2002, are to take action to ensure businesses change their practices and comply with the law for the benefit of consumers generally.

If you are not satisfied with how we have dealt with your request in the first instance you should approach the CAA in writing at:-

Mark Stevens
External Response Manager
Civil Aviation Authority
Aviation House
Gatwick Airport South
West Sussex
RH6 0YR

mark.stevens@caa.co.uk

The CAA has a formal internal review process for dealing with appeals or complaints in connection with Freedom of Information requests. The key steps in this process are set in the attachment.

Should you remain dissatisfied with the outcome you have a right under Section 50 of the Freedom of Information Act to appeal against the decision by contacting the Information Commissioner at:-

Information Commissioner's Office
FOI/EIR Complaints Resolution
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
www.ico.gov.uk/complaints.aspx

Should you wish to make further Freedom of Information requests, please use the e-form at <http://www.caa.co.uk/foi>.

Yours sincerely

Rick Chatfield
Information Rights and Enquiries Officer

CAA INTERNAL REVIEW & COMPLAINTS PROCEDURE

- The original case to which the appeal or complaint relates is identified and the case file is made available;
- The appeal or complaint is allocated to an Appeal Manager, the appeal is acknowledged and the details of the Appeal Manager are provided to the applicant;
- The Appeal Manager reviews the case to understand the nature of the appeal or complaint, reviews the actions and decisions taken in connection with the original case and takes account of any new information that may have been received. This will typically require contact with those persons involved in the original case and consultation with the CAA Legal Department;
- The Appeal Manager concludes the review and, after consultation with those involved with the case, and with the CAA Legal Department, agrees on the course of action to be taken;
- The Appeal Manager prepares the necessary response and collates any information to be provided to the applicant;
- The response and any necessary information is sent to the applicant, together with information about further rights of appeal to the Information Commissioners Office, including full contact details.

CASE HANDLING ONE WAY OF WORKING EC COMPLAINTS

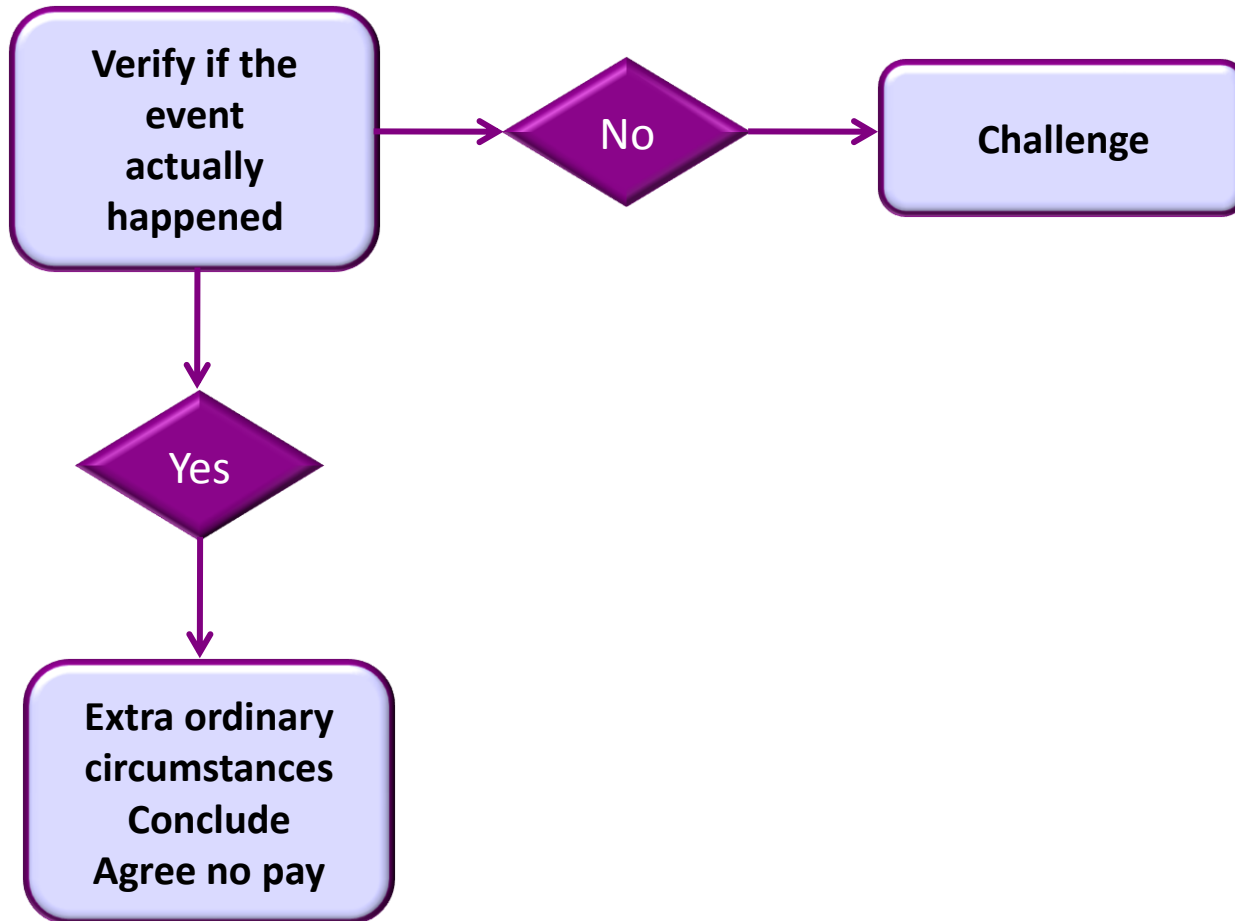
NO PAY COMPLAINTS



April 2014

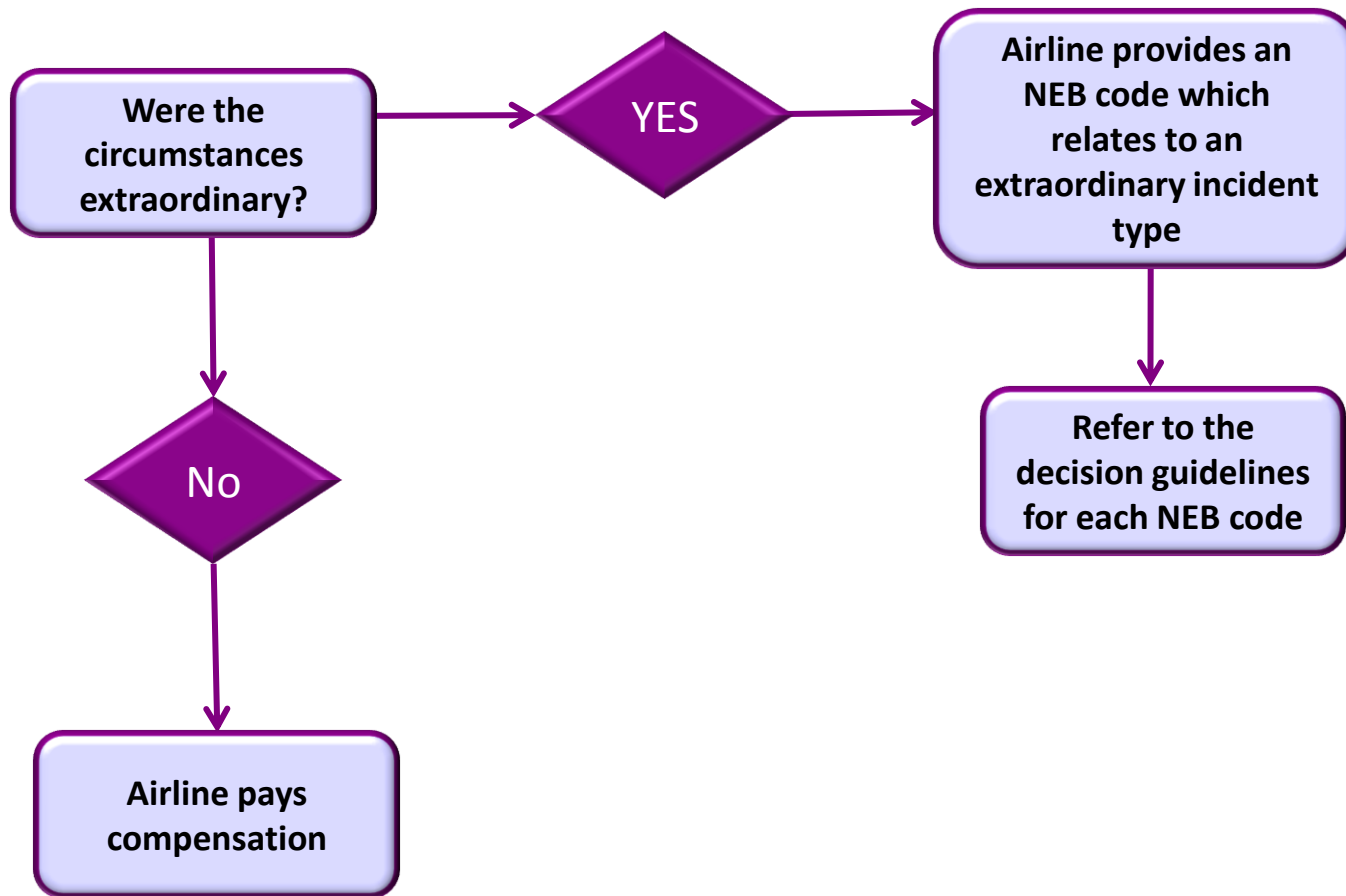
NEB Codes 1 - 9

- By nature of these codes – the first check is whether the airline is accurately stating what happened against the NEB code. If so, they are extra-ordinary by nature and therefore no compensation is due.



Decision Making Guidelines – EC Flight Delays

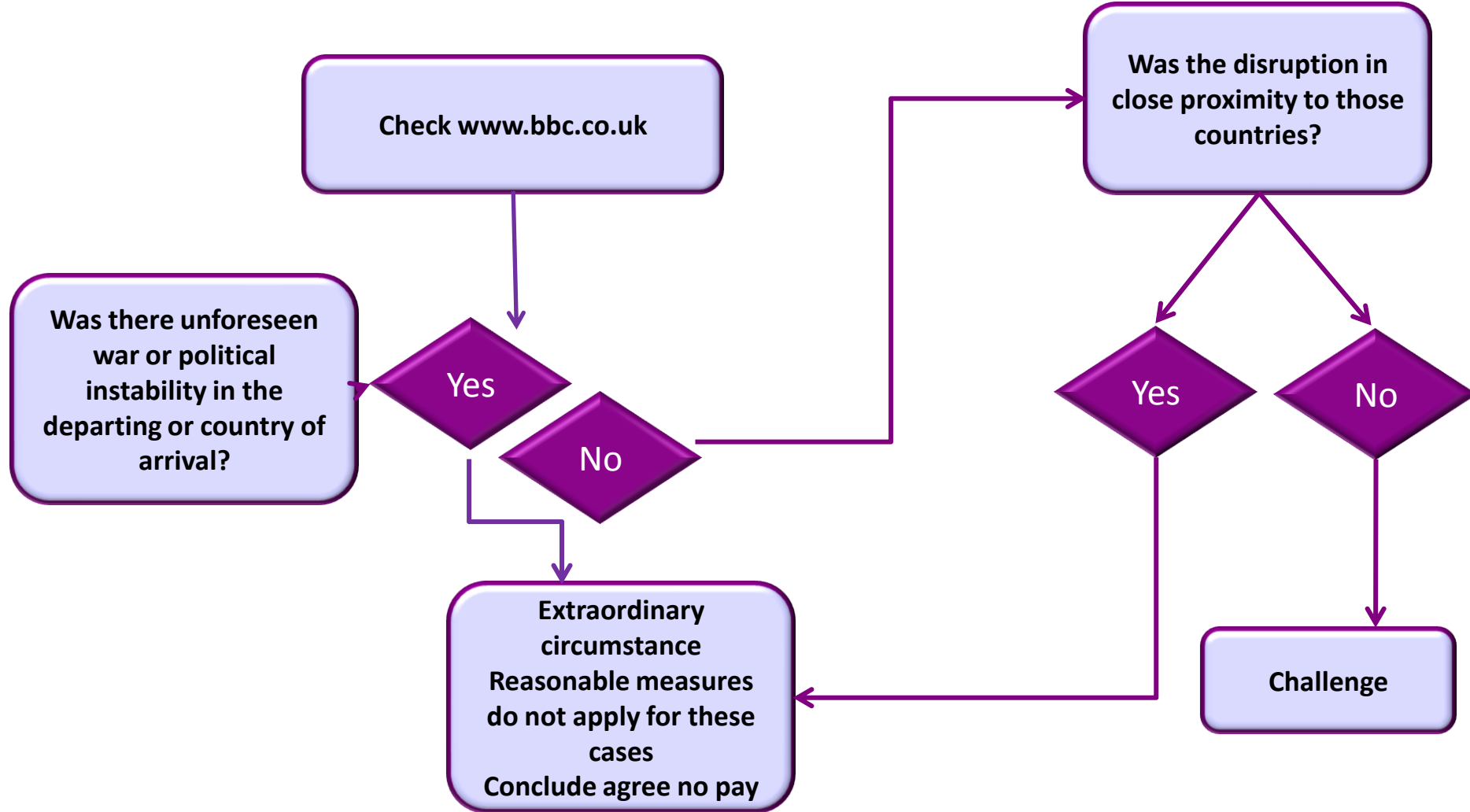
First simple decision tree for potentially qualifying cases:



NEB Code 1 – Was this Extra-Ordinary?

Code	Type	Description
1	War/Political Instability	Unforeseen disruption arising from war and political instability of any kind where travel is not recommended.

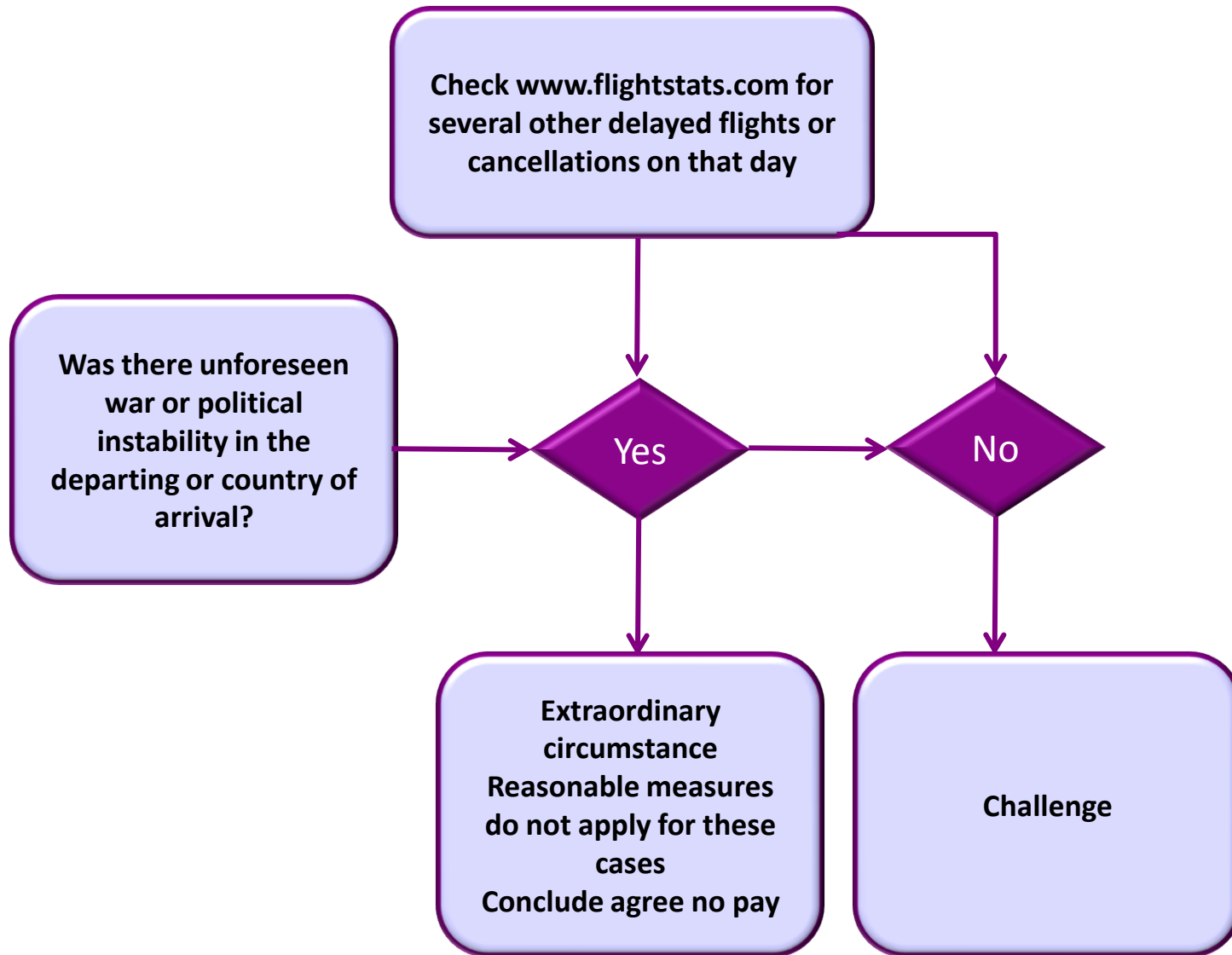
NEB Code 1



NEB Code 2 – Was this Extraordinary?

Code	Type	Description
2	War/Political Instability	Where due to war or political instability, the supply of aircraft fuel is limited or unavailable at short notice and without prior notice.

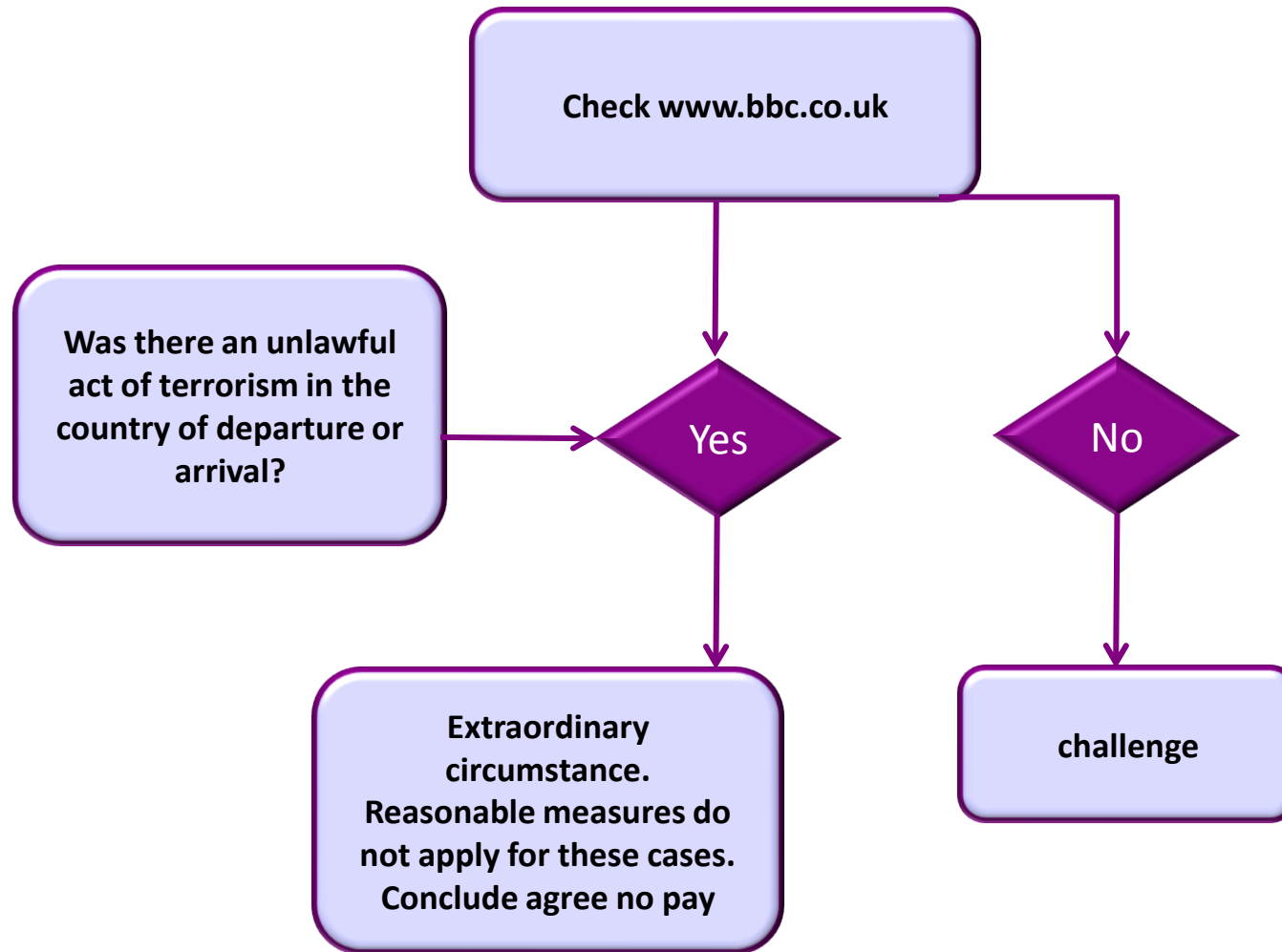
NEB Code 2



NEB Code 3

Code	Type	Description
3	Unlawful act	An unlawful act such as terrorism.

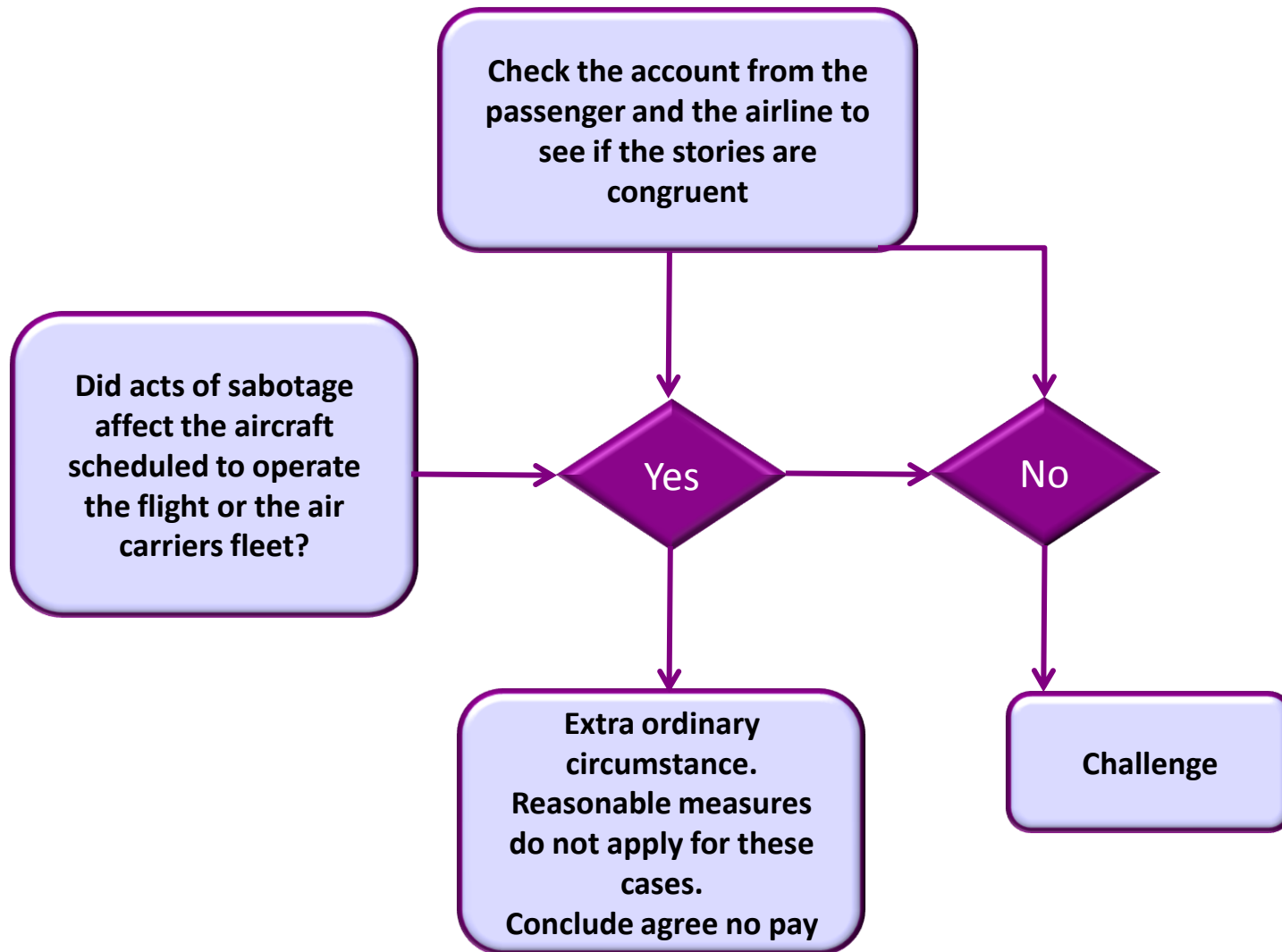
NEB Code 3



NEB Code 4

Code	Type	Description
4	Sabotage	An act of sabotage to the aircraft scheduled to operate the flight or the air carriers fleet.

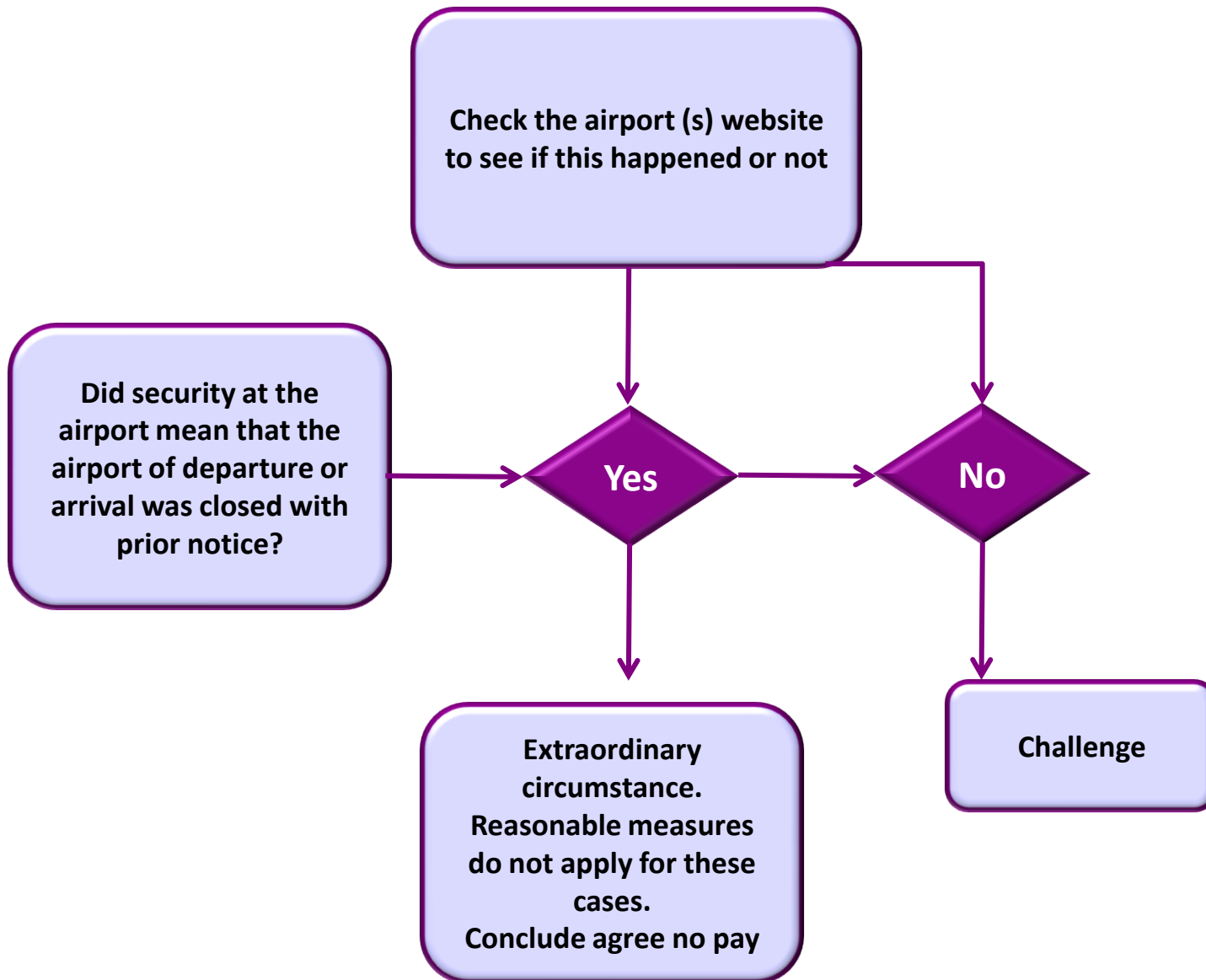
NEB Code 4



NEB Code 5

Code	Type	Description
5	Security	Closure of the airport of departure or the airport of arrival without prior notice and for security reasons.

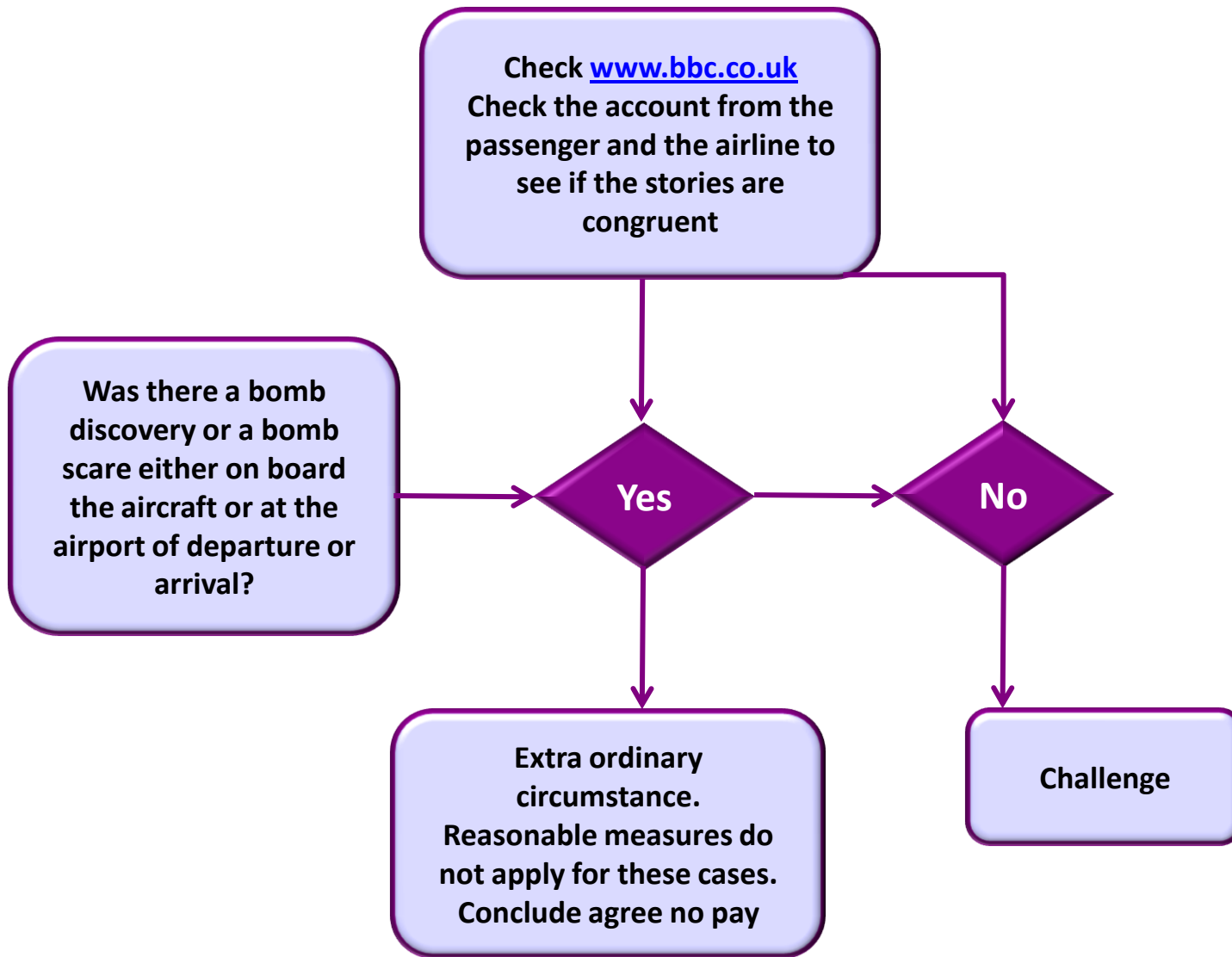
NEB Code 5



NEB Code 6

Code	Type	Description
6	Security	Bomb discovery or bomb scare either on board the aircraft or at the airport of departure or the airport of arrival.

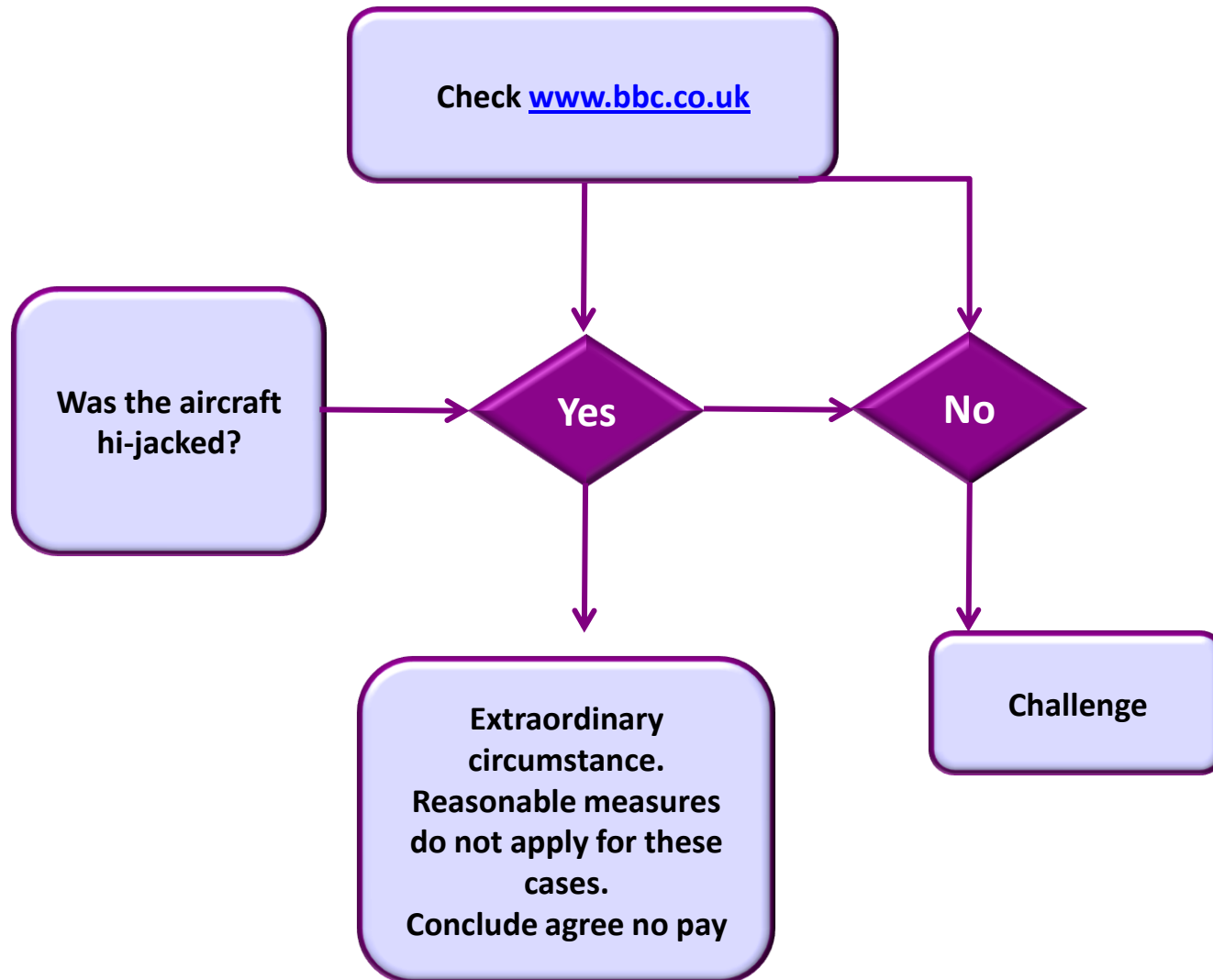
NEB Code 6



NEB Code 7

Code	Type	Description
7	Security	Hi-jacking of the aircraft.

NEB Code 7



NEB Code 8

Code	Type	Description
8	Security	Removal of an unaccompanied baggage due to a serious security concern.

NEB Code 8

Check the stories of the passenger and the airline to see if they are congruent
NB If a passenger is late to reach the departure gate, the airline need to access the bag and off load it. They will start to do this 10 minutes prior to departure so check the stories to ensure this isn't what actually happened

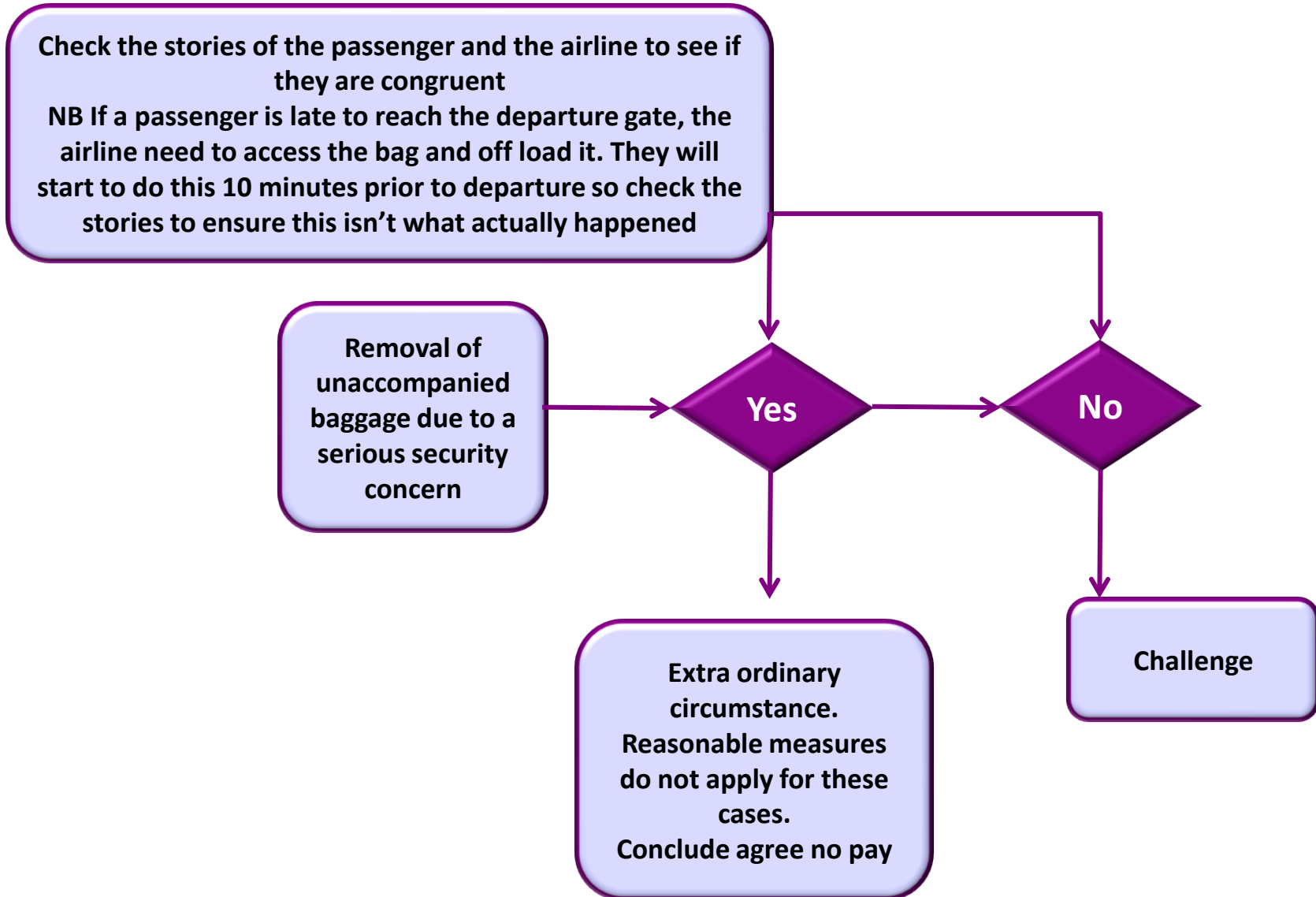
Removal of unaccompanied baggage due to a serious security concern

Yes

No

Extra ordinary circumstance.
Reasonable measures do not apply for these cases.
Conclude agree no pay

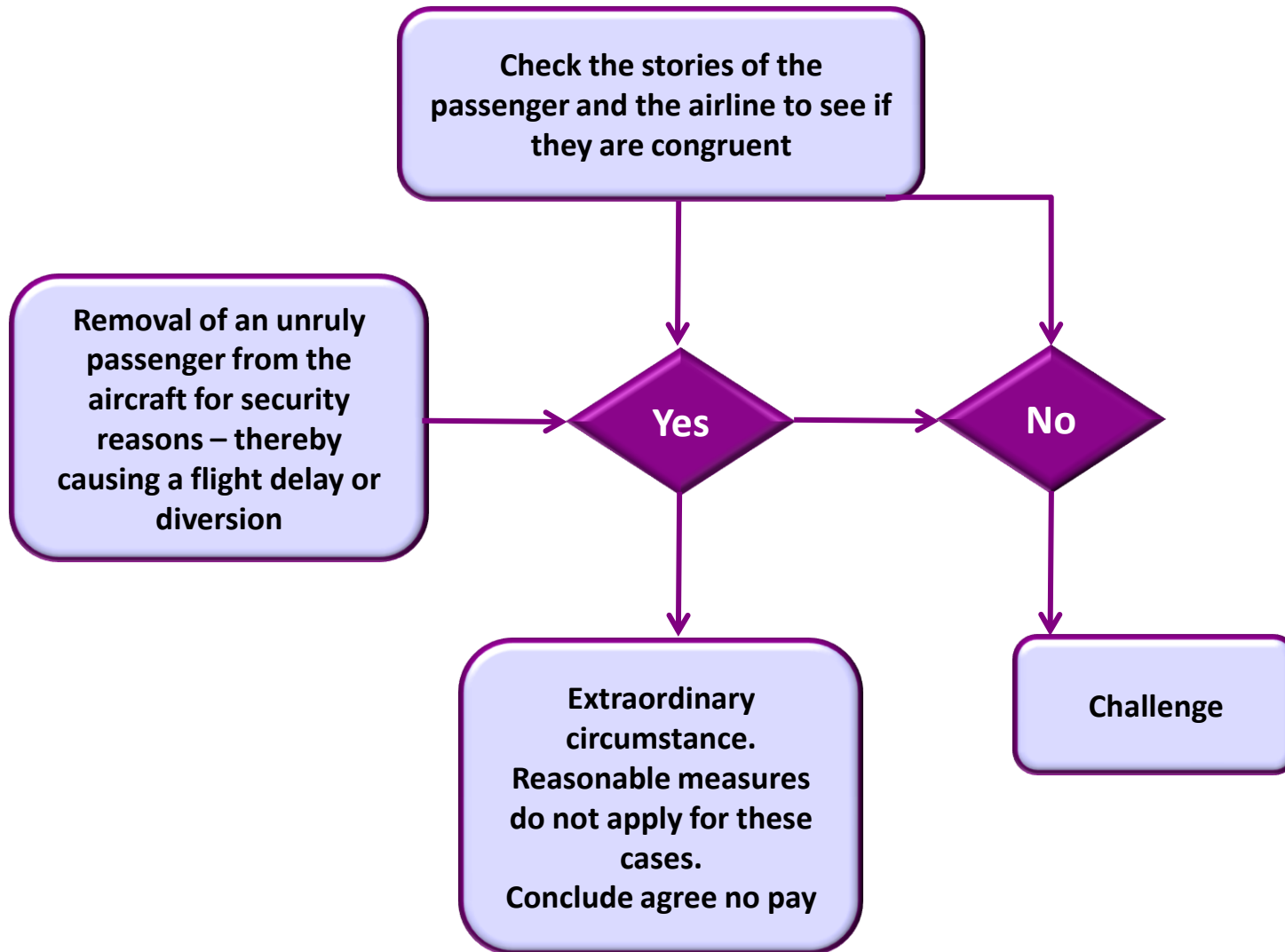
Challenge



NEB Code 9

Code	Type	Description
9	Security	Removal of an unruly passenger from the aircraft for security reasons.

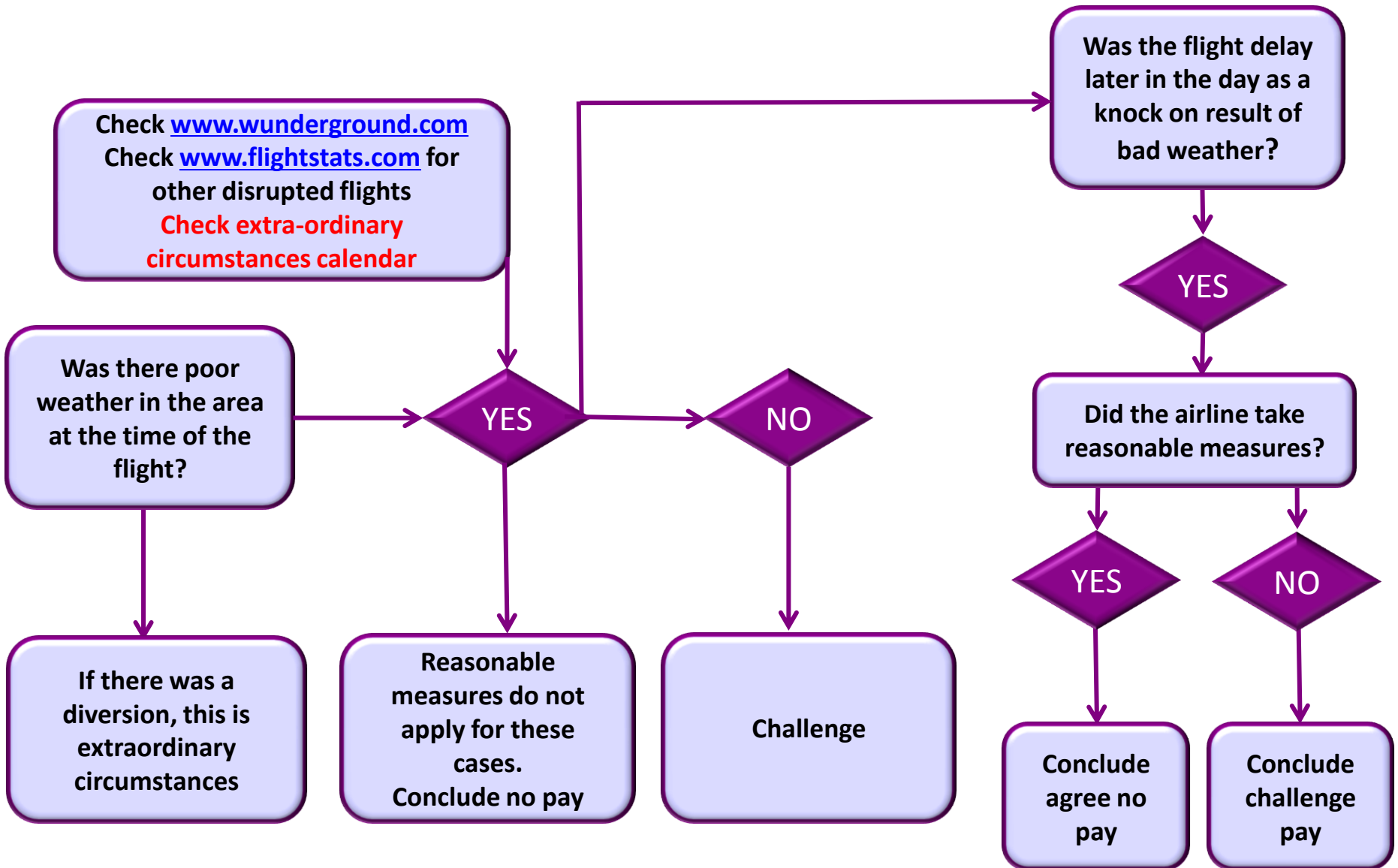
NEB Code 9



NEB Code 10, 11, 12

Type	Description
Weather	Poor weather conditions causing a cancellation or delay to the airline departure time being over 3 hours from the intended time of arrival.

Two simple steps NEB 10, 11, 12



Reasonable Measures

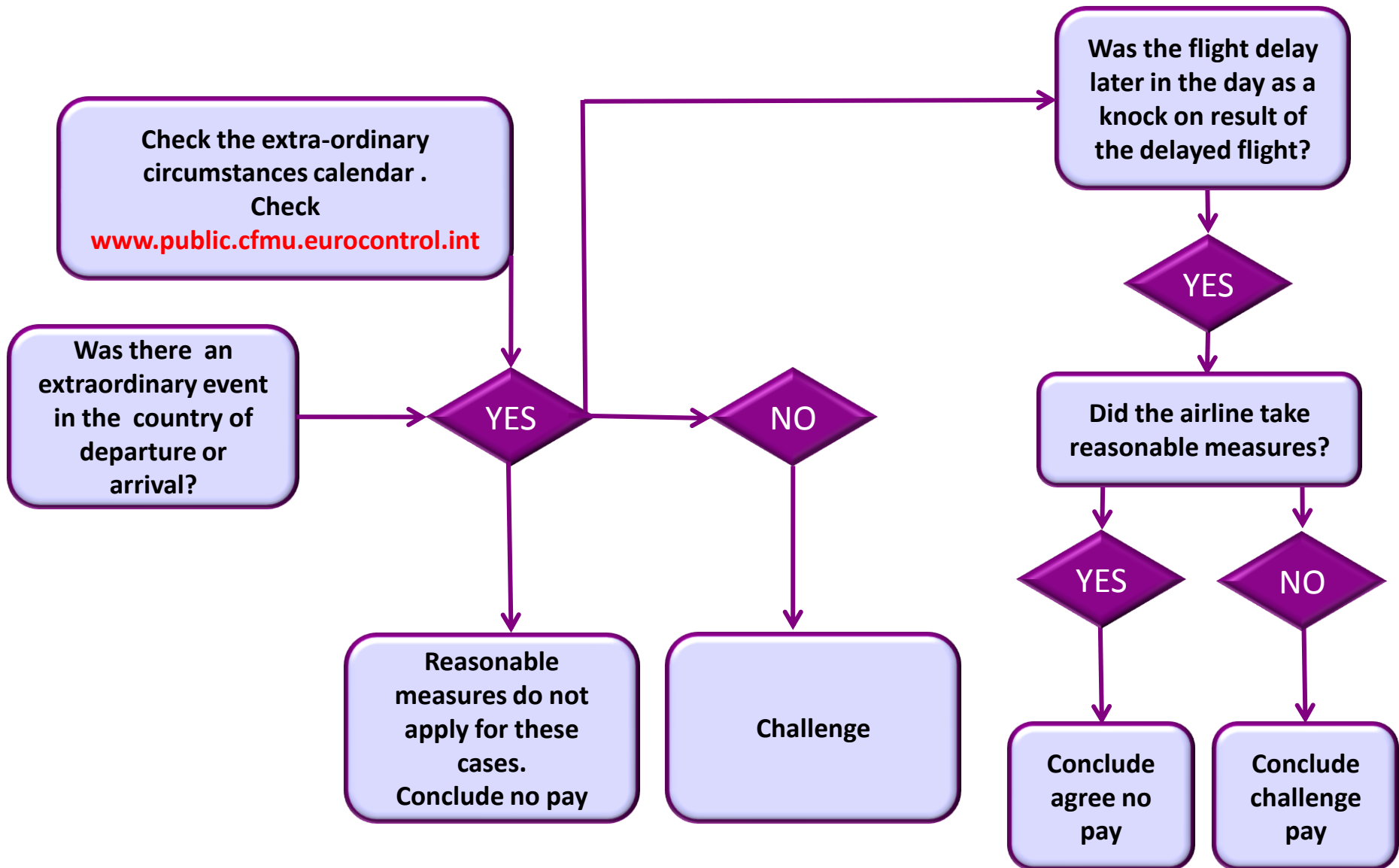
Reasonable measures for disrupted flights that are delayed or cancelled

- What was the length of the delay? The longer it is, the more opportunity the airline would have to do something
- Does the delay go over 24 hours?
- Was the flight departing from a main base i.e. Heathrow, Gatwick, Manchester or was it a small airport i.e. Norwich where only a few flights depart from?
- Was it in a third country? Should it have been sorted earlier?
- Was it a second rotation or above flight that was delayed?
- If so did the airline give substantive evidence that they had taken all reasonable measures such as brought in another plane / crew to be able to minimise the delay.
- Was the flight long haul or short haul impacting what they could do?
- What was the time of year (for charter flights)? Was it off peak? (if high summer, did they try and sub-charter a flight?)
- For technical codes, what was the availability of the spare part? Did they try and fix it?

NEB Code 29,30

Code	Type	Description
29,30	Air traffic management	<p>Where Air traffic control suspends or restricts operations out of the airport of departure or into the airport of arrival.</p> <p>For example major security event such as shooting in Norway, war, terrorism, bomb threats, hijacks.</p>

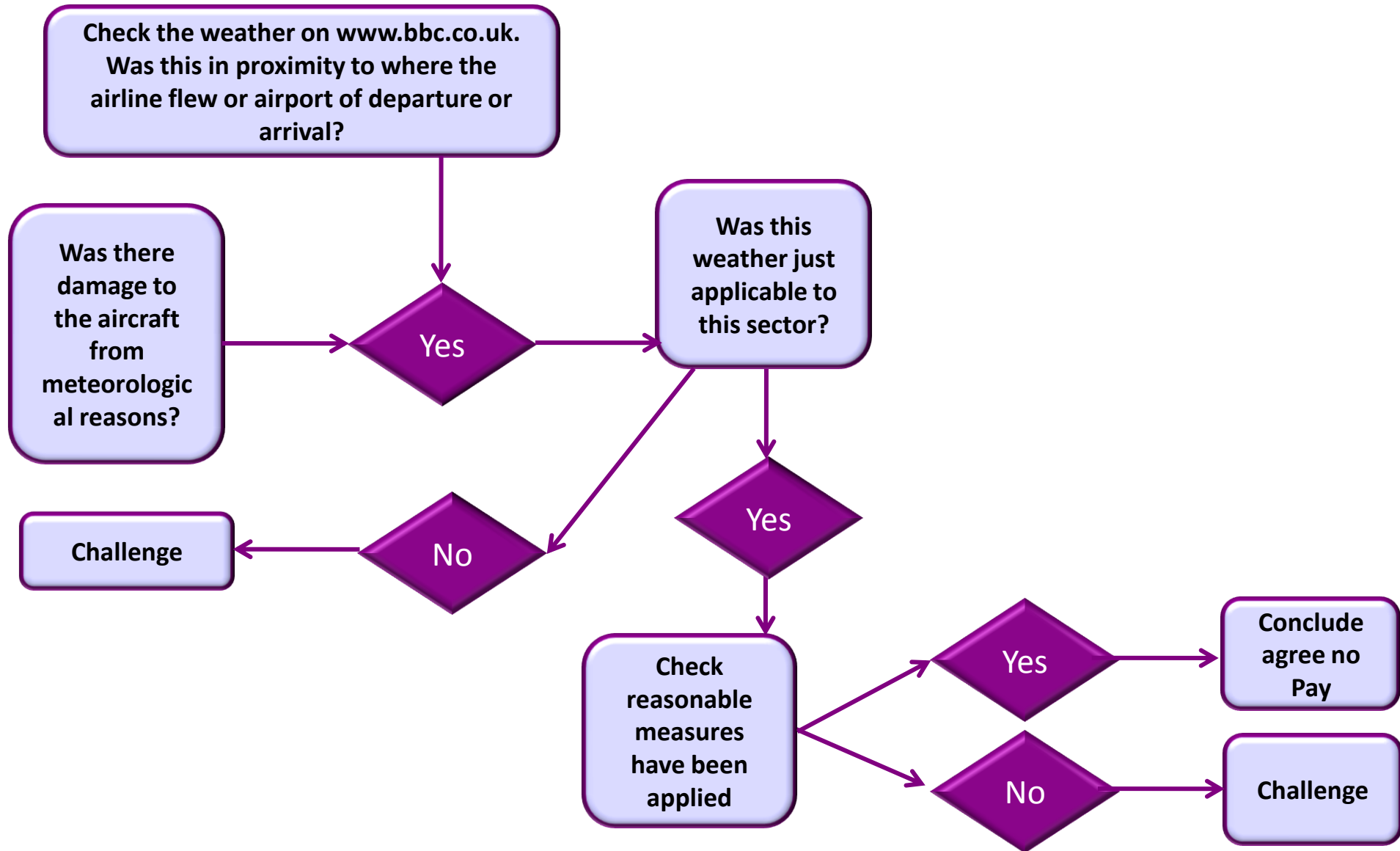
Two simple steps, NEB 29,30



NEB Code 13

Code	Type	Description
13	Meteorological	Damage to the aircraft which could affect the safety of the flight or the integrity of the aircraft, and requires immediate assessment and or repair i.e. hailstones, lightening strikes, severe turbulence.

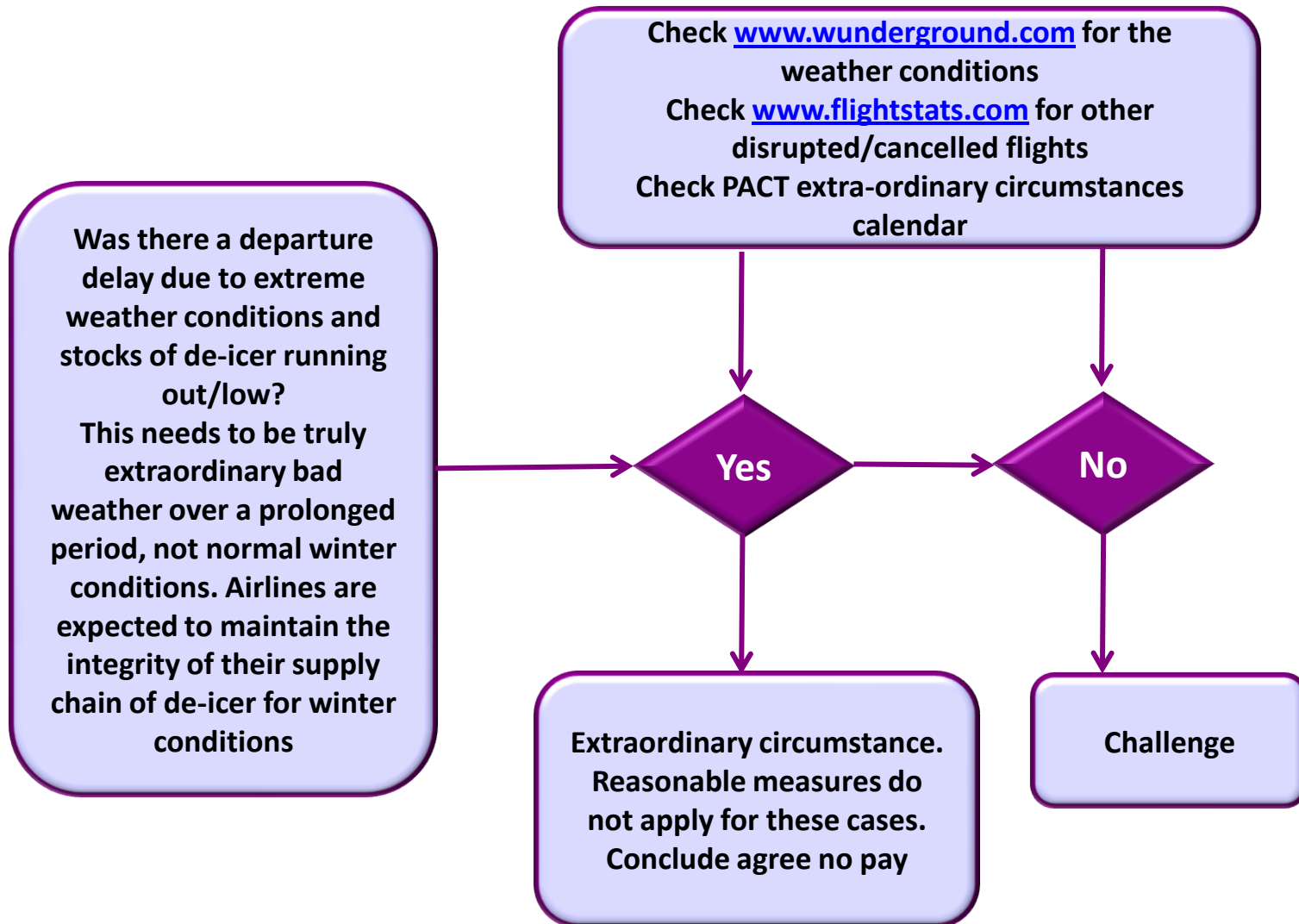
NEB Code 13



NEB Code 14

Code	Type	Description
14	Meteorological / De-icing	Extreme weather conditions which mean that supplies of de-icer run low (third party supply) and the aircraft cannot be de-iced for departure.

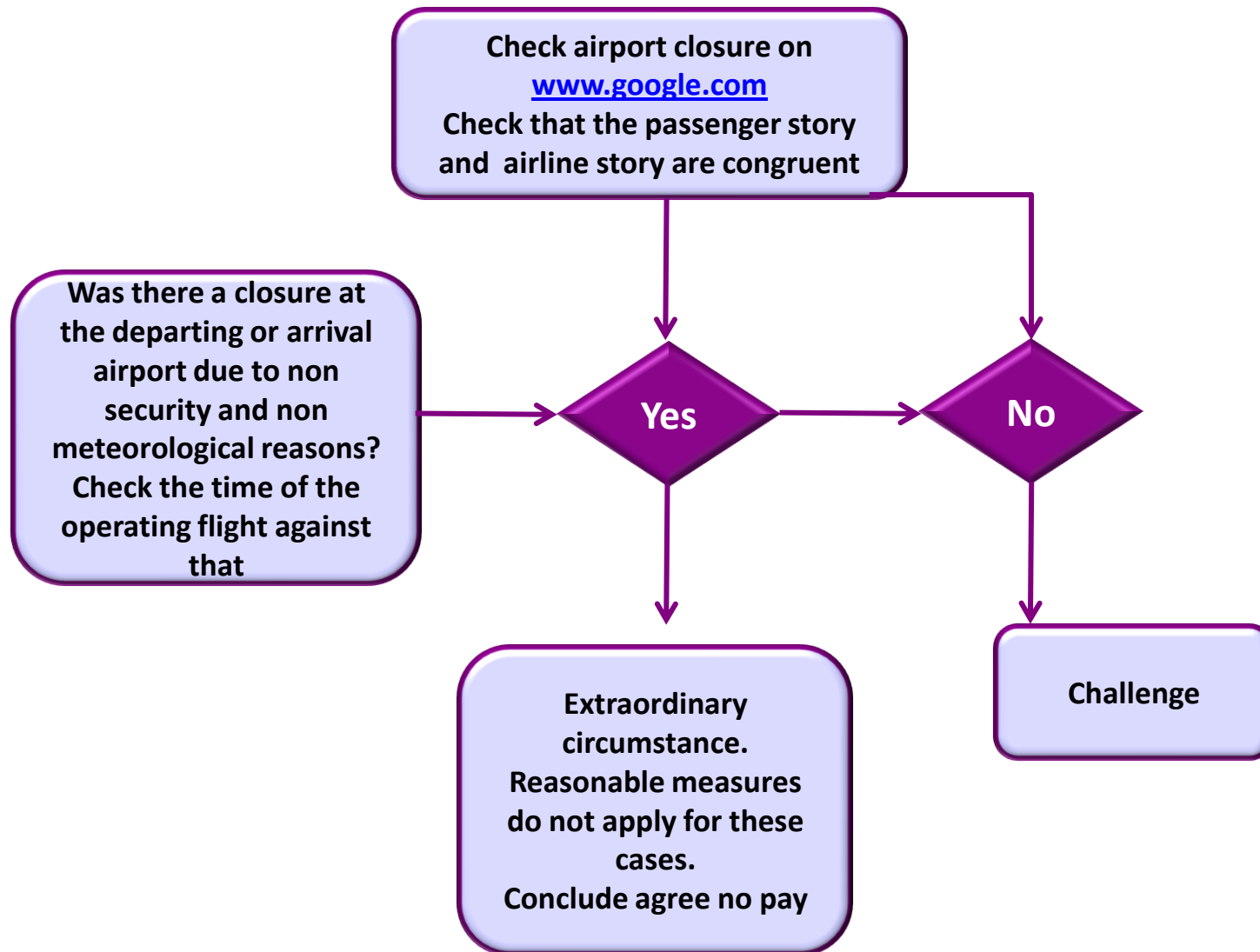
NEB Code 14



NEB Code 15

Code	Type	Description
15	Airport closure	Closure of either the airport of arrival or the departure airport for reasons other than security or non meteorological. For example a power cut.

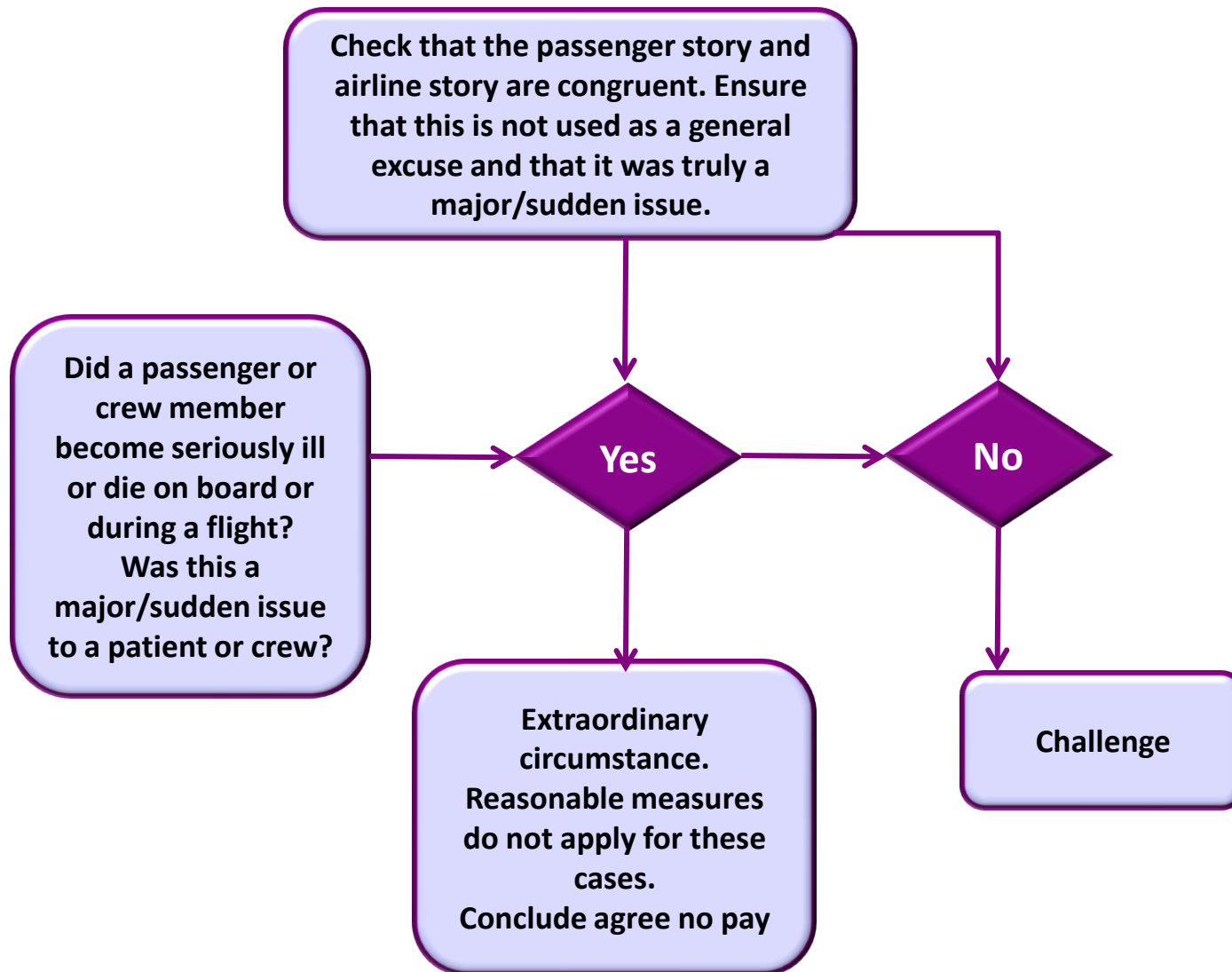
NEB Code 15



NEB Code 16

16	Type	Description
15	Medical Grounds	Passenger or crew member becomes seriously ill or dies on board or during a flight.

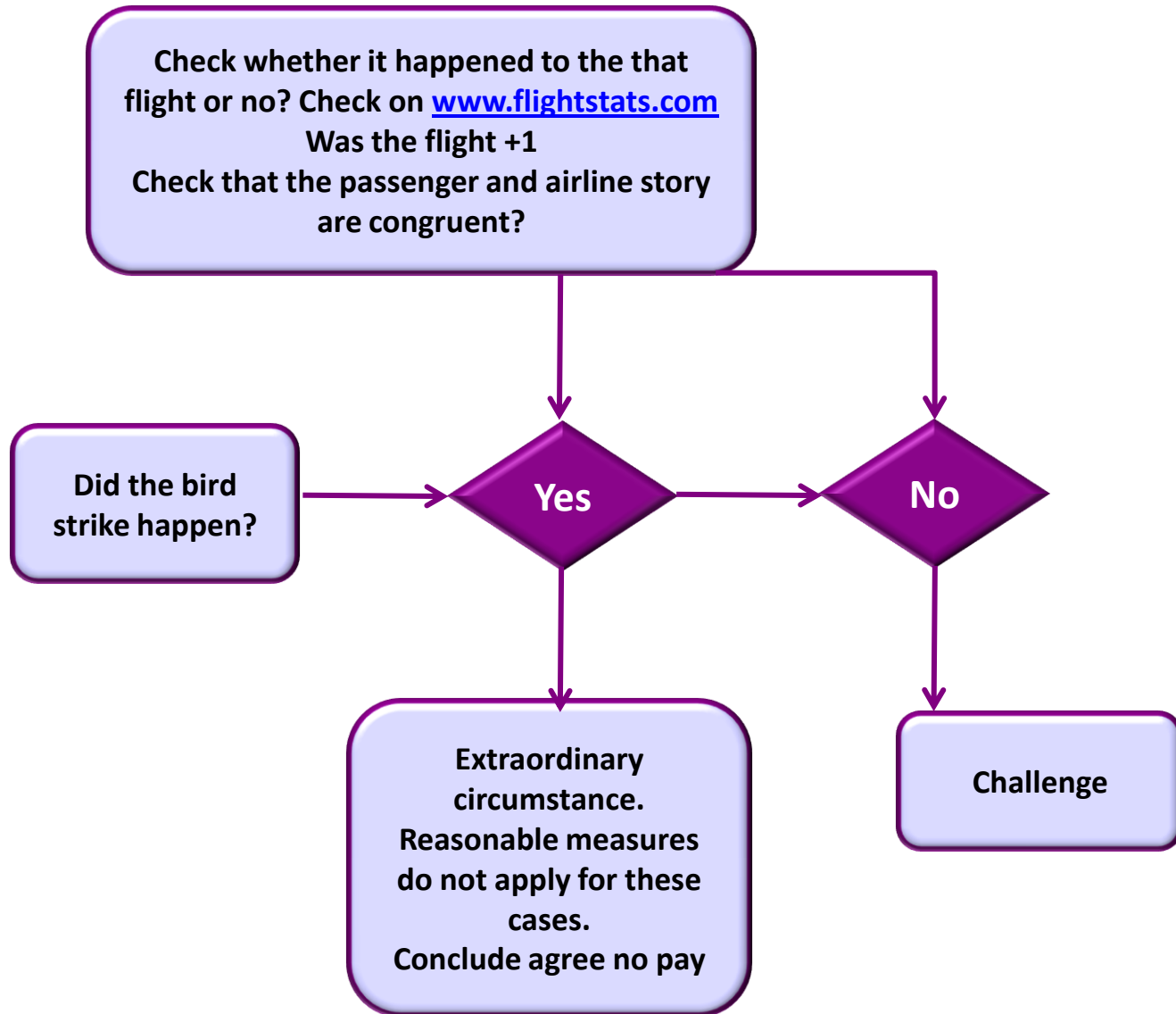
NEB Code 16



NEB Code 17

16	Type	Description
17	Bird Strikes	Bird strikes to an aircraft during a flight which might cause damage which required immediate and compulsory remedial action which causes a delay.

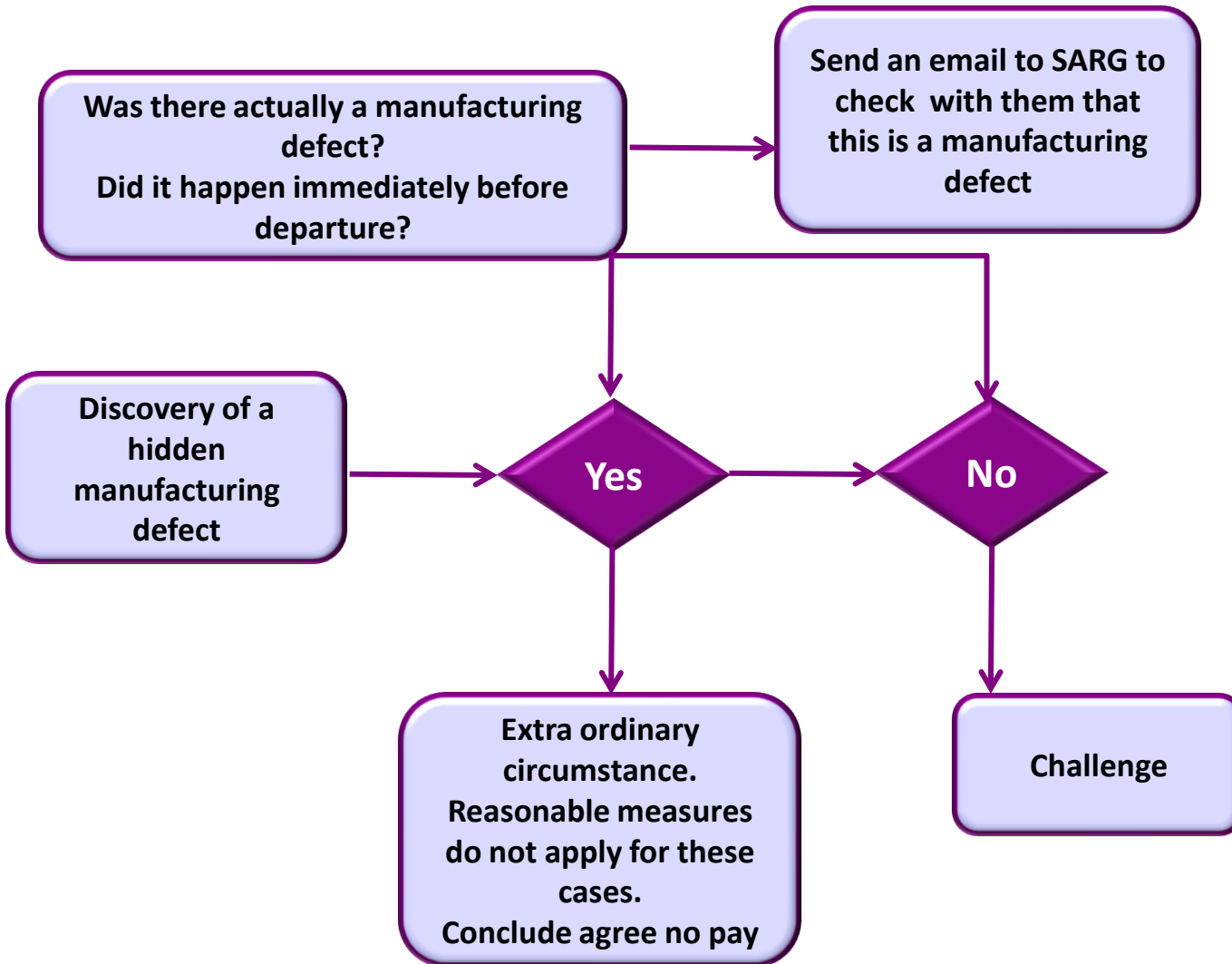
NEB Code 17



NEB Code 18

16	Type	Description
18	Manufacturing defects	Discovery of a hidden manufacturing defect by the air carriers i.e. Unusual failure of the same aircraft part. Such an example would be grounding of A380. This would be something that impacts all models but is found immediately before departure

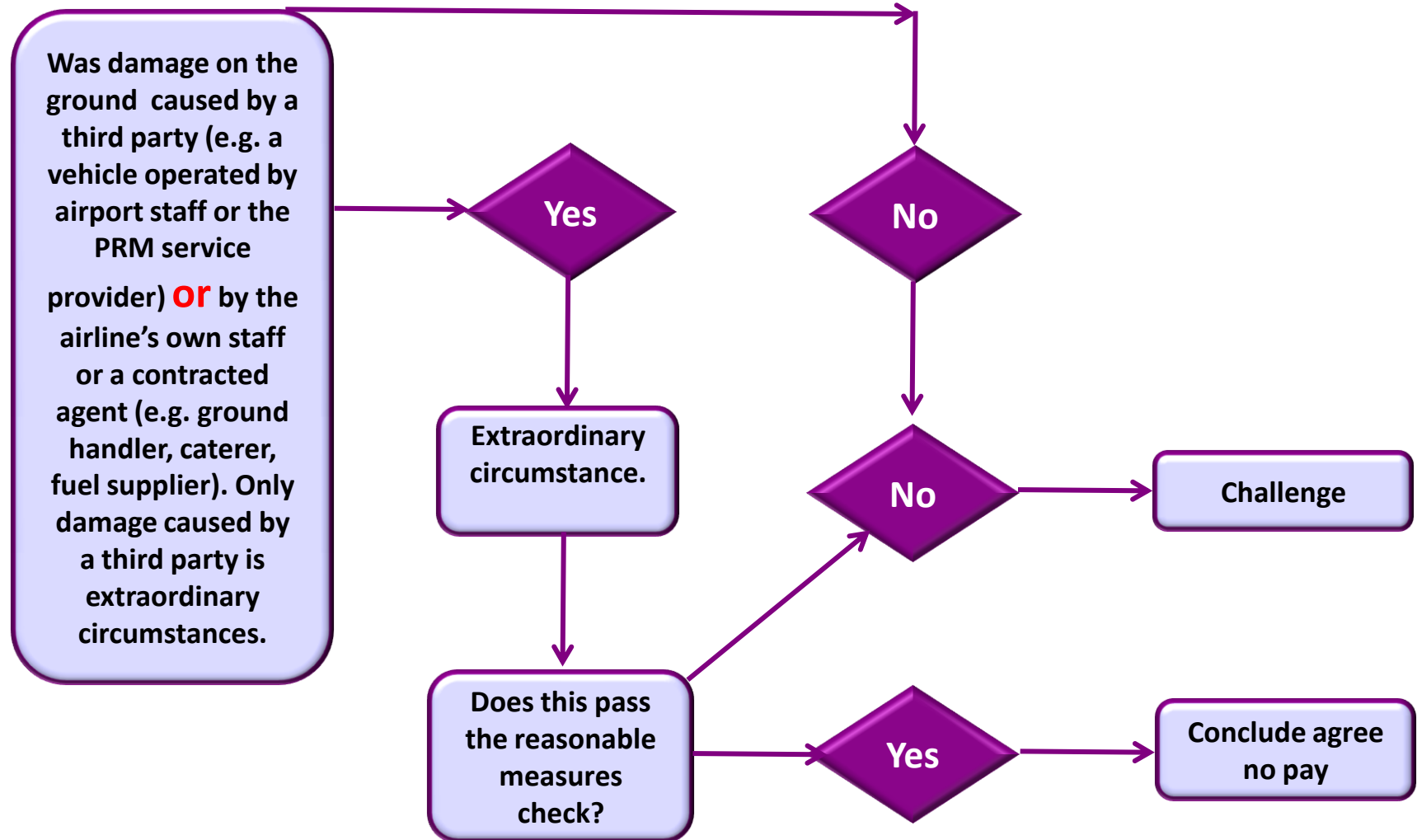
NEB Code 18



NEB Code 19

Code	Type	Description
19	Unexpected flight safety shortcomings	Damage to the aircraft caused by third parties on the ground prior to the departure of a flight and requiring immediate assessment and/or repair.

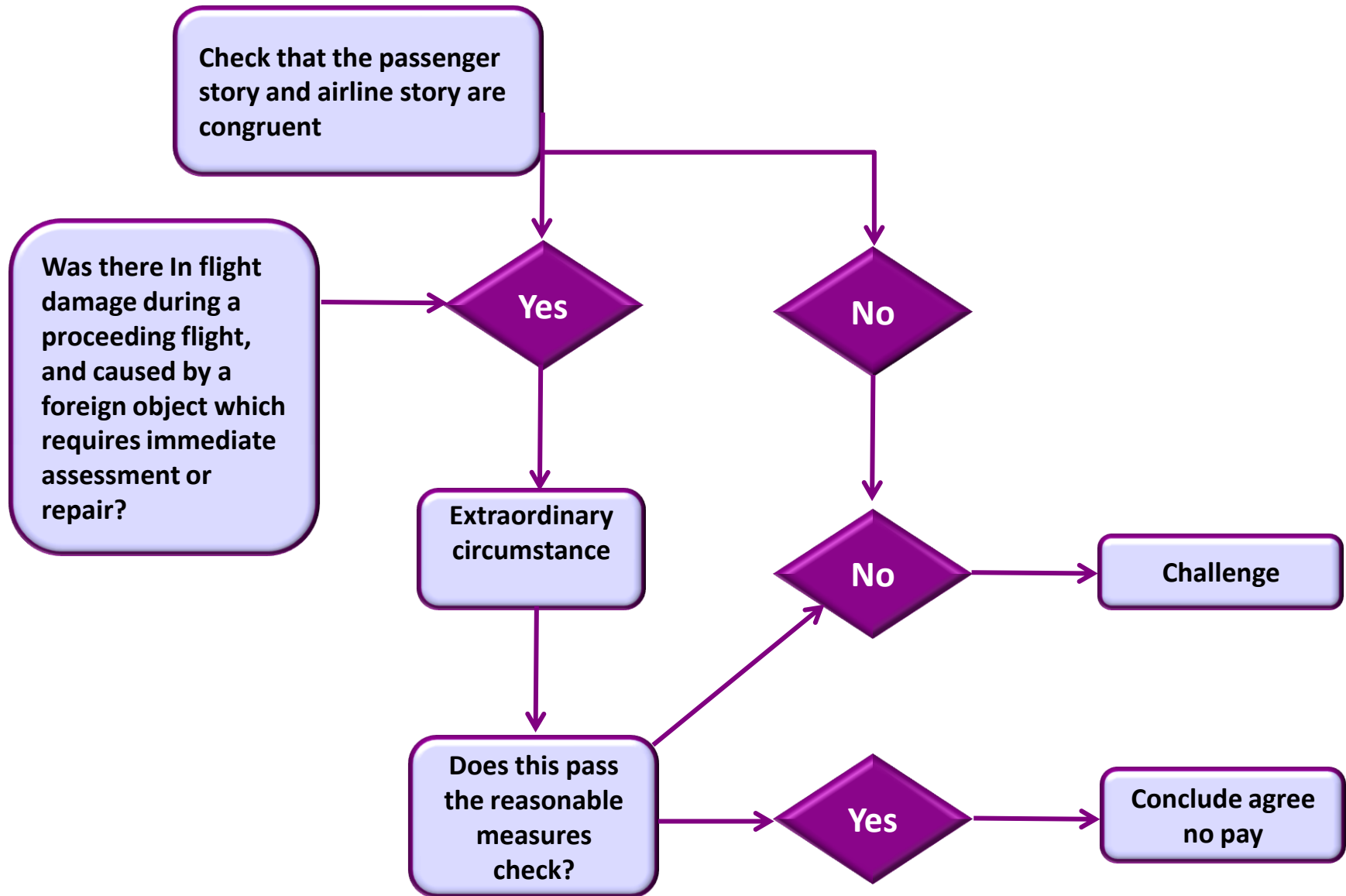
NEB Code 19



NEB Code 20

Code	Type	Description
20	In flight damage	In flight damage during a proceeding flight, and caused by a foreign object which requires immediate assessment or repair.

NEB Code 20



Technical Codes

NEB 22 – 26

Reasonable Measures Checks apply to all of these

- The key test for extraordinary circumstances is to try to determine whether the technical fault was truly unexpected
- “Were there technical issues which caused the airline issues immediately prior to the flight?”

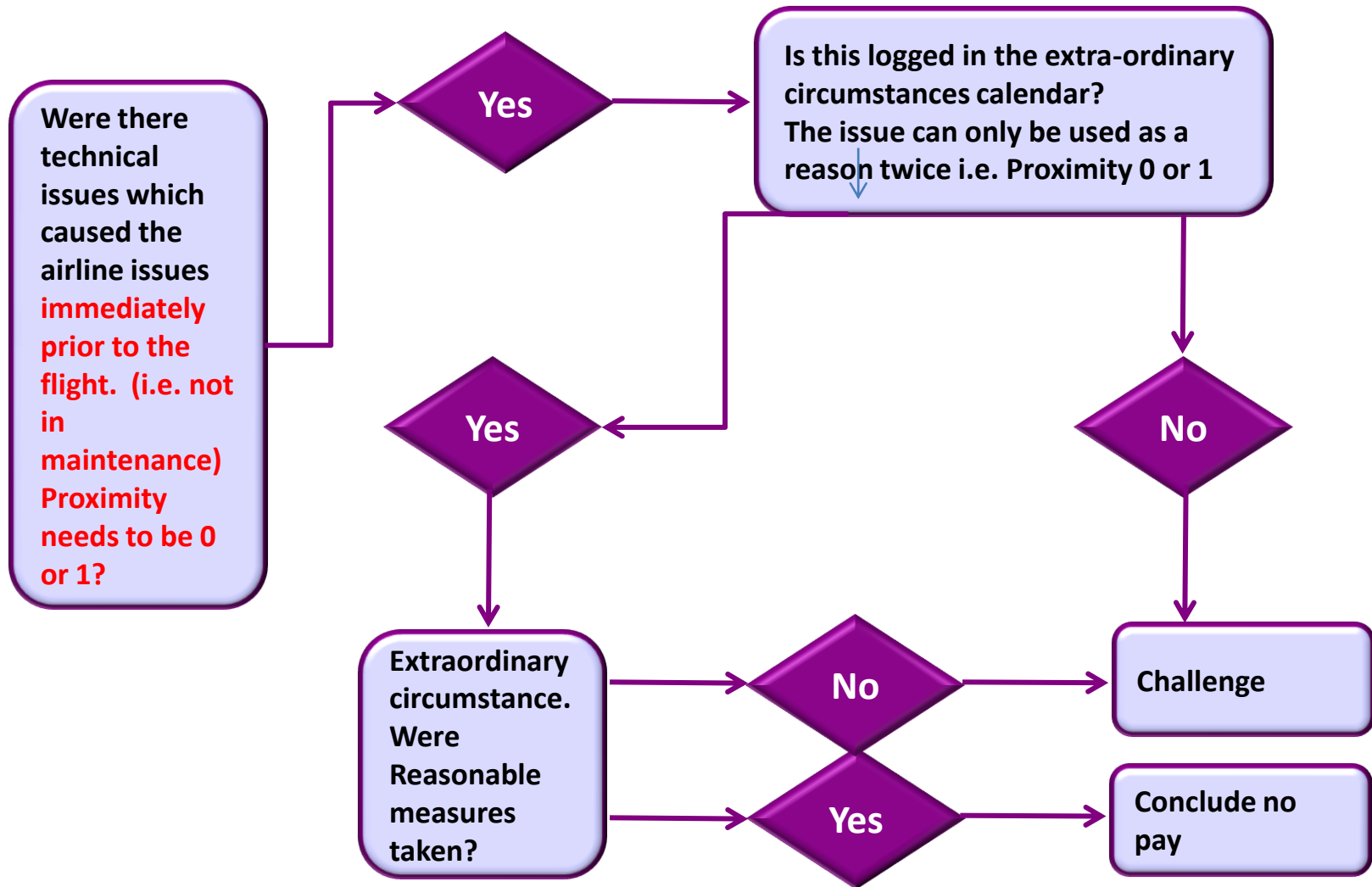
OR

- Whether it arose during maintenance
- “Did the part fail as part of the scheduled inspection /removal?”

NEB Code 22

Code	Type	Description
22	Unexpected flight safety shortcomings –	Failure of a bleed air system/environmental control system on aircraft immediately prior to departure or in flight.

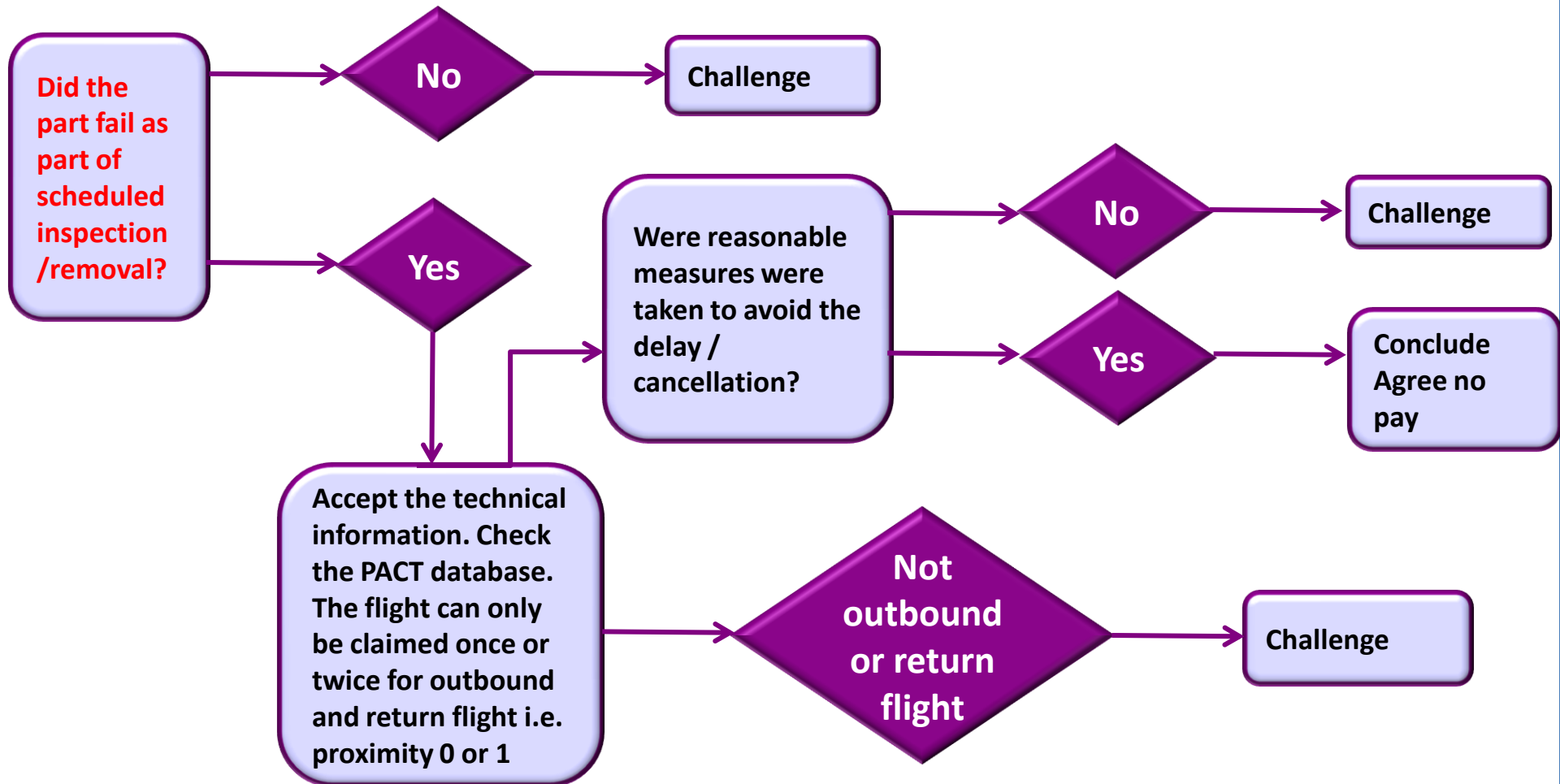
NEB Code 22



NEB Code 23

Code	Type	Description
23	Unexpected flight safety shortcomings – of a life limited part	Premature failure of a life limited part, that fails as part of the scheduled inspection / removal / retirement date?

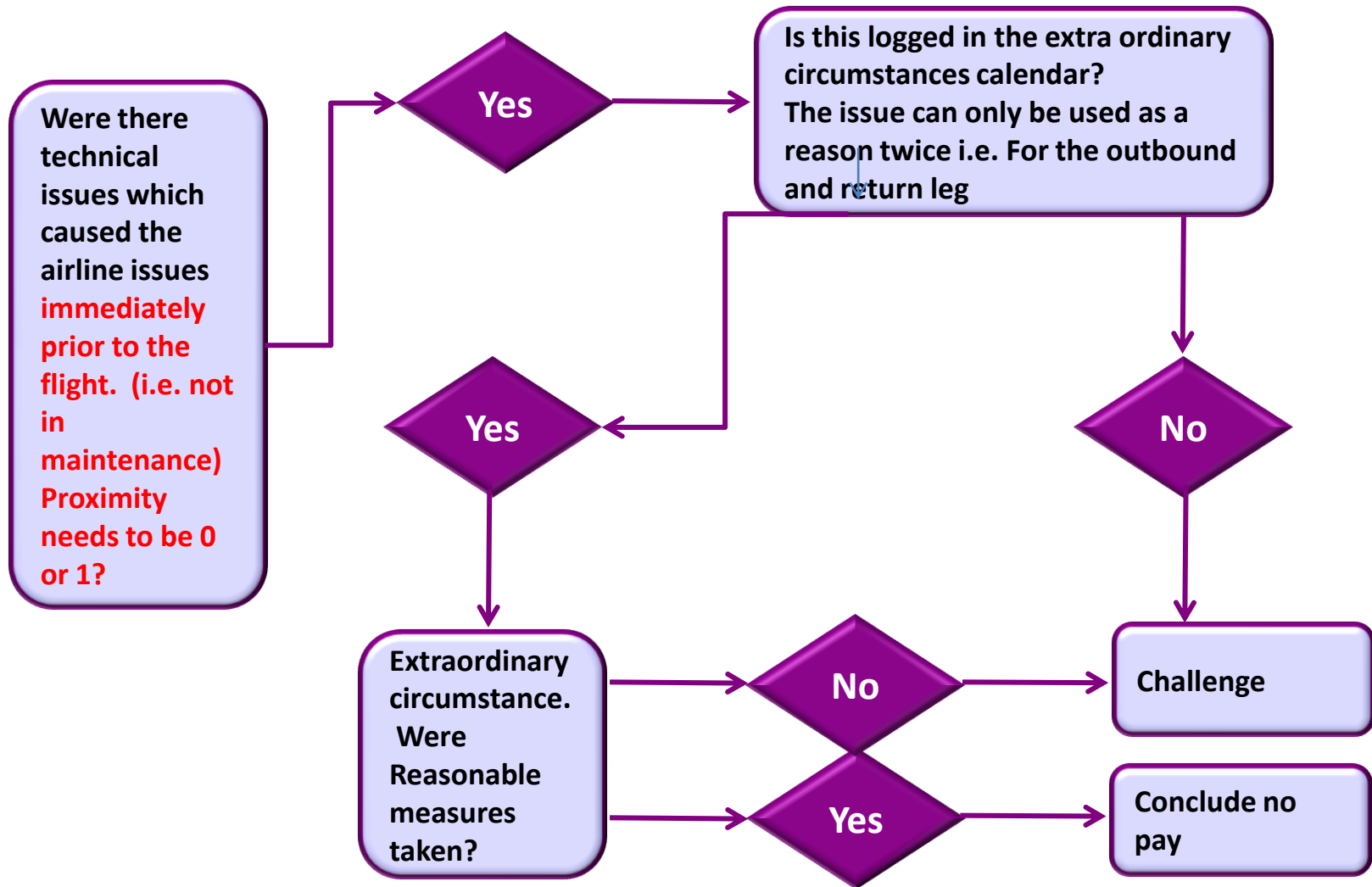
NEB Code 23



NEB Code 24

Code	Type	Description
24	Unexpected flight safety shortcomings –	Failure of condition/conditioned monitored parts which should not require unscheduled maintenance or replacement.

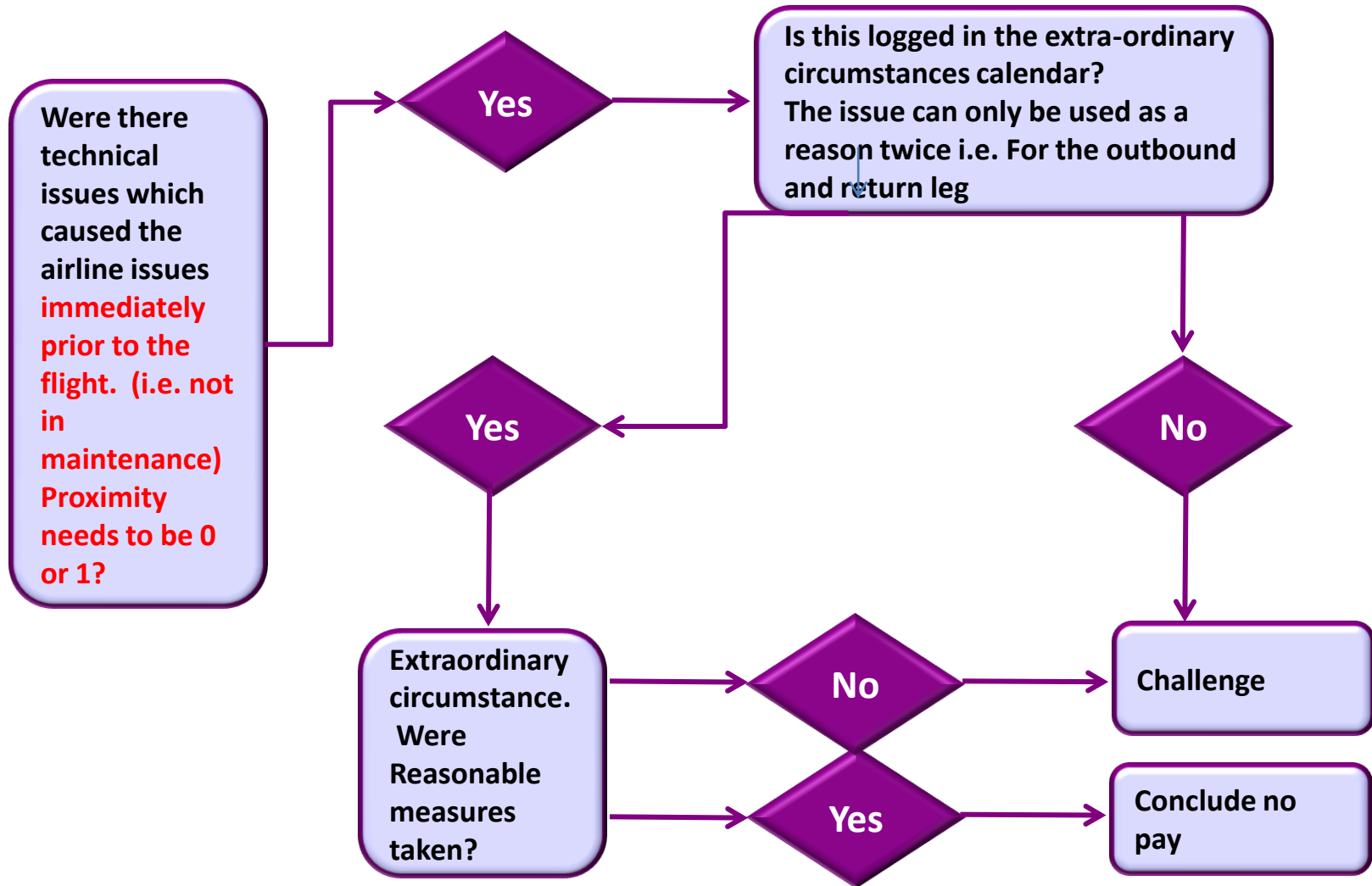
NEB Code 24



NEB Code 25,26

Code	Type	Description
25, 26	Unexpected flight safety shortcomings – technical issues arising	Technical issues that become apparent immediately prior to departure.

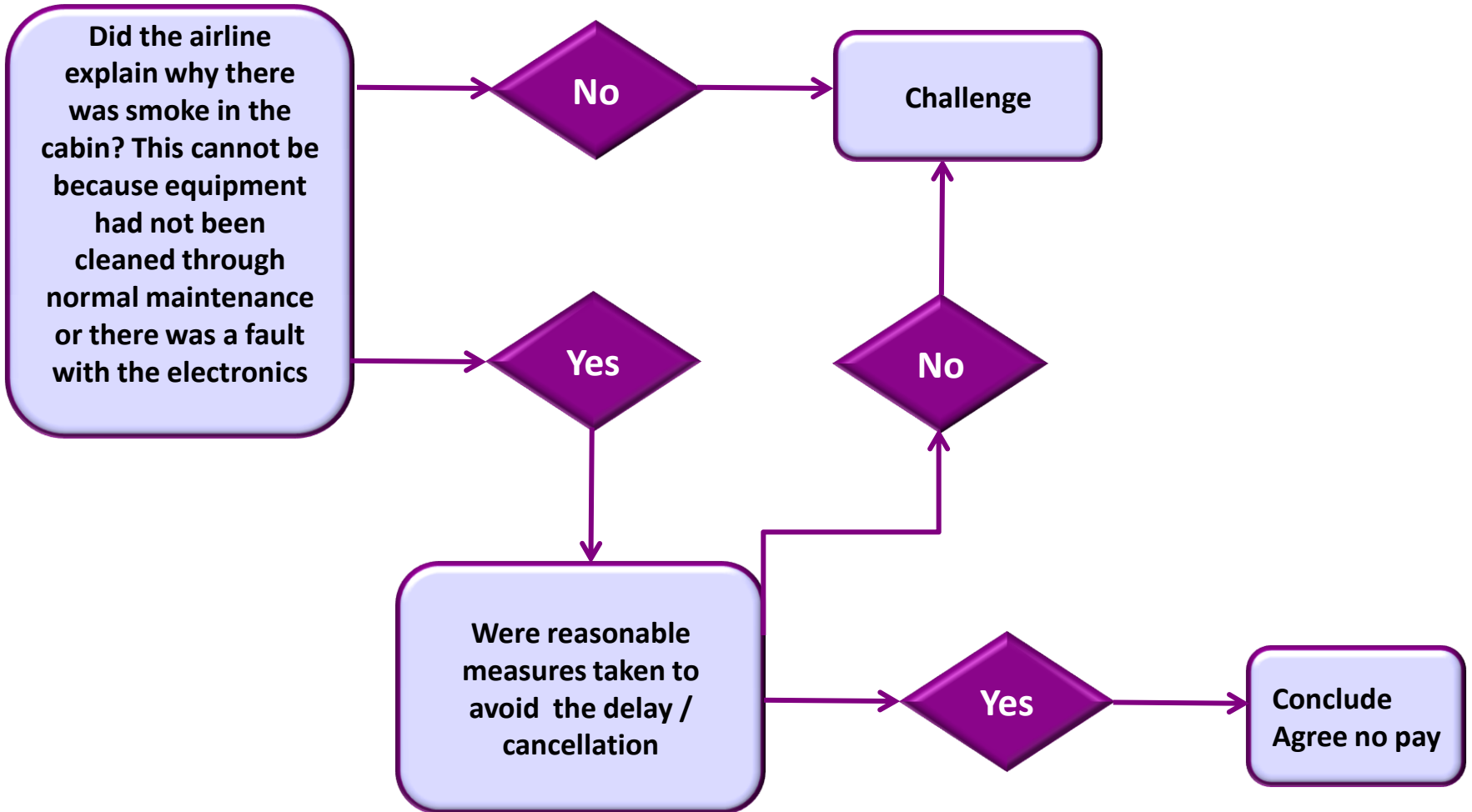
NEB Code 25,26



NEB Code 27

Code	Type	Description
27	Unexpected flight safety shortcomings	Smoke, fire or fumes on board the aircraft – unless the problem has been caused by a part not being maintained in accordance with the required maintenance programme.

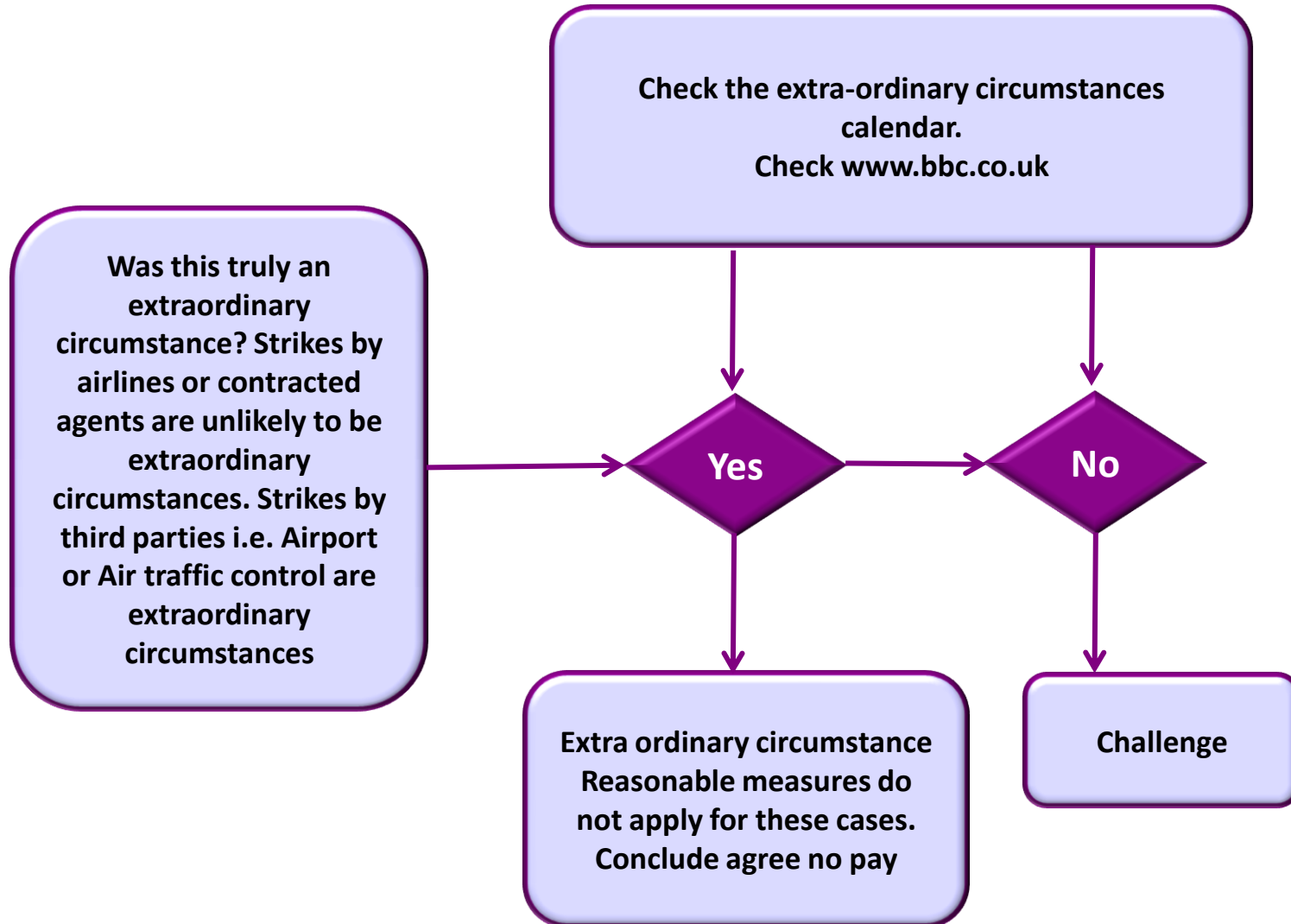
NEB Code 27



NEB Code 28

Code	Type	Description
28	Industrial Relations Issues	Strikes that affect the operation of an air carrier. Strikes by the airline or its contracted agents (ground handlers) are unlikely to be ex-circs. Strikes by third parties (e.g. the airport, Air Traffic Control) are extraordinary circumstances.

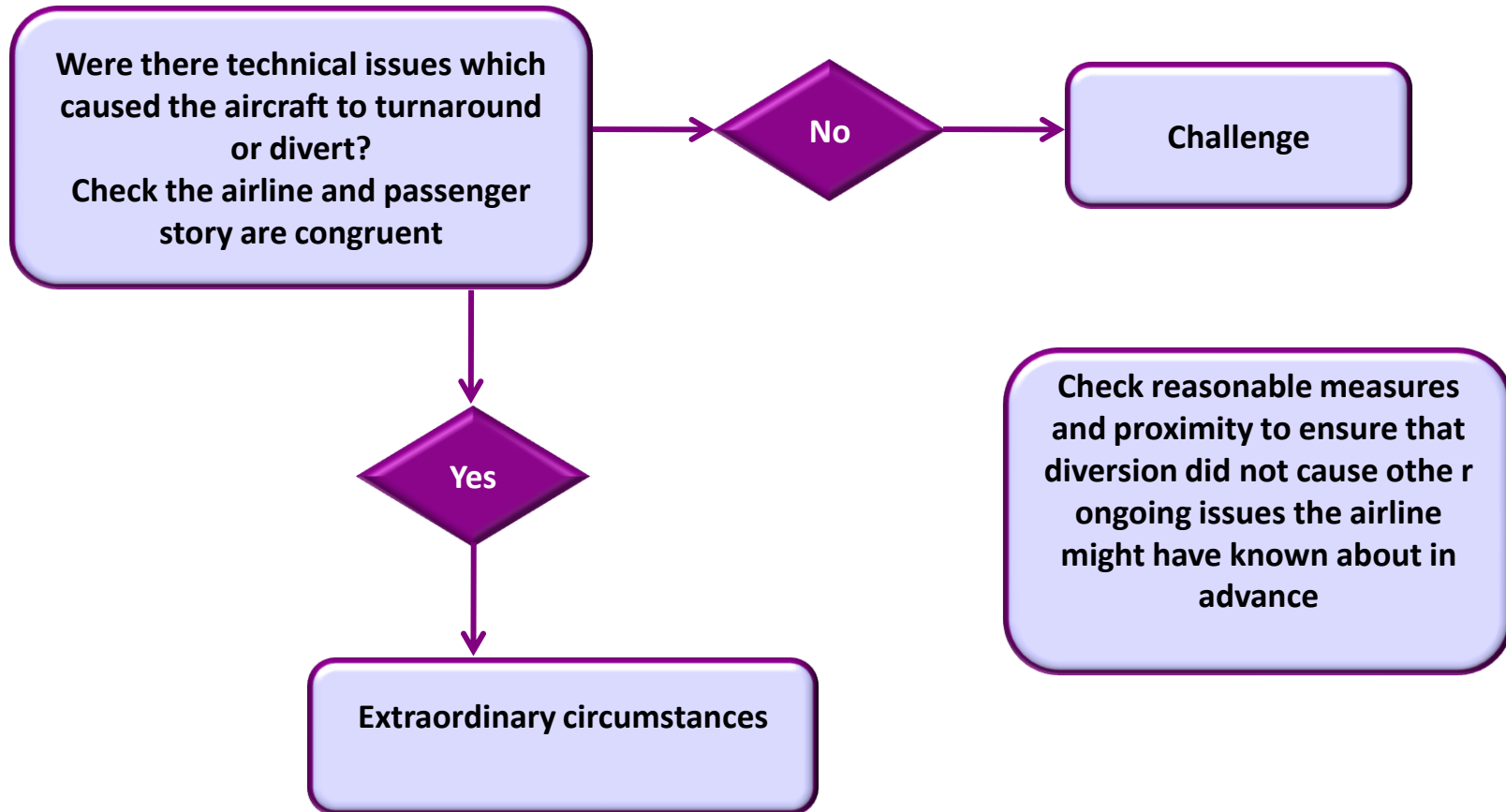
Two simple steps , NEB 28



NEB Code 21

Code	Type	Description
21	Unexpected flight safety shortcomings	Any technical issue which cause the pilot to carry out an aircraft turnaround or diversion.

NEB Code 21



Batch	Database_ID	Complaint_Case Number	Full Name	Email	Classification	Classification/Travel Date	Airline_Ref	Airline	Fltno	EC_Departure	EC_Air_Regist	EC_Air_Type	EC_Depart	EC_To	EC_Distance_	EC_Group	EC_Type	EC_Delay_Min
SYSTEM	SYSTEM	SYSTEM	SYSTEM	SYSTEM	SYSTEM	SYSTEM	SYSTEM	SYSTEM	SYSTEM	Scheduled time of departure (local time)	Aircraft registration	Aircraft type	Departure airport (IATA code)	Arrival airport (IATA code)	Sector length (km)	Number of passengers booked on flight (if cancelled) or on board (if delayed)	Cancellation or delay?	If delay, delay on arrival (minutes)

EC_Reason	EC_Fault_Tim	EC_Fault_Tim	EC_Proximity	EC_Actual_Tim	EC_Summary	EC_Code	EC_Comment	EC_RM_Comr	NON_EC_Con	NON_EC_Dec	EC_CAA_View	EC_CAA_Com	EC_CAA_Reas	EC_CAA_Date	NONEC_CAA_	NONEC_CAA_	NONEC_CAA_	Batch_Issue	Batch_Receip	InternalReview			
Brief reason for cancellation / delay	Date and time (local) the aircraft was certified as serviceable (if tech fault)																						
	Date and time (local) the aircraft was certified as serviceable (if tech)																						
	Proximity of the delayed / cancelled flight from the																						
	Extraordinary circumstance why the extraordinary measures deployed to avoid the disruption																						
Brief reason for cancellation / delay	Date and time (local) the event started	Date and time (local) the event stopped	ex-circs event (specified in number of rotations)	Actual date and time of departure (local time)	Extraordinary circumstance (Y / N / Neither/No record)	'Reason Code' from EU list - if not on list state reason)	circumstances defence applies in this case	measures deployed to avoid the disruption	Explanation of why decision was taken for NON_EC cases	Outcome of the assessment	INTERNAL_CA	A Comment to EC Airline Assessment	INTERNAL_Rea	Assessment (EC)	INTERNAL_CA	Airline Assessment	INTERNAL_Dat	e of CAA	INTERNAL_Dat	SYSTEM_Date	Case was received back from Airline (Re-assessed)	SYSTEM_Date	Case was sent for Internal Review
	(if weather, strikes, etc)	(if weather, strikes etc)	number of rotations)	departure (local time)	Neither/No record)	not on list state reason)	applies in this case	avoid the disruption	was taken for NON_EC cases	the assessment	INTERNAL_CA	A Comment to EC Airline Assessment	INTERNAL_Rea	Assessment (EC)	INTERNAL_CA	Airline Assessment	INTERNAL_Dat	e of CAA	INTERNAL_Dat	SYSTEM_Date	Case was received back from Airline (Re-assessed)	SYSTEM_Date	Case was sent for Internal Review
	(if weather, strikes, etc)	(if weather, strikes etc)	number of rotations)	departure (local time)	Neither/No record)	not on list state reason)	applies in this case	avoid the disruption	was taken for NON_EC cases	the assessment	INTERNAL_CA	A Comment to EC Airline Assessment	INTERNAL_Rea	Assessment (EC)	INTERNAL_CA	Airline Assessment	INTERNAL_Dat	e of CAA	INTERNAL_Dat	SYSTEM_Date	Case was received back from Airline (Re-assessed)	SYSTEM_Date	Case was sent for Internal Review
	(if weather, strikes, etc)	(if weather, strikes etc)	number of rotations)	departure (local time)	Neither/No record)	not on list state reason)	applies in this case	avoid the disruption	was taken for NON_EC cases	the assessment	INTERNAL_CA	A Comment to EC Airline Assessment	INTERNAL_Rea	Assessment (EC)	INTERNAL_CA	Airline Assessment	INTERNAL_Dat	e of CAA	INTERNAL_Dat	SYSTEM_Date	Case was received back from Airline (Re-assessed)	SYSTEM_Date	Case was sent for Internal Review

InternalReview Internal_FLAC Case receipt date

SYSTEM_Date
Case was received back from Internal Review SYSTEM_Complaint Action