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**CTS  
DEPARTMENT OF JUSTICE  
AND ATTORNEY-GENERAL  
GENERAL BRIEFING NOTE**

Noted / Approved / Not Approved
Minister: Rod Welford MP
Signed: .....
Dated ...../...../02

**TO THE HONOURABLE MINISTER**

**SUBJECT REGINALD BASIL DURHAM – PATIENT REVIEW TRIBUNAL AND APPEAL TO THE MENTAL HEALTH COURT.**

**RECOMMENDATION**

- It is recommended that the Minister note the finding of the Patient Review Tribunal in the case of **R v Reginald Basil Durham** on 4 February, 2002.

**MINISTER’S COMMENTS**

**BACKGROUND**

- On 21 February, 2001 Durham was found not to be suffering unsoundness of mind in relation to charges of 21 X Indecent Dealing and 1 X Rape by the Mental Health Tribunal (MHT);
- Durham was, however, found to be **not fit for trial** and was therefore detained as restricted patient under Part 4 of the now repealed *Mental Health Act 1974*;
- On 8 February, 2002 the now defunct Patient Review Tribunal (PRT) informed the Department of JAG that it had conducted a special Patient Review Tribunal on 4 February, 2002 and found that Durham was now fit for trial;
- On 14 February, 2002 the ODPP was advised that Durham had lodged an appeal against the PRT’s finding; and
- That appeal is likely to be heard in the next sittings of the newly created Mental Health Court (MHC) between 20 May, 2002 - 31 May, 2002.

**KEY ISSUES**

- The ODPP is still awaiting the written reasons for the PRT’s decision;
- The AG can now be a party to an appeal from the PRT’s decision; and
- Under the old Act, the AG had a right to appeal from the PRT under section 37, but there was no requirement that he be given notice of any original hearings, decisions or reasons, so the power could not be exercised in fact.

Briefing Officer	Darren Brazier Executive Director	Approved	L J Clare Director of Public Prosecutions
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Telephone	Signed: <i>Darren Brazier</i> 3239 6147	Date	Signed: <i>LJ Clare</i> 8 /3/ 02
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