



Local Government Standards Panel

Complaint Number	20220167
Legislation	<i>Local Government Act 1995</i>
Complainant	Councillor Pauline Bantock
Respondent	Councillor James Kelly
Local Government	Shire of Victoria Plains
Regulation	Regulation 22 of the <i>Local Government (Model Code of Conduct) Regulations 2021</i>
Panel Members	Mr Tim Fraser (Presiding Member) Mrs Emma Power (Member) Cr Peter Rogers (Member)
Heard	2 February 2023 Determined on the documents
Finding	Breach x 1 of Regulation 22

FINDING AND REASONS FOR FINDING

Delivered 01 March 2023

DEFAMATION CAUTION

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Summary of the Panel's decision

1. On 2 February 2023, the Panel found that Councillors James Kelly, a councillor for the Shire of Victoria Plains (**"the Victoria Plains"**), did commit a minor breach pursuant to the *Local Government Act 1995 (WA)* (**"the Act"**) and Division 4, regulation 22 of the *Local Government (Model Code of Conduct) Regulations 2021* (**"the Regulations"**) when at the Ordinary Council Meeting of the Shire on 22 June 2022 he did not disclose an alleged impartiality interest in a matter before Council as further set out in paragraph 17 below.

The Panel's Role

2. Under section 5.110(2) of the Act the Panel is required to consider a minor breach complaint and make a finding as to whether the alleged minor breach occurred.
3. The Act and the *Local Government (Administration) Regulations 1996* provide for the circumstances in which a council member commits a minor breach.
4. Section 5.105(1) of the Act provides that a council or committee member commits a minor breach if the council or committee member contravenes a rule of conduct. Division 4 of the Regulations sets out the rules of conduct for council members and candidates.
5. Regulation 34D of the *Local Government (Administration) Regulations 1996* also provides that the contravention of a "*local law as to conduct*" is a minor breach pursuant to the Act.
6. The Panel may make a finding that a councillor has committed a minor breach of the Act and Regulations based on evidence from which it may be concluded that it is more likely that the alleged breach occurred than it did not occur.¹
7. In order to find a breach, it must be established that each element of the relevant Regulation is more likely than not to have been breached or met.
8. In considering whether a minor breach is established the Panel must consider:
 - a. all evidence provided and, where there are conflicting circumstances, inferences or evidence, must come to a reasonable conclusion that any circumstance, inference or evidence relied upon is more likely than not to have occurred or be accurate²; and
 - b. the seriousness of any allegation made, as well as the gravity of the consequences flowing from a particular finding³.
9. The Panel does not possess investigative or supervisory powers.⁴ The Panel makes decisions about complaints regarding minor breaches solely upon the evidence

¹ Section 5.106 of the Act

² *Bradshaw v McEwans Pty Ltd* (1951) 217 ALR 1

³ *Briginshaw v Briginshaw* (1938) 60 CLR 336

⁴ *Re and Local Government Standards Panel* [2015] WASC 51 (at paragraph 24)



presented to it and, where appropriate, materials in the public domain or published by the relevant local authority's website.

10. It is the responsibility of both complainants and respondents to provide the Panel with all information they wish the Panel to consider when making its determination.
11. The Panel also must have regard to the general interests of local government in Western Australia⁵.
12. The Panel is obliged to give notice of the reasons for any finding it makes under section 5.110(2) of the Act.

Jurisdiction and Procedural Fairness

13. On 19 October 2022 the Panel received an email from Sean Fletcher, acting as Complaints Officer of the Shire ("**the Complaints Officer**"). The same enclosed a Complaint of Minor Breach Form dated 1 July 2022.
14. In the complaint form, the Complainant alleges that Cr Kelly breached regulation 22 of the Regulations when at the Ordinary Council Meeting of the Shire on 22 June 2022 he did not disclose an alleged impartiality interest in a matter before Council as further set out in paragraph 17 ("**the Complaint**").
15. The Panel convened on 2 February 2023 to consider the Complaint.
16. The Panel:
 - a. accepted the advice of the Department of Local Government, Sport and Cultural Industries ("**the Department**") that, based on information published on the Western Australian Electoral Commission's website, Cr Kelly was:
 - i. elected to the Council of the Shire in October 2019 for a term expiring in October 2023;
 - ii. a Councillor at the time of the alleged breach; and
 - iii. a Councillor when the Panel met on 2 February 2023;
 - b. was satisfied the Complaint was made within six months after the alleged breach occurred⁶;
 - c. was satisfied that the Shire's Complaints Officer had dealt with the Complaint in accordance with the administrative requirements in the Act for dealing with complaints of a minor breach⁷;
 - d. was satisfied the Department had provided procedural fairness to Cr Kelly; and
 - e. found it had jurisdiction to consider the Complaint.

The Specifics of the Complaint

⁵ Section 8(6) of Schedule 5.1 of the Act

⁶ Section 5.107(4) and 5.109(2) of the Act

⁷ Section 5.107 and 5.109 of the Act



17. The Complainant provided the following comments and arguments in respect to the Complaint:
 - a. During the confidential item 11.2 of the Ordinary Council Meeting of 22 June 2022 (**“the OCM”**), it is alleged that Cr Kelly failed to declare an interest in the matter.
 - b. The item was titled *“Matters regarding [REDACTED] Confidential.”*
 - c. During the previous Ordinary Council Meeting of 27th April 2022, Council received legal advice on [REDACTED]
 - d. The legal advice suggested that Cr Kelly should [REDACTED]
 - e. As the Presiding Member, the Complainant asked for disclosures of interest regarding the entire agenda, at item 3 of the OCM minutes. Cr Kelly did not declare an interest at this point in time.
 - f. the Complainant announced item 11.2 and Cr Kelly did not declare an interest at that point either.
 - g. The Complainant’s notes also show no declaration was made by Cr Kelly.
18. The Complainant also provided the following supporting documents:
 - a. the Minutes of the OCM; and
 - b. the confidential legal advice provided to the Shire.

The Respondent’s Response

19. By an email dated 22 November 2022, Cr Kelly provided a response to the Complaint.
20. Cr Kelly denies that he has committed any minor breach.
21. Cr Kelly by his legal representation makes the following comments in respect to the Complaint as summarised by the Panel:
 - a. The Complaint makes reference to a criminal charge against Cr Kelly (**“the Proceedings”**). The Proceedings are irrelevant to the council meetings which Cr Kelly attended and so no disclosure of interest was required.
 - b. The Proceedings are currently being defended;
 - c. Glenda Teede (**“the CEO”**) was the Shire CEO at the time of each of the incidents referred to in the Complaint, however, she has since resigned.
 - d. It was never a condition that Cr Kelly be prevented from being within 50m of the CEO. The condition was that he should not contact the Shire or the CEO, but at the first hearing of the Proceedings, these conditions were dropped as they were deemed unnecessary.



- e. The Shire is involved in the Proceedings but only in the role to provide documents or other evidence as requested by the prosecution.
- f. On 26 April 2022, Civic Legal provided advice to the Shire as to whether [REDACTED] [REDACTED] (“the Advice”). This advice was the subject of agenda item 11.3 at the ordinary council meeting held on 27 April 2022.
- g. The Complaint is at the very least misconceived or without substance and potentially contains false or misleading information.
- h. The Complaint accuses Cr Kelly of failing to disclose an interest but does not adequately demonstrate that an interest which requires disclosure exists and also fails to demonstrate any clear breach of the Model Code, and should be dismissed.
- i. The Complaint simply does not explain how Cr Kelly has an interest which would adversely affect his impartiality.
- j. Reference is made in the Complaints to the Advice from Civic Legal. This Advice from Civic Legal states that:
 - i. [REDACTED] and
 - ii. for this reason, and this reason alone, it could reasonably be perceived that Cr Kelly was biased [REDACTED] [REDACTED].
- k. This reasoning is flawed, as the CEO is merely taking an administrative role [REDACTED] [REDACTED]. Therefore, the Proceedings have not caused any personal bias against [REDACTED] which would adversely affect Cr Kelly’s impartiality.
- l. The purpose of Item 11.2 was to authorise the Shire President [REDACTED] [REDACTED].
- m. The Advice was dealt with at the April OCM.
- n. It is submitted that there is no conflict of interest for the reasons set out above.

Further documentation

- 22. Following a request from the Panel, the Shire provided to the Panel the following information:
 - a. a full copy of the legal advice relating to declaring interests as referred to in the Complaint; and
 - b. a full copy of the confidential agenda, supporting reports and confidential minutes relating to Item 11.2 of the Ordinary Council Meeting of 22 June 2022. (Matters Regarding the [REDACTED] Confidential).



23. The Panel is aware that substantial matters referred to in this Complaint are confidential and the Panel has therefore redacted various items of the publicly available decision.

Regulation 22

24. Regulation 22 requires a councillor to disclose what is commonly referred to as an “impartiality interest”. The relevant parts of regulation 22 provide:

22. Disclosure of interests

(1) *In this clause —*

interest —

- (a) *means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and*
 - (b) *includes an interest arising from kinship, friendship or membership of an association.*
- (2) *A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —*
- (a) *in a written notice given to the CEO before the meeting; or*
 - (b) *at the meeting immediately before the matter is discussed.*
- (3) *Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.*
- (4) *Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —*
- (a) *that they had an interest in the matter; or*
 - (b) *that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.*
- (5) *If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting, then —*
- (a) *before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and*
 - (b) *at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.*



- (6) *Subclause (7) applies in relation to an interest if —*
- (a) *under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or*
- (b) *under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting.*
- (7) *The nature of the interest must be recorded in the minutes of the meeting.”*
25. To make a finding of a minor breach of regulation 22 of the Regulations the Panel must be satisfied that it is more likely than not that:
- Cr Kelly was a councillor at the time of the alleged breach;
 - Cr Kelly attended the council or committee meeting and was present when the relevant matter came before the meeting and was discussed;
 - subject to regulation 22(3), Cr Kelly had a private or personal interest in a matter in which an apparent or real conflict of interest arises that does (or might) adversely affect the member’s impartiality in considering such matter;
 - Cr Kelly did not disclose the nature of the relevant interest in the matter in either of the ways required by regulation 22(2)(a) or regulation 22(2)(b); and
 - regulation 22(3) and Regulation 22(4) do not apply.

Panel’s Consideration

Cr Kelly was an elected member at the time of the alleged breach and the time of the determination

26. Cr Kelly was a councillor at the time of the alleged breach and at the time the Panel considered the Complaint.
27. This element is met.

Cr Kelly attended at the council or committee meeting and was present during discussion of the matter

28. The relevant matter the subject of the Complaint was discussed at the Ordinary Council Meeting of 22 July 2022.
29. The Minutes indicate that Cr Kelly was present at the OCM, was present during the relevant Item and then voted in respect to the Item.
30. This element is met.

Subject to Regulation 22(3), Cr Kelly has an interest in the matter

31. In regulation 22(1) an “interest” is defined as:

“interest —



- (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and
 - (b) includes an interest arising from kinship, friendship or membership of an association.”
- 32. This is commonly referred to as an “impartiality interest”.
- 33. In order for there to be a declarable impartiality interest either:
 - a. it must be more likely than not that, when viewed objectively, the councillor has an interest of some kind that a fair-minded informed observer might reasonably apprehend or perceive might be a conflict of interest or a bias; or
 - b. an existing association to, or with, a councillor exists which might adversely affect the councillor’s impartiality in considering the matter on the basis that:
 - i. the councillor’s mind might not be open to persuasion in regard to the matter; or
 - ii. the member might not be willing to give genuine and appropriate consideration to the matter, the matters required by law to be taken into account or any recommendation of council officers or a committee, as the case requires.
- 34. To be clear, it is not required that a conflict of interest actually exists, it is the reasonable assumption by a third party, that there *could be* some kind of conflict of interest arising due to the existing association or relationship between the relevant parties and/or the matter.
- 35. The relevant item 11.2 of the OCM was to consider and agree a proposed [REDACTED] [REDACTED] (“Item 11.2”).
- 36. In this case, the Shire had sought and received specific Legal Advice, given the circumstances currently in place at the Shire) as to when it would be appropriate for certain councillors (including Cr Kelly) to declare an impartiality interest.
- 37. The Legal Advice noted that it was highly likely an impartiality interest would arise for matters concerning [REDACTED] [REDACTED] (“the Impartiality Matter”) and recommended that Cr Kelly make a declaration in those circumstances.
- 38. Without going into the full background of the matter, the Panel notes that:
 - a. the Legal Advice was sought specially as to the Impartiality Matter;
 - b. Item 11.2 is not framed in exactly the same terms as the Impartiality Matter in content.
- 39. Despite this, the Panel considers that Item 11.2 is similar enough in content (i.e. relating to [REDACTED] [REDACTED] that in the context that:



- a. the Presiding Member and Council had been concerned enough with potential conflicts of interest to seek specific legal advice;
- b. Cr Kelly and the rest of the Council had seen and considered the Legal Advice at the ordinary council meeting of 27 April 2022; and
- c. it was expressly advised in the Legal Advice that Cr Kelly should provide a declaration as to an impartiality interest as to matters involving [REDACTED],

Cr Kelly should have been reasonably aware that there would likely be a third-party impression (at least by other elected members who were privy to the matter) that there was some possibility of conflict of interest in respect to this closely related matter.

40. In such a case, it would be prudent to declare an interest.
41. In respect to whether the relevant relationship between the CEO and Cr Kelly and their involvement in the Proceedings properly gives rise to an impartiality interest, the Panel considers that irrespective of the exact nature of the evidence or documentation the CEO may have been providing in respect to the Proceedings Cr Kelly was involved in, the facts that:
 - a. the Shire administration, via the CEO, had involvement in a legal matter that could have serious consequences for Cr Kelly; and
 - b. it was generally known (although it is noted it was later dropped) that there had been some kind of “no contact” condition between Cr Kelly, the Shire and the CEO,

is enough for a reasonable third party to form a view that Cr Kelly could possibly have a conflict of interest in respect to, or have a conflict of interest, in respect to matters involving the CEO’s [REDACTED]

42. Although the CEO’s involvement may have been of an essentially administrative nature, and Cr Kelly’s legal advisors argue that he did not have any *actual* conflict of interest, a predominant reason for making an impartiality declaration is to avoid any *perception* of conflict of interest.
43. There is a reasonable basis to assert that any legal action that:
 - a. related to parties in who work with each other in a relatively small Shire;
 - b. had the potential for the Shire/CEO to provide evidence that may significantly affect the legal outcome for Cr Kelly,had a real *potential* to significantly damage the working relationship between those parties and that, therefore, Cr Kelly should have been cognizant of that possible perception by others.
44. Given the above, the Panel finds it is more likely than not that Cr Kelly did have a declarable impartiality interest in the Motion and was therefore required to declare such interest.
45. This element is met.



Cr Kelly did not disclose the nature of the relevant interest in the matter in either of the ways required by regulation 22(2)(a) or regulation 22(2)(b)

46. The meeting minutes and records confirm that Cr Kelly did not make a disclosure or declaration as to an impartiality interest with respect to Item 11.2 at the OCM at any time prior to or during the OCM.

47. This element is met.

Regulation 22(3) and Regulation 22(4) do not apply

48. In this case, the relevant interest cannot be properly considered to be a proximity or financial interest and therefore Regulation 22(3) does not apply.

49. The Panel considers that:

- a. despite the Item being introduced as a late item, Cr Kelly knew the Item was contained in the Agenda and its general content; and
- b. for the reasons given above, it was reasonable for Cr Kelly to anticipate that he had a declarable interest in the matter.

50. It is clear that Cr Kelly did not declare any interest after the introduction of the Item.

51. This element is met.

Conclusion

52. The elements required to find a breach of regulation 22 of the Regulations have been met.



Panel's Findings

53. Cr Kelly did commit a breach of Regulation 22 of the Regulations and therefore did commit a minor breach.

Signing

A handwritten signature in black ink, appearing to be 'T Fraser'.

Tim Fraser (Presiding Member)

A handwritten signature in black ink, appearing to be 'E Power'.

Emma Power (Member)

A handwritten signature in black ink, appearing to be 'P Rogers'.

Peter Rogers (Member)



Local Government Standards Panel

Complaint Number	20220167
Legislation	<i>Local Government Act 1995 (WA)</i>
Complainant	Councillor Pauline Bantock
Respondent	Councillor James Kelly
Local Government	Shire of Victoria Plains
Regulation	Regulation 22 of the <i>Local Government (Model Code of Conduct) Regulations 2021 (WA)</i>
Panel Members for	Ms Emma Power (Presiding Member)
Penalty Consideration	Ms Suleila Felton (Member) Cr Peter Rogers (Member)
Heard	2 February 2023 Determined on the documents
Penalty Considered	11 April 2023
Outcome	Training

DECISION AND REASONS FOR DECISION

Delivered 27 April 2023

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Introduction

1. At its meeting on 2 February 2023, the Panel found that Councillor James Kelly, councillor for the Shire of Victoria Plains (“**the Shire**”), committed a minor breach under the Local Government Act 1995 (WA) (“**the Act**”) and Regulation 22 of the *Local Government (Model Code of Conduct) Regulations 2021* (“**the Regulations**”) when he failed to declare an impartiality interest in respect to an item being discussed at the Ordinary Council Meeting 22 July 2022 (“**the Minor Breach**”).

Jurisdiction and Law

2. The Panel convened on 11 April 2023 to consider how it should deal with the Minor Breach.
3. The Panel accepted the advice of the Department of Local Government, Sport and Cultural Industries (“**the Department**”) that on this date there was no available information to indicate that Cr Kelly had ceased to be, or was disqualified from being, a councillor.
4. If the Panel finds that a councillor has committed a minor breach, it must give the councillor an opportunity to make submissions to the Panel about how it should deal with the breach under section 5.110(6).¹
5. By a letter dated 1 March 2023, Cr Kelly was:
 - a. notified of the Panel’s finding of the Minor Breaches;
 - b. provided with a copy of the Panel’s Finding and Reasons for Finding; and
 - c. offered an opportunity to make submissions as to how the Minor Breach should be dealt with under section 5.110(6) of the *Act*.

Possible Sanctions

6. Section 5.110(6) of the *Local Government Act 1995* (WA) (“**the Act**”) provides that the Panel is to deal with a minor breach by:
 - (a) *ordering that no sanction be imposed; or*
 - (b) *ordering that —*
 - (i) *the person against whom the complaint was made be publicly censured as specified in the order;*
or
 - (ii) *the person against whom the complaint was made apologise publicly as specified in the order;*
or
 - (iii) *the person against whom the complaint was made undertake training as specified in the order;*
or
 - (iv) *the person against whom the complaint was made pay to the local government specified in the order an amount equal to the amount*

¹ *Local Government Act 1995* (WA), s 5.110(5).



of remuneration and allowances payable by the local government in relation to the complaint under Schedule 5.1 clause 9;

or

(c) ordering 2 or more of the sanctions described in paragraph (b).

Councillor Kelly's Submissions

7. Despite being provided with an opportunity to respond in respect to the penalty, Cr Kelly did not provide a response to the Department.

Panel's Consideration

8. Section 5.110(6) is about the penalty. The Panel does not have the power to review any finding of a breach.
9. The Panel may order under section 5.110(6)(a) of the Act that no sanction be imposed. This does not reverse the Panel's finding of a breach but indicates that, in the relevant circumstances, the councillor should not be penalised further.
10. Guidance as to the factors which the Panel may consider in determining the appropriate penalty to impose include, but are not limited to, the following:
 - a. the nature and seriousness of the breaches;
 - b. the councillor's motivation for the contravention;
 - c. whether or not the councillor has shown any insight and remorse into his/her conduct;
 - d. whether the councillor has breached the Act knowingly or carelessly;
 - e. the councillor's disciplinary history;
 - f. likelihood or not of the councillor committing further breaches of the Act;
 - g. personal circumstances at the time of conduct, and of imposing the sanction;
 - h. need to protect the public through general deterrence and maintain public confidence in local government; and
 - i. any other matters which may be regarded as aggravating conduct or mitigating its seriousness².
11. In this case the Panel found Cr Kelly ought to have declared an interest in the relevant item before Council and that this was particularly the case where legal advice had recently been sought as to such declarations.
12. The Panel deems that it is prudent that Cr Kelly undertake training to refresh his understanding of the personal responsibilities of Elected Members to comply with their obligations under the Act to declare any interests an elected member has, or is perceived to have, that may influence decisions, particularly impartiality interests.
13. The Panel considers this will assist Cr Kelly in more accurately assessing the scope of his obligations and encourage prudent declaration habits.

² Chief Executive Officer, Department of Local Government and Communities and Scaffidi [2017] WASAT 67 (S)



14. The sanction of an order to undertake training also aligns with the intent of the Act and the purpose of the civil penalties under the Act to ensure future compliance with the statutory obligations imposed on councillors for the better protection of the public.
15. In the circumstances, the Panel considers that undertaking training is an adequate sanction. The Panel does not make an additional order under section 5.100(6)(b)(v) of the Act that Cr Kelly recoup to the Shire the amount payable in relation to the complaint calculated under Schedule 5.1 clause 9 of the Act.

Panel's decision

16. The Panel orders pursuant to section 5.110(6)(b)(iii) of the Act that, in relation to the Minor Breach of regulation 22 of the Regulations, Cr Kelly:
 - a. undertake training in terms of the attached Order.

Signing

Emma Power (Presiding Member)

Suleila Felton (Deputy Member)

Peter Rogers (Deputy Member)



ORDER

Delivered 27 April 2023

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THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

1. Councillor James Kelly, a councillor for the Shire of Victoria Plains, **undertake training** as specified in paragraph 2 below.

Training

2. Within 4 months of the date of this Order, Councillor Cate James Kelly, a councillor for the Shire of Victoria Plains, shall undertake:
 - a. the training course for Elected Members "*Conflicts of Interest*" provided by WA Local Government Association (WALGA) for a period of no less than 3.5 hours, attending either in person or via e-learning (if available); or
 - b. a training course with substantially similar learning outcomes provided by an alternative registered training organisation for a period of not less than 3.5 hours.

Appeal

3. In the event that, prior to the date for compliance with the above Orders, Councillor James Kelly:
 - a. commences an appeal the decision of the Standards Panel to the State Administrative Tribunal in accordance with section 5.125 of the *Local Government Act 1995*; and
 - b. notifies the Complaints Officer of the Shire of such appeal in writing,

THEN:

- c. compliance with such Orders may be delayed until the State Administrative Tribunal has made a finding in respect to the decision; and
- d. such Orders may be amended by an order of the State Administrative Tribunal.



NOTICE TO THE PARTIES TO THE COMPLAINT

RIGHT TO HAVE PANEL DECISION REVIEWED BY THE STATE ADMINISTRATIVE TRIBUNAL

The Local Government Standards Panel (the Panel) advises:

- (1) Under section 5.125 of the *Local Government Act 1995* the person making a **complaint** and the person complained about each have the right to apply to the **State Administrative Tribunal (the SAT)** for a review of the Panel's decision in this matter. In this context, the term "decision" means a decision to dismiss the complaint or to make an order.
- (2) By rule 9(a) of the *State Administrative Tribunal Rules 2004*, subject to those rules an application to the SAT under its review jurisdiction must be made within 28 days of the day on which the Panel (as the decision-maker) gives a notice [see the Note below] under the *State Administrative Tribunal Act 2004 (SAT Act)*, section 20(1).
- (3) The Panel's **Breach Findings and these Findings and Reasons for Finding – Sanctions**, constitute the Panel's notice (i.e. the decision-maker's notice) given under the *SAT Act*, section 20(1).

Note:

- (1) This document may be given to a person in any of the ways provided for by sections 75 and 76 of the *Interpretation Act 1984*. [see s. 9.50 of the *Local Government Act 1995*]
- (2) Subsections 75(1) and (2) of the *Interpretation Act 1984* read:
 - (1) Where a written law authorises or requires a document to be served by post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, **service shall be deemed** to be effected by properly addressing and posting (by pre-paid post) the document as a letter to the last known address of the person to be served, and, **unless the contrary is proved, to have been effected at the time when the letter would have been delivered in the ordinary course of post.** [Bold emphases added]
 - (2) Where a written law authorises or requires a document to be served by registered post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, then, if the document is eligible and acceptable for transmission as certified mail, the service of the document may be effected either by registered post or by certified mail."
- (3) Section 76 of the *Interpretation Act 1984* reads:

"Where a written law authorises or requires a document to be served, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, without directing it to be served in a particular manner, service of that document may be effected on the person to be served —

 - (a) by delivering the document to him personally; or
 - (b) by post in accordance with section 75(1); or
 - (c) by leaving it for him at his usual or last known place of abode, or if he is a principal of a business, at his usual or last known place of business; or
 - (d) in the case of a corporation or of an association of persons (whether incorporated or not), by delivering or leaving the document or posting it as a letter, addressed in each case to the corporation or association, at its principal place of business or principal office in the State."