

QUEEN'S BENCH DIVISION

AND IN THE MATTER OF THE REPRESENTATION OF THE PEOPLE ACT 1983

AND IN THE MATTER OF A LOCAL GOVERNMENT ELECTION FOR THE TOTTERIDGE AND BOWERDEAN WARD IN BUCKINGHAMSHIRE COUNCIL ON 6th MAY, 2021

BETWEEN:

ANWAR RASHID

Petitioner

- and -

JULIA DENISE WASSELL

First Respondent

- and -

IMRAN HUSSAIN

Second Respondent

- and -

STEVE GUY

Third Respondent

- and -

NICHOLAS GRAHAM

(Returning Officer for Buckinghamshire Council)

Fourth Respondent

Roger Eastman
Master of the Queen's Bench
Division,
Room E116, Royal Courts of
Justice,
London WC2A 2LL



**REPORT OF INSPECTION & RECOUNT
HELD ON 29 SEPTEMBER 2021
COURT 73, ROYAL COURTS OF JUSTICE**

In attendance:

Master Eastman

Registrar: Geraint Evans (Operations Manager, Election Petitions Office)

Clerk: Alan Harris

Usher: Peter Mose

Enumerators: Veemla Chetty, Jane Clark, Tatyana Hartshorne, and Pat Moore

For the Petitioner: Anwar Rashid (the Petitioner), Francis Hoar (of counsel), Ghazala Hussain (of counsel) and Joanna Thom (Mr Hoar's pupil barrister).

For the First, Second, and Third Respondents: Julia Denise Wassell (the First Respondent), Imran Hussain (the Second Respondent), Steve Guy (the Third Respondent), Nabeela Rana (election agent for Wycombe Independents), James Laddie QC (of counsel), Jamie Potter and India Cooper (both of Bindmans LLP, solicitors)

For the Fourth Respondent: Nicholas Graham (the Fourth Respondent, Director for Legal & Democratic Services, Buckinghamshire Council and Returning Officer), Ian Hunt (Head of Democratic

Services & Elections, Buckinghamshire Council and Deputy Returning Officer), Mathew Bloxham (Electoral Services Manager, Buckinghamshire Council and Deputy Returning Officer), Jo Hart (Principal Electoral Services Officer, Buckinghamshire Council and Deputy Returning Officer), Matt Rae (Principal Electoral Services Officer, Buckinghamshire Council and Deputy Returning Officer), Emyr Thomas and Anna Sidebottom (both of Sharpe Pritchard LLP, solicitors)

Police: Detective Constable Fleming and Detective Constable Havelock (Thames Valley Police).

Introduction

1. Paragraph 5 of Mr Justice Soole's Order dated 29 September 2021 ("**the Order**") ordered the Returning Officer to –

" ...

- a. open the sealed packets containing the rejected ballot papers;
- b. open the sealed packets containing the counted ballot papers;
- c. open the sealed packets containing the corresponding number list, the marked registers, and the postal voter issue list;
- d. inspect the rejected ballot papers and identify which were rejected postal ballot papers and which were rejected polling station ballot papers;
- e. inspect the valid ballot papers;
- f. identify the name and address of each voter to whom a rejected ballot paper was issued by cross-referring the number on the reverse of the rejected ballot paper with the information contained in the corresponding number list, the marked registers, and the postal voter issue list, and the declaration referred to in paragraph 9 below shall apply to any such identification and no person may communicate any name or address so identified to any person except their legal representative until further order of this Court or the Election Court;
- g. count the votes on the valid ballot papers for the election;
- h. give notice to each of the candidates of the result of the recount;

..."

2. It was agreed that the inspection and re-count would be carried out in accordance with the Returning Officer's document *Returning Officer's note on conducting the inspection and re-count* dated 28 September 2021.
3. In addition, following a request by Mr Hoar and Mr Laddie QC during the recount, Master Eastman agreed that when the rejected ballot papers were checked against the corresponding number list, the marked registers, and the postal voter issue list, the ballot papers should be sorted into two categories as follows: (A) those ballot papers with three or more votes for Liberal Democrat candidates and (B) those ballot papers with fewer than three votes for Liberal Democrat candidates, including those with three votes for another party. This is described further in paragraphs 19 and 20 below.

4. The inspection and re-count commenced at approximately 1.07pm and all those present were reminded by Master Eastman not to divulge or communicate in any way any information disclosed save to the Court or with the Court's permission. All those present signed a declaration of secrecy. Those handling ballot papers and the corresponding number list were ordered to wear two pairs of latex gloves when doing so.
5. The re-count was undertaken by enumerators supplied by the Court and by the Returning Officer's duly authorised officers. As mentioned in paragraph 31, the Returning Officer's duly authorised officers added the final numbers to identify the total number of votes cast for each candidate.
6. A gentleman arrived shortly after commencement of the inspection and re-count to act as the Petitioner's election agent. Mr Laddie QC brought to Master Eastman's attention that the Petitioner's election agent for the election was Ian Morton, and not the gentleman who had arrived. Mr Hoar informed the Court that Mr Morton was unavailable but it was accepted that the gentleman was not Mr Morton and Master Eastman requested that the gentleman leave and he did.

Background to the inspection and re-count

7. Twelve candidates stood for the 3 vacancies for the Totteridge & Bowerdean Ward of Buckinghamshire Council on 6 May 2021. Each elector was entitled to cast no more than 3 votes. There were 3 Wycombe Independent candidates, 3 Liberal Democrat candidates, 3 Labour Party candidates, and 3 Conservative Party candidates.
8. For multi-member wards, Buckinghamshire Council use the "grass skirt" method for counting votes. This involves attaching ballot papers to a large sheet of paper (i.e. the grass skirt) so that they overlap, leaving only the X's visible for each candidate. The rows of X's are then added up and the figures transferred to a summary sheet. Some electors do not use all 3 votes and so there is a row on the grass skirt for any unused votes to be recorded. The grass skirt contains an adhesive and up to 25 ballot papers can stick to each one. The number of votes (including unused votes) on each grass skirt should add up to 75 votes, (3 votes on each ballot paper) where 25 ballot papers have been stuck down.
9. Counting assistants can start the count by extracting the ballot papers where a voter has used all their votes for candidates of a particular political party – this is often known as "block voting" – and count them separately. As explained below, this was done at the re-count. Where a voter "blocked voted", the voter's ballot paper was not attached to a grass skirt.

The exercises ordered to be undertaken

Opening the sealed packets containing the rejected ballot papers and the sealed packets containing the corresponding number list, the marked registers and the postal voter issue list (paragraph 5(b) and (c) of the Order)

Rejected ballots

10. Thames Valley Police requested prior to the re-count that in order to preserve the forensic integrity of the ballot papers and corresponding number lists that two pairs of latex gloves be worn by those handling ballot papers and the corresponding number lists. The Returning Officer therefore reminded all officials and enumerators that two pairs of latex gloves must be worn when handling the ballot papers and corresponding number list.
11. The packet containing the rejected ballot papers was opened and its contents inspected by the Returning Officer and enumerators.
12. The rejected ballot papers were counted and the reasons for rejection were reported to a Deputy Returning Officer, who compiled the statement of rejected ballot papers.
13. It was necessary as part of this process for officials to stick post-it notes to some of the rejected ballot papers. The Returning Officer directed that post-it notes should be written on before being affixed to any ballot paper.
14. The Returning Officer read out the statement of rejected ballots, categorising the ballot papers between five permissible reasons for rejection:

Table 1

Permissible reason	No. of ballots
Want of official mark	0
Voting for more candidates than the voter was entitled to	103
Writing or mark by which the voter could be identified	0
Being unmarked or wholly void for uncertainty	5
Rejected in part (e.g. where good votes on a ballot paper should not be rejected because another vote on the paper is uncertain)	0
Total	108

Inspect the rejected ballot papers and identify which were rejected postal ballot papers and which were rejected polling station ballot papers (paragraph 5(d) of the Order)

15. The rejected ballot papers were laid out face up on tables and the opportunity was given for them to be inspected.
16. The ballot papers were turned over and, by reference to the number on the reverse of the ballot paper, officials identified whether each rejected ballot paper was a postal vote ballot paper or a polling station ballot paper. Ballot papers beginning with the numbers 1,2 or 3 were postal ballot papers. Ballot papers beginning with the number 5 were ballot papers issued at the polling station. The number of rejected ballot papers which (i) were postal vote ballot papers and (ii) were not postal vote ballot papers was then recorded: nine (9) of the 108 rejected ballot papers were polling station ballot papers and the remaining 99 were postal vote ballot papers.
17. The rejected ballot papers were turned over again so that they were face up. The opportunity was given for the face of all 108 ballot papers to be photographed, in accordance with paragraph 11 of the Order.

Identification of the name and address of each voter to whom a rejected ballot paper was issued by reference to the corresponding number list etc. (paragraph 5(f) of the Order)

18. The name and address of each voter to whom a rejected ballot paper was issued was identified by cross-referencing the number on the reverse of the rejected ballot paper to the corresponding number list, marked registers and postal voter issue list.
19. A request was made to the Returning Officer by Mr Hoar and Mr Laddie QC that a distinction be made between those ballot papers which included three or more votes for Liberal Democrat candidates ("**category (A)**"); and those that contained fewer than three votes for the Liberal Democrat candidates, including those with three votes for another party ("**category (B)**") and that the names and addresses of those electors be identified separately. The Returning Officer questioned whether this was provided for in the Order. Mr Laddie QC said that what was requested was within the scope of the Order, and not a change to it but a refinement of it. Master Eastman said there was an advantage to proceeding in the way proposed by Mr Hoar and Mr Laddie QC and said he agreed that the proposal was a refinement of the Order and not a change to it. Master Eastman asked the Returning Officer to accommodate the exercise proposed by Mr Hoar and Mr Laddie QC and this was done.
20. The rejected ballot papers were duly sorted into the two categories, (A) and (B), mentioned above. The names and address of those whose ballot papers came within category (A) were indicated by a horizontal line on the relevant list, and the names and addresses of those whose ballot papers came within category (B) were indicated by a cross on the list. Rather than read out the name and address of each elector, it was agreed that the Returning Officer would produce a separate document, which would be provided to the parties, and would include the names and addresses of

each voter to whom a rejected postal vote ballot paper had been issued. The document would distinguish between whether the rejected postal ballot paper came within category (A) or (B).

21. Of the 99 rejected postal votes, it was established that 79 fell into category (A) (i.e. they included three or more votes for Liberal Democrat candidates) and 20 into category (B) (i.e. they contained fewer than three votes for the Liberal Democrat candidates, including those with three votes for another party).
22. At approximately 2.32pm the rejected ballot papers were returned to their box, which was re-sealed.

Inspection of the valid ballot papers (paragraph 5(e) of the Order)

23. The boxes containing the valid ballot papers were opened.

Count the votes on the valid ballot papers for the election (paragraph 5(g) of the Order)

Block votes

24. Mr Hunt explained to the attendees that a block vote is where an elector has used his or her 3 votes for the same party. He said that, on polling day, each pile of block votes had been organised according to the relevant party and, at the close of poll, they had been placed in those piles in the ballot box, which had then been sealed.
25. The enumerators checked each block vote ballot paper to ensure it was a valid block vote for either the Wycombe Independent, Liberal Democrat, Conservative Party or Labour Party candidates. For each ballot paper that was counted in the respective block pile, an enumerator checked that each vote had been added to each party candidate correctly. This was double checked. Any ballot paper not showing a block vote was placed in a tray to be inspected later. An officer then checked the figures to ensure there were no accounting errors and then reported the figures to a Deputy Reporting Officer.
26. The validity of a small number of block vote ballot papers was queried. The Returning Officer confirmed he was content that those ballot papers were valid.
27. At the end of the block vote count, 11 ballot papers were identified as not being block votes and so ought to have formed part of the grass skirt counting exercise. During the block vote count, the Returning Officer removed one blank ballot paper. The Returning Officer considers it likely that when an elector was issued with his or her ballot paper, this blank ballot paper was attached, in error, to it and that it remained attached to it until it was identified during the grass skirt counting exercise at the recount.
28. The Returning Officer confirmed the number of valid block votes for each candidate as follows:

Table 2

Party	No. of votes
Conservative	233
Labour	346
Wycombe Independents	692
Liberal Democrat	572

Grass skirts

29. Some of the valid ballot papers were not block votes. Owing to this, they had been fixed during the count (in May 2021) to grass skirts. A maximum of 25 ballot papers can be fixed to a grass skirt. During the count, at the end of each row, the total for each candidate had been calculated and the number written in pencil. A further row recorded the unused votes, with the total number of unused votes written in pencil. There were 57 grass skirts that required re-counting, and this work was divided across 3 teams. Not every grass skirt contained 25 ballot papers: all but one of the original grass skirts had 25 ballots attached to them. In addition, 11 ballot papers that had been identified as not being block votes were added to the grass skirt count because they ought to have formed part of the grass skirt counting exercise (as referred to in paragraph 27). Furthermore, two ballot papers attached to a grass skirt were identified as being unmarked. Those two ballot papers (which are referred to in paragraph 33) were removed from the relevant grass skirt and added to the pile of rejected ballot papers for being unmarked or wholly void for certainty. Each team consisted of one of the Returning Officer's duly authorised officers and a member of the Court staff.
30. Each team worked on one grass skirt at a time: one team member counted the "X's" across the papers, one candidate at a time, and the other team member wrote down the figure for each candidate in red pen on the skirt next to the number recorded at the count. The number of unused votes was counted and recorded in red pen next to the number recorded at the count. Once a skirt was completed, the figures were entered onto a summary sheet.
31. Once concluded, each team was left with a summary sheet detailing the number of votes cast for each candidate across the grass skirts they worked on. Some teams finished before others so to expediate the process, the teams which had completed their grass skirts assisted with the remaining skirts. There were 5 summary sheets. The Court staff were released from their duties at this point and the Returning Officer's duly authorised officers added these numbers to identify the total number of votes cast for each candidate.
32. The figures were checked to ensure there were no accounting errors.

33. Three ballot papers were identified during the recount as ballot papers which ought to have been rejected. One was rejected for voting for more candidates than the voter was entitled to and two were rejected for being unmarked or wholly void for certainty. The former ballot paper (a postal vote ballot paper) included three or more votes for Liberal Democrat candidates and so fell within category (A). These three ballot papers were inspected by the candidates and stamped as rejected.

Give notice to each of the candidates of the result of the recount (paragraph 5(h) of the Order)

34. Once the grass skirt exercise had concluded, a Deputy Returning officer compiled a provisional result for the recount and issued this to the Returning Officer.

35. The Returning Officer re-emphasised that the result was provisional, and confidential to everyone in the room, until ordered otherwise by the Court. The results announced were not a formal declaration.

36. Having first shared the results with Master Eastman, the Returning Officer confirmed that the result for each candidate was as follows:

Table 3

Candidate	Number of votes at re-count
Hasan Ali ARIF	401
Ian Stephen BATES	607
Alexander Stephen COBB	424
Steve GUY	1013
Ben James HOLKHAM	902
Imran HUSSAIN	1130
Chaudhry Ansar MAHMOOD	915
Matthew Owen PLESTED	417
Rafiq Mohammed RAJA	735
Anwar RASHID	906
Julia Denise WASSELL	1279
Philippa Eryl YOUNG	483

37. The Returning Officer confirmed that a total of 574 votes were unused¹. Of the 111 rejected ballot papers, (i.e. including the additional rejected ballot papers identified at the recount), the Returning

¹ In this election, each elector was entitled to cast no more than 3 votes. If an elector cast only one vote, the remaining two votes would have been recorded as unused votes; similarly, if an elector cast only two votes, the remaining vote would have been recorded as an unused vote. Where an elector cast all 3 votes, no votes would have been recorded as unused. Where an elector did not cast any vote on his or her ballot paper, the ballot paper would have been rejected as being unmarked or wholly void for uncertainty and no unused votes would have been recorded.

Officer confirmed that 104 were rejected for voting for more candidates than the voter was entitled to; 7 were unmarked or wholly void for uncertainty.

38. The Returning Officer confirmed that the total number of votes, the total number of unused votes, and the total number of rejected ballot papers was 9,897.

End of re-count

39. Master Eastman thanked the Returning Officer, his staff, and the Court staff.

40. Master Eastman also re-iterated the Returning Officer's reference to confidentiality, reminding parties that it applies not only until his report comes out but pursuant to paragraphs 5 and 9 of the Order. He said all parties were under obligations of strict confidentiality pursuant to the Order of the Court and any breach of that would be taken very seriously.

41. The proceedings ended at approximately 5.20pm.

42. For completeness, the Schedule includes a table showing (i) the result declared at the count and (ii) the result at the re-count.

Schedule

Table 4

Candidate	No. of votes at count	No. of votes at re-count
Julia Denise Wassell (Elected)	1255	1279
Imran Hussain (Elected)	1129	1130
Steve Guy (Elected)	1009	1013
Anwar Rashid	957	906
Chaudhry Ansar Mahmood	915	915
Ben James Holkham	901	902
Rafiq Mohammed Raja	714	735
Ian Stephen Bates	593	607
Philippa Eryl Young	541	483
Matthew Owen Plested	490	417
Alexander Stephen Cobb	426	424
Hasan Ali Arif	404	401
Total	9334	9212

Submitted on 16 December 2021

Approved on 17 December 2021

Master Eastman