Dealing with doubtful ballot papers

Supporting Police and Crime Commissioner elections
Translations and other formats

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Annex - Legislation
1 Introduction

1.1 This booklet is designed to assist local Returning Officers in adjudicating doubtful ballot papers at Police and Crime Commissioner elections held under the Supplementary Vote (SV) electoral system.

Local Returning Officers should read this booklet in conjunction with any additional guidance or directions issued by the Police Area Returning Officer (PARO). It should also be read in conjunction with our general guidance on managing the verification and count contained in Part E of our guidance for local Returning Officers.

1.2 The decision on the adjudication of any particular ballot paper rests with the local Returning Officer. The local Returning Officer may delegate the final decision on adjudication to one or more deputies, but this must be done explicitly in writing.¹

1.3 Because the local Returning Officer discharges a statutory function in adjudicating doubtful votes, the local Returning Officer or authorised deputy local Returning Officer, and not any other staff employed by the local Returning Officer at the count, should carry out this function.

1.4 One of the aims of this booklet is to help to ensure consistency of approach across all police areas in England and Wales.

1.5 The guidance in this booklet is based on that contained in the booklet for mayoral elections held under SV, which was drafted in consultation with leading counsel and representatives from across the electoral community. This booklet has also been developed in consultation with representatives from the electoral community, including Police Area Returning Officers and members of the Elections and Registration Steering Group and the Elections, Referendums and Registration Working Group.² The Electoral Commission is grateful for their assistance throughout this process.

1.6 When undertaking the adjudication of ballot papers it is important to ensure that the process is carried out in full view of all candidates and their agents present at the count, as well as in the presence of any Commission representatives and accredited observers in attendance.

¹ Regulation 5(2), The Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012.
² For further information on both groups, please visit www.electoralcommission.org.uk/elections/elections-and-referendums-working-groups.
Supplementary vote elections

1.7 At PCC elections with more than two candidates, if no candidate obtains more than 50% of the valid first preference votes across the whole of the police area, there will be a second count that will involve counting the second preferences for those candidates remaining in the contest given by voters who did not give their first preference vote to any of those candidates.

1.8 At the first count, it is only the adjudication of first preferences that the local Returning Officer needs to be concerned with. However, when adjudicating first preferences, the whole ballot paper will need to be considered (see Chapter 2 for further details).

1.9 If there is a second count, the local Returning Officer is concerned only with the adjudication of second preference votes for each of the candidates remaining in the contest given by voters who did not give their first preference vote to any of the remaining candidates. However, the local Returning Officer can only allow a second preference vote if a valid first preference vote is also marked on the ballot paper. Again, in considering second preference votes, the whole of the ballot paper will need to be considered.

1.10 Experience from some SV counts indicates that there may be a significant number of ballot papers requiring adjudication. Therefore, at either count, local Returning Officers should not wait until towards the end before starting the adjudication process; this should be carried out regularly throughout each count in clear view of those entitled to be present.

1.11 Those ballot papers that have been rejected at the first count must be stamped with the word ‘rejected’ and placed in the appropriate package. All other ballot papers, i.e. those where a valid first preference vote is marked, must be counted.

1.12 A statement must be prepared showing the number of ballot papers rejected under each of the following headings at the conclusion of the first count:

- want of official mark
- giving more than one candidate a first preference vote
- writing or mark by which the voter could be identified
- unmarked as to the first preference vote
- void for uncertainty as to the first preference vote

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1.13 If no candidate receives more than 50% of the valid first preference votes cast across the police area, the Police Area Returning Officer will direct the count of second preferences by local Returning Officers. A ballot paper can be adjudicated as valid at the first count and invalid in relation to the second preference vote at the second count. In those circumstances, the ballot paper should be stamped with the word ‘rejected’ at the second count and placed in the appropriate package.

1.14 At the conclusion of the second count, a statement should be prepared showing the number of ballot papers rejected under each of the following headings:

- giving more than one candidate a second preference vote
- unmarked as to the second preference vote
- void for uncertainty as to the second preference vote
- ballot paper does not contain an official mark
- ballot paper contains a mark or writing by which the voter can be identified
2 Principles of adjudication at the first count

2.1 Any doubtful ballot papers should be placed in a tray for the supervisor to take to the local Returning Officer for adjudication. The whole of the ballot paper needs to be considered when adjudicating doubtful votes and the front of the ballot papers should be carefully checked for any marks in case the voter has made any marks outside of the voting boxes.

2.2 The local Returning Officer may only reject a ballot paper on the following grounds:

- it does not contain an official mark
- more than one first preference vote has been given
- it contains a mark or writing by which the voter can be identified (except the ballot paper number and unique identifying mark)
- it is unmarked as to the first preference vote
- it is void for uncertainty as to the first preference vote

2.3 A ballot paper must not be rejected because the vote is:

- not marked in the proper place
- marked other than by a cross
- marked by more than one mark

if an intention to give a first preference vote for not more than one candidate clearly appears on the ballot paper.

2.4 Therefore, the following ballot papers will need to be passed to the local Returning Officer for adjudication:

- those that appear to have no official mark (not the unique identifying mark)
- those appearing to contain more than one first preference vote
- those with any writing or mark by which the voter can be identified
- those where there is no mark
- those where there is uncertainty as to the first preference vote

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2.5 In addition, in order to help maintain the integrity of the election, the following ballot papers should be passed to the local Returning Officer for further consideration:

- any paper torn or damaged in any way
- any paper with anything unusual about it (for example, any paper that appears to have been altered, either with a clearly different writing instrument or with correction fluid)

2.6 In the case of ballot papers that appear to have been altered, local Returning Officers may consider packaging them separately in case of later challenge or investigation.

**Want of official mark**

2.7 Absence of the official mark must lead to an automatic rejection. The local Returning Officer has no discretion.

2.8 However, where instead of a pre-printed official mark a stamping instrument has been used, a partial piercing or embossing of the ballot paper should not in itself result in a rejection. As long as it is clear that the ballot paper has been stamped by polling station staff, the fact that not all the pins have stamped through the ballot paper or that the perforation is not wholly on the paper is immaterial.

**Voting for more than one first preference**

2.9 This is a matter for the local Returning Officer’s judgment.

2.10 Additional marks should not lead to a rejection if it is clear that those marks were not intended as a first preference vote.

**Not clearly indicating a first preference**

2.11 There are a variety of circumstances in which the local Returning Officer will need to determine whether or not a first preference clearly appears on the ballot paper. For example, it may be that the voter has put a number, word or symbol, instead of a cross, in the first choice column. It may also be that the voter has marked their first preference vote elsewhere than in the proper place.

2.12 Alternatively, while the voter may have put an ‘X’ or another symbol in the first choice column, some other mark on the ballot paper may cast doubt over whether they actually intended this to be their first preference vote.

2.13 The key question a local Returning Officer should ask is whether the voter’s intention to cast a first preference vote for only one candidate clearly appears on the ballot paper. In order to do this, the ballot paper needs to be looked at in its entirety, i.e. all marks on the ballot paper need to be taken into account as part of the adjudication process. Not only must the ballot paper
contain a vote, it must be clear that the vote is intended as a first preference vote for one candidate.

2.14 Where a voter has marked the first choice column, any additional mark on the ballot paper should be scrutinised to ensure that it does not cast doubt over whether the mark in the first choice column was intended as a first preference vote. For instance, example 28 below shows how the single cross in the first choice column has been undermined by the number ‘1’ in the second column: looking at the ballot paper as a whole, it is not clear which one of those votes was intended as a first preference and therefore the ballot paper should be rejected as being void for uncertainty as to the first preference vote.

Writing or mark by which the voter can be identified

2.15 There are two aspects to this:

- either any writing or mark on the ballot paper which, of itself, identifies the voter (which does not include the ballot paper number and unique identifying mark on the back of the ballot paper), or
- the voter can be identified by such writing or mark

2.16 It is important to bear in mind that the legislation states that the voter can be, not may be or might possibly be, identified (which does not include the ballot paper number and unique identifying mark on the back of the ballot paper).

Writing or mark which, of itself, identifies the voter

2.17 A ballot paper should be rejected if:

- the electoral number of the voter written on the ballot paper unequivocally identifies the voter
- it may reasonably be held to bear the name (or signature) or unique address of the voter on its front.

The voter can be indirectly identified by any writing or mark on the ballot paper

2.18 The local Returning Officer is not required to investigate the matter or require evidence to be produced to identify the writing or mark, but the local Returning Officer should consider any evidence that is given to them at the time.

2.19 Where there is doubt about the identity of the person who marked the ballot paper, local Returning Officers should allow rather than reject the ballot paper.

Unmarked ballot papers

2.20 Unmarked ballot papers should be rejected.
2.21 A ballot paper marked by means other than a ballot pencil should not be rejected simply because of that.

2.22 Marks other than a cross, however faint, may still be valid provided it is clearly apparent that a first preference vote has been given for not more than one candidate.

Decisions of the local Returning Officer

2.23 The decision of the local Returning Officer is final, subject only to review on election petition.7

3 Principles of adjudication at the second count

3.1 Only ballot papers with a valid first preference can be included in the second count.\(^8\)

3.2 At the second count, the same grounds for rejection as at the first count apply, except that any references to first preference votes shall be taken as references to second preference votes.\(^9\) This means that the local Returning Officer may only reject a ballot paper at the second count on the following grounds:

- it does not contain an official mark\(^{10}\)
- more than one second preference vote has been given
- it contains a mark or writing by which the voter can be identified
- it is unmarked as to the second preference vote
- void for uncertainty as to the second preference vote

3.3 A ballot paper must not be rejected because the vote is:\(^{11}\)

- not marked in the proper place
- marked other than by a cross
- marked by more than one mark

if an intention to give a second preference vote for not more than one candidate clearly appears on the ballot paper.

3.4 When adjudicating doubtful ballot papers at the second count, the same processes and principles described above for the first count also apply to the second count.

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\(^8\) Rule 60(3), Schedule 3, Police and Crime Commissioner Elections Order 2012.

\(^9\) Rule 60(4) and (5), read with Rule 53(1), Police and Crime Commissioner Elections Order 2012.

\(^{10}\) While the legislation prescribes these categories for rejection, ballot papers not containing an official mark or containing a mark or writing by which the voter can be identified should have been rejected at the first count and so the total number of rejections under each of these heads at the second count should be zero.

\(^{11}\) Rule 60(4) and (5), read with Rule 53(2), Police and Crime Commissioner Elections Order 2012.
4 Summary

4.1 The principles to be applied are set out in chapters 2 and 3 above. In practical terms, the general approach can be summarised as follows:

- always be clear and consistent
- take time to ensure that a considered decision is given in every case
- determine whether the intention of the voter clearly appears on the ballot paper. As part of this, local Returning Officers will need to:
  - consider the whole of the ballot paper
  - consider whether the way a ballot paper has been marked means that a first or second preference vote, as the case may be, for one candidate is clearly apparent
5 Examples

5.1 The examples provided here are taken from the specific rules for Police and Crime Commissioner elections. Ultimately, the decision on any particular ballot paper, including the question as to whether an intention to vote for a particular candidate clearly appears, rests with the local Returning Officer.

5.2 References are to the Police and Crime Commissioner Elections Order 2012. References to Rule 53(1) should be read, in respect of a second preference vote, with Rule 60(5). As regards the rejected votes, the rule stated is the ground under which the vote is rejected and shows under which category the rejection should be recorded for the production of the statement(s) of rejected ballot papers.
Allowed votes

The following are examples of votes that should be allowed.

Allow for Grey as first preference and Miller as second preference.
Rule 53(2)(a) – vote marked elsewhere than in the proper place.
Example 1
Example 2

Allow for Boots as first preference and Jiang as second preference. Rule 53(2)(b) and (c) – vote marked otherwise than by means of a cross and by more than one mark. In this example, the voter’s intention is clearly indicated through the use of ‘ticks’. Crosses have been used consistently as a negative statement, rather than as an indication of a positive choice.
Allow for Williams as first preference and Jiang as second preference. Rule 53(2)(c) – vote marked by more than one mark.

Example 3
Allow for Grey as first preference and Jiang as second preference. Rule 53(2)(b) and (c) – vote marked otherwise than by means of a cross and by more than one mark.
Allow for Hood as first preference and Miller as second preference.
Rule 53(2)(b) – vote marked otherwise than by means of a cross.

Example 5
Election of Police and Crime Commissioner for (insert name of police area) police area

Vote once ☑ in column 1 for your first choice, and
Vote once ☑ in column 2 for your second choice

<table>
<thead>
<tr>
<th>Candidate</th>
<th>First Choice</th>
<th>Second Choice</th>
</tr>
</thead>
<tbody>
<tr>
<td>BOOTS, Dusty</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The League of Line Dancers Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>GREY, Earl</td>
<td></td>
<td>☑</td>
</tr>
<tr>
<td>The Mad Hatter’s Tea Party Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HOOD, Robin</td>
<td>☑</td>
<td></td>
</tr>
<tr>
<td>The Forest Party Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>JIANG, Mike</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Independent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MILLER, Windy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Alternative Power Forum Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>WILLIAMS, Rhys</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Independent</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Allow for Hood as first preference and Grey as second preference. Rule 53(2)(b) – vote marked otherwise than by means of a cross.

Example 6
Allow for Boots as first preference and Williams as second preference. Rule 53(2)(b) – vote marked otherwise than by means of a cross.

Example 7
Election of Police and Crime Commissioner for *(insert name of police area)* police area

Vote once ✕ in column 1 for your first choice, and Vote once ✕ in column 2 for your second choice

<table>
<thead>
<tr>
<th>Column 1 first choice</th>
<th>Column 2 second choice</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BOOTS, Dusty</strong></td>
<td></td>
</tr>
<tr>
<td>The League of Line Dancers Candidate</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td><strong>GREY, Earl</strong></td>
<td></td>
</tr>
<tr>
<td>The Mad Hatter’s Tea Party Candidate</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>HOOD, Robin</strong></td>
<td></td>
</tr>
<tr>
<td>The Forest Party Candidate</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>JIANG, Mike</strong></td>
<td></td>
</tr>
<tr>
<td>Independent</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>MILLER, Windy</strong></td>
<td></td>
</tr>
<tr>
<td>The Alternative Power Forum Candidate</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>WILLIAMS, Rhys</strong></td>
<td></td>
</tr>
<tr>
<td>Independent</td>
<td></td>
</tr>
</tbody>
</table>

Allow for Boots as first preference and Hood as second preference. Rule 53(2)(a) and (b) – vote marked elsewhere than in the proper place (in relation to the second preference vote) and otherwise than by means of a cross.

Example 8
Allow for Jiang as first preference and Boots as second preference. Rule 53(2)(a) and (b) – vote marked elsewhere than in the proper place (in relation to the first preference vote) and otherwise than by means of a cross.

Example 9
Allow for Grey as first preference and Miller as second preference. Rule 53(2)(b) – vote marked elsewhere than in the proper place.

Example 10

<table>
<thead>
<tr>
<th>Candidate</th>
<th>Party/Campaign</th>
<th>Column 1 first choice</th>
<th>Column 2 second choice</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BOOTS, Dusty</strong></td>
<td>The League of Line Dancers Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>GREY, Earl</strong></td>
<td>The Mad Hatter’s Tea Party Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>HOOD, Robin</strong></td>
<td>The Forest Party Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>JIANG, Mike</strong></td>
<td>Independent</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>MILLER, Windy</strong></td>
<td>The Alternative Power Forum Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>WILLIAMS, Rhys</strong></td>
<td>Independent</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Allow for Jiang as first preference and Grey as second preference. Rule 53(2)(b) – vote marked otherwise than by means of a cross. Example 11
Allow for Boots as first preference and Miller as second preference. Rule 53(2)(b) – vote marked otherwise than by means of a cross (in relation to the second preference vote).
Allow for Hood as first preference and Miller as second preference. Rule 53(2)(a) – vote marked elsewhere than in the proper place (in relation to the first preference vote).

Example 13
Allow for Hood as first preference and Jiang as second preference. 53(2)(b) and (c) – vote marked otherwise than by means of a cross and by more than one mark.
Allow for Hood as first preference and Miller as second preference. 53(2)(a), (b) and (c) – vote marked elsewhere than in the proper place, otherwise than by means of a cross and by more than one mark.

Example 15
Allow for Boots as first preference and Hood as second preference.
Rule 53(2)(b) – vote marked otherwise than by means of a cross.

<table>
<thead>
<tr>
<th>Candidate</th>
<th>Party</th>
<th>Column 1 first choice</th>
<th>Column 2 second choice</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BOOTS, Dusty</strong></td>
<td>The League of Line Dancers Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>GREY, Earl</strong></td>
<td>The Mad Hatter’s Tea Party Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>HOOD, Robin</strong></td>
<td>The Forest Party Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>JIANG, Mike</strong></td>
<td>Independent</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>MILLER, Windy</strong></td>
<td>The Alternative Power Forum Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>WILLIAMS, Rhys</strong></td>
<td>Independent</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Allowed first preference votes only

The following are examples of first preference votes that should be allowed and second preference votes that should not be allowed.

### Election of Police and Crime Commissioner for (insert name of police area) police area

Vote once ✗ in column 1 for your first choice, and
Vote once ✗ in column 2 for your second choice

<table>
<thead>
<tr>
<th>First Preference</th>
<th>Second Preference</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BOOTS, Dusty</strong></td>
<td>The League of Line Dancers Candidate</td>
</tr>
<tr>
<td><strong>GREY, Earl</strong></td>
<td>The Mad Hatter’s Tea Party Candidate</td>
</tr>
<tr>
<td><strong>HOOD, Robin</strong></td>
<td>The Forest Party Candidate</td>
</tr>
<tr>
<td><strong>JIANG, Mike</strong></td>
<td>Independent</td>
</tr>
<tr>
<td><strong>MILLER, Windy</strong></td>
<td>The Alternative Power Forum Candidate</td>
</tr>
<tr>
<td><strong>WILLIAMS, Rhys</strong></td>
<td>Independent</td>
</tr>
</tbody>
</table>

Allow for Boots as first preference and reject second preference - Rule 53(1)(b) – giving more than one second preference vote.

Example 17
Allow for Grey as first preference and second preference cannot be counted. Rule 60(2)(b) – second preference cannot be counted. If Grey has been eliminated from the contest, a ballot paper marked up in this way will not be included in the count of second preferences. If Grey has remained in the contest, the second preference is not included in the count because the voter has already given their first preference to Grey.
Example 19

Allow for Grey as first preference, as equivalent to a cross in each box against Grey, and second preference cannot be counted. Rule 60(2)(b) – second preference cannot be counted.
Allow for Boots as first preference and reject second preference. Rule 53(1)(b) – reject second preference for giving more than one second preference vote. While in the first column, the ballot paper has been marked in accordance with the instructions, it is not clear who the voter intended to vote for as their second preference.
Allow for Grey as first preference and reject second preference. Rule 53(1)(e) – reject second preference vote as void for uncertainty as to the second preference vote. In this example, the inclusion of the candidate’s name ‘Miller’ in the voting box conflicts with the cross in the second preference column and casts doubt over who the voter intended to vote for as to their second preference.

Example 21
Rejected votes

The following are examples of votes that should be rejected.

Election of Police and Crime Commissioner for (insert name of police area) police area

Vote once ✗ in column 1 for your first choice, and
Vote once ✗ in column 2 for your second choice

<table>
<thead>
<tr>
<th>Candidate</th>
<th>Details</th>
<th>Column 1 first choice</th>
<th>Column 2 second choice</th>
</tr>
</thead>
<tbody>
<tr>
<td>BOOTS, Dusty</td>
<td>The League of Line Dancers Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>GREY, Earl</td>
<td>The Mad Hatter’s Tea Party Candidate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HOOD, Robin</td>
<td>The Forest Party Candidate</td>
<td>✗</td>
<td></td>
</tr>
<tr>
<td>JIANG, Mike</td>
<td>Independent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MILLER, Windy</td>
<td>The Alternative Power Forum Candidate</td>
<td>✗</td>
<td></td>
</tr>
<tr>
<td>WILLIAMS, Rhys</td>
<td>Independent</td>
<td>✗</td>
<td></td>
</tr>
</tbody>
</table>

Reject. Rule 53(1)(b) – more than one first preference given.
Election of Police and Crime Commissioner for (insert name of police area) police area

Vote once X in column 1 for your first choice, and Vote once X in column 2 for your second choice

<table>
<thead>
<tr>
<th>First name</th>
<th>Last name</th>
<th>Party</th>
<th>Column 1 first choice</th>
<th>Column 2 second choice</th>
</tr>
</thead>
<tbody>
<tr>
<td>E. Burshe</td>
<td>STICKY CAGE</td>
<td>ALLERST</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>BOOTS, Dusty</td>
<td>The League of Line Dancers Candidate</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>GREY, Earl</td>
<td>The Mad Hatter’s Tea Party Candidate</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HOOD, Robin</td>
<td>The Forest Party Candidate</td>
<td></td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>JIANG, Mike</td>
<td></td>
<td></td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>MILLER, Windy</td>
<td>The Alternative Power Forum Candidate</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
</tbody>
</table>
| WILLIAMS, Rhys | | | | }

Reject. Rule 53(1)(c) – voter can be identified.
Example 23
Reject. Rule 53(1)(e) – void for uncertainty as to the first preference vote.
Reject. Rule 53(1)(e) – void for uncertainty as to the first preference vote.
Example 25
Reject. Rule 53(1)(e) – void for uncertainty as to the first preference vote. In this example, the cross in the second column could mean the voter intended to vote for Boots as their second preference and forgot to mark their first preference, or it could mean that they intended to vote for Boots as their first preference. It is therefore not clearly apparent whether the vote was intended as a first preference.
Reject. Rule 53(1)(e) – void for uncertainty as to the first preference vote. It is unclear whether the 1 in the second preference column is intended as a first preference vote or whether the voter used a 1 in the second column to indicate their second preference vote.

Example 27
Example 28

Reject. Rule 53(1)(e) – void for uncertainty as to the first preference vote. In this example, what appears to be a first preference vote for Jiang has been undermined by the number 1 in the second column. Looking at the ballot paper as a whole, it is not clearly apparent which one of those votes was intended as a first preference.
Reject. Rule 53(1)(e) – void for uncertainty as to the first preference vote. In this example, the inclusion of the candidate’s name ‘Hood’ next to the cross against Grey casts doubt over who the voter intended to vote for as a first preference. As a result, no first preference vote is clearly apparent.

Example 29
Reject. Rule 53(1)(e) – void for uncertainty as to the first preference vote. In this example, there are two candidates with a number 1 against them. Looking at the ballot paper as a whole, it is not clearly apparent which one of those votes was intended as a first preference.
Reject. Rule 53(1)(e) – void for uncertainty as to the first preference vote. What appears to be a first preference for Boots has been undermined by the number 1 in the second column. Looking at the ballot paper as a whole, it is not clearly apparent which one of those votes was intended as a first preference.

Example 31
Annex - Legislation

The election rules

The relevant rules for Police and Crime Commissioner elections are as follows:

Rejected ballot papers

53.—(1) Any ballot paper—
(a) which does not bear the official mark;
(b) on which more than one first preference vote is given;
(c) on which anything is written or marked by which the voter can be identified (except the printed number and other unique identifying mark on the back);
(d) which is unmarked;
(e) which is void for uncertainty as to the first preference vote,

is, subject to paragraph (2), void and not to be counted.

(2) A ballot paper on which the vote is marked—
(a) elsewhere than in the proper place, or
(b) otherwise than by means of a cross, or
(c) by more than one mark,

is not for that reason void if condition A or condition B is met.

(3) Condition A is that—
(a) three or more candidates remain validly nominated,
(b) an intention that a first preference vote be given for not more than one of the candidates clearly appears, and
(c) the way the paper is marked does not itself identify the voter and it is not shown that the voter can be identified from it.

(4) Condition B is that—
(a) paragraph (3)(a) does not apply,
(b) an intention that a vote is for one only of the candidates clearly appears, and
(c) the way the paper is marked does not itself identify the voter and it is not shown that the voter can be identified from it.

(5) A ballot paper—
(a) which is not otherwise void, and
(b) on which not more than one first preference vote is marked (whether or not a second preference vote is marked),

is valid as respects that first preference vote and must be counted accordingly.
(6) The local Returning Officer must endorse the word “rejected” on any ballot paper which under this rule is not be to counted and must add to the endorsement the words “rejection objected to” if any objection is made to the officer’s decision by a counting agent.

(7) The local Returning Officer must draw up a statement showing the number of rejected ballot papers under the several heads of—
   (a) want of an official mark;
   (b) voting for more than one candidate as to the first preference vote;
   (c) writing or mark by which the voter could be identified;
   (d) unmarked as to the first preference vote;
   (e) void for uncertainty.

[...]

Decisions on ballot papers
56. The decision on any question arising in respect of a ballot paper which is made by the local Returning Officer is final, but may be subject to review on a PCC election petition.

Counting of second preference votes
60.—(1) As soon as the police area Returning Officer has determined that paragraph 4(1) of Schedule 9 to the 2011 Act applies, the police area Returning Officer must direct every local Returning Officer to count the second preference votes for the candidates who are not eliminated from the contest.

(2) A local Returning Officer who is given a direction under paragraph (1) must—
   (a) notify the counting agents for candidates not eliminated from the contest of the time and place at which the count of second preference votes will take place,
   (b) count the number of second preference votes given in the voting area for each of the candidates remaining in the contest by votes which did not give a first preference vote to any of those candidates,
   (c) draw up a statement of the number of second preference votes given to each remaining candidate,
   (d) as soon as practicable after the statement is drawn up under sub-paragraph (c), inform the police area Returning Officer of its contents, and
   (e) as soon as practicable after being authorised to do so by the police area Returning Officer—
      (i) inform such of the candidates and their election agents as are then present of the contents of the statement prepared in accordance with sub-paragraph (c)
and the statement prepared in accordance with rule 53(5) (as applied by paragraph (4) of this rule), and
(ii) give public notice of the contents of those statements.

(3) A ballot paper—
(a) which is not otherwise void, and
(b) on which not more than one second preference vote is marked,

is valid as respects that second preference vote and must be counted accordingly if (and only if) a valid first preference vote has been marked.

(4) The following provisions have effect in relation to the counting of the second preference votes as they have effect in relation to the counting of votes under rule 52—
(a) rule 51(3) to (7),
(b) rule 52(4) to (6),
(c) rule 53(1), (2), (4) and (5),
(d) rule 54,
(e) rule 55, and
(f) rule 56.

(5) In their application by virtue of paragraph (4), those provisions have effect as if—
(a) references to candidates were to candidates not eliminated from the contest,
(b) references to election agents or counting agents were to election agents or counting agents appointed by such candidates, and
(c) references to first preference votes were to second preference votes.

(6) A local Returning Officer may not be required to re-examine any decision taken under rule 56.