

HEFCE Call for Advice on Open Access and Submissions to the REF post-2014

Submission from the Political Studies Association of the UK

Introduction, Definitions & Context and Funders' Requirements (Paragraphs 1-7)

1. We endorse the policy of the four UK higher education funding bodies 'that outputs from all research supported through our funding should be as widely and freely accessible as the available channels for dissemination permit.' We note though that much research, especially in social sciences and humanities disciplines, is not funded by the four funding bodies (or indeed by the Research Councils) and falls outside the funding bodies' (and RCUK's) purview.
2. We welcome HEFCE's 'pre-consultation' and trust that the responses received will indeed inform the formal consultation planned for later this year on the role of open-access publishing in the submission of outputs to the post-2014 REF. We welcome in particular its concern to work with the learned societies, such as the Political Studies Association (PSA), in identifying sustainable models for widening access to journal content, including learned society journals which are often among the most highly valued in their field for the quality of their content. We have heard much lip service in the Finch Report and elsewhere on the need to consider the implications of open access policies for the learned societies, though have seen little concern to engage seriously with learned society concerns. We applaud HEFCE for stressing at the outset the importance of working with the learned societies and trust that this intention will be carried through.
3. We note in this respect that consultation with learned societies and other representatives of the research community on the development of policies on open access (OA) has been far too limited, as the recent House of Lords Science and Technology Committee report on open access made crystal clear in respect of the Research Councils. In the absence of meaningful consultation hitherto a great number of strong, even fundamental concerns in the social sciences and humanities (HSS) about the direction of policy and its implementation have been overlooked. There is a real danger that OA policy will lack legitimacy and be discredited in the social sciences and humanities should those concerns continue to be overlooked.
4. These concerns include what many see as:
 - unacceptable restrictions on academic freedom
 - a restrictive view of the superiority of one form of OA publishing (Gold) over the main alternative (Green)
 - proposals on embargo periods for Green OA that may be appropriate for STEM disciplines but are not for HSS
 - and a preference for a form of intellectual property management (CC-BY licences) that are inappropriate and likely highly damaging for work in HSS

Policy and Principles (Paragraphs 8-10)

5. We are surprised that your pre-consultation paper notes that 'we intend to introduce a requirement that all outputs submitted to the post-2014 Research Excellence Framework ... are published on an open-access basis'. A firm intention about a requirement does not sound to us like a basis for a consultation; it sounds like a decision made without consultation.

6. We are extremely worried by that intention. It appears to presume that a claim to regulate on open access on the basis of your funding *some* research enables you to specify how *all* research must be published.
7. We reject this claim to regulate all publication; we see no justification in any attempt to regulate how research funded by other sources than UK public funding should be published, for example research funded by:
 - charities;
 - the private sector;
 - non-UK funders; or
 - produced as a result of research time that has been funded by other sources of university income such as tuition fees.
8. We also reject this claim as an unwarranted diminution of academic freedom, one aspect of which is the right to disseminate research in the way the author sees fit. We fully endorse the views expressed by the Board of the Leverhulme Trust, one of the most important charitable funders of social science research in the UK, on the right of the researcher to choose how or where they are published: 'In keeping with its view that researchers are themselves best-placed to judge how and where to disseminate their findings, the Board has resolved to make no stipulations regarding either mandatory archiving, or open access publication'¹.
9. Many authors – not least because of the competitive pressures of RAE and REF exercises – see fit to try to publish their research in the kinds of outlet held by general consent to be the best outlets in the world in their field. Many authors also research and publish collaboratively with academics outside the UK who have every incentive to publish in the world's best outlets and little incentive in lowering their sights because of the need of their UK-based partners to comply with national regulations.
10. Many of the world's best outlets are non-UK outlets which will have no incentive to offer compliance with UK regulations and indeed (as we note below) are deeply concerned about some of those proposed regulations, and may not accept papers put to them with an expectation of compliance with those regulations. There is a risk that funding bodies' policies will, as a result, and no doubt inadvertently, encourage researchers to publish in lower quality national outlets that do comply with those regulations. A policy which encourages researchers to limit their horizons to national outlets and to eschew globally leading outlets against which they can submit themselves to the most testing peer review and benchmark themselves against genuine global excellence appears fundamentally flawed and, potentially, extremely damaging to the quality standards of UK scholarship.
11. Another perhaps more damaging implication of the claim that all REF-eligible research must be published according to funding bodies' rules concerns the highly internationalised nature of academic labour markets. Academics currently working outside the UK have, of course, no requirement or incentive whatever to publish according to UK funding bodies' proposed rules. Yet on a narrow reading of those rules academics now based outside the UK and recruited to the UK during the next census period would likely not have publications eligible for REF submission. There is a danger that your proposals will incentivise universities not to recruit outstanding non-UK-based researchers but to settle for less outstanding UK-based researchers in order to maximise REF headcount.

¹ <http://www.leverhulme.ac.uk/funding/OAP.cfm>

12. These last two points emphasise a danger, inherent in the national regulation of a globalised industry, of undermining the aspiration of UK research to international excellence and, as a result, diminishing its quality. We are clear this is not the intention of the funding bodies, and urge them to consider fully the criticisms and alternative proposals we set out below.
13. We do not accept that the Gold rather than the Green route may be the most sustainable way to deliver open access. Like the House of Lords Science and Technology Committee we are surprised that no systematic cost-benefit analysis has been carried out around the preference for Gold (or indeed around OA in general). It may be that Gold OA is suitable for some disciplines in which there are pressing needs for rapid access to research data or which sustain the great majority of the research through RCUK grants, such as many of the STEM disciplines.
14. We are extremely concerned about the conventions of peer review in Gold OA outlets. Gold open access can only be viable with a large throughput of articles, and to achieve this there is light touch peer review focused on the robustness of methodology rather than the originality or significance of a piece of work. This may be appropriate for much of the work in STEM subjects which focuses on the re-testing and incremental advance of others' research findings. It is not appropriate for work in the humanities and social sciences, where peer review – in particular in the most testing, globally leading outlets – provides a higher hurdle for acceptance of work based on originality and significance. The more onerous nature of peer review in HSS can be illustrated by the fact that acceptance rates average 11% in HSS subjects but 42% in STEM subjects². Our view is that such conventions of peer review can best be maintained in a Green form of open access using conventional journal publication. We welcome the funding bodies' commitment to regarding Gold and Green open access publications as equivalent.

Funding Body Expectations for Open Access in post-2014 REF (Paragraphs 11-12)

15. The funding bodies' proposals on what can be regarded as OA publications in the next REF are dependent on clarification of issues such as embargos and licensing arrangements and cannot be endorsed as they stand until such clarifications are available.
16. We note again, in reference to paragraph 12, the difficulties around the REF-eligibility of publications of non-UK-based researchers recruited during the REF census period. There is a compelling case for exemption of such researchers from rules against retrospectively opening access.
17. We note also, in reference to paragraph 12, the challenges around publication in globally leading outlets not subject to UK regulation; we think it imperative that researchers have the opportunity to publish in the world's best, and not just the UK's best outlets. Should they succeed in doing so – and achieve an internationally recognised quality benchmark for UK research, they should not be penalised by having their outputs disregarded because of narrowly drawn regulations.

² *The Future of Scholarly Journals Publishing Among Social Science and Humanities Associations*, Report on a Study Funded by a Planning Grant from the Andrew W. Mellon Foundation by Mary Waltham, 2009

The Role of Institutional Repositories (Paragraphs 13-14)

18. Institutional repositories offer a useful means of providing open access content. They are though currently highly variable in coverage, presentation and ease of search. While we would welcome more even standards we would ask what regulatory impact assessment has been done on the cost to universities of a more systematic approach to repositories, and how those costs will be borne.

Embargos and Licences (Paragraphs 15-16)

19. We welcome the funding bodies seeking views on embargos and licences. We do not think that RCUK consultation on these issues has been at all adequate. Our position is that an embargo period of at least 36 months is appropriate for the social sciences and humanities given that the half-life of HSS journals is far longer than for those in most STEM subjects and the lack of funding for APCs implies a market for Gold OA in HSS is highly unlikely to develop. Without embargo periods of at least 36 months many journals, and with them quality peer-review, will disappear. By way of illustration, the two most downloaded articles in 2012 from the Association's leading journal, *Political Studies*, were published in 1996 and all but one was published in 2010 or earlier. Similarly all but two of the 10 most downloaded articles in *The British Journal of Politics and International Relations* in 2012 were published in 2009 or earlier. If these articles were made freely available after 12, or even 24 months, it is clear that libraries would have very little reason to continue to subscribe. In April 2012 the Association of Learned, Professional and Society Publishers and the Publishers Association commissioned an international survey of academic libraries to understand how their acquisition policies might be affected by an across-the-board mandate to make journal articles available free of charge six months after publication. Only 35% of those surveyed said they would continue to subscribe to all the social science and humanities journals to which they were currently subscribing, 23% said they would cancel subscriptions to all these journals and 42% said they would cancel some³.
20. It is notable that in sharp contrast to charitable foundations in STEM, such as the Wellcome Foundation, the major charity funders in the social sciences and humanities such as the Nuffield Foundation, Joseph Rowntree Foundation and Leverhulme Trust do not currently impose any OA requirements on the research they fund and do not appear to have plans to do so.
21. Equally we think that the CC-BY licences favoured by RCUK are inappropriate in the social sciences and humanities. As RCUK's recent Policy on Open Access and Supporting Guidance acknowledges, many concerns have been raised by the research community. The PSA is deeply concerned by RCUK's requirement that all articles published under the Gold model must be available under CC-BY copyright licences, which allow unrestricted reuse and modification of articles, meaning authors effectively lose control of their work. The article content could be edited or abridged to such an extent that the integrity of the sources could be compromised. Similarly under CC-BY there is no protection against poor translation. Academics could find themselves, for example, in a position where their work is quoted out of context by extremist groups or reprinted in anthologies where the context might be offensive to the authors and yet, as long as the work has been attributed, they will have no legal recourse to prevent it. Yet intellectual property rights are particularly important for academics in HSS, because,

³ "The Potential Effect of Making Journals Free after a Six Month Embargo", a Report of the Association of Learned, Professional and Society Publishers and The Publishers Association, May 2012

unlike STEM scholars, their work rarely can rarely be protected by other means such as patents. It is also important to bear in mind that for proponents of CC-BY licences one of the primary benefits cited is the possibility of data mining but the viability of data mining HSS articles is extremely modest.

22. In reducing the intellectual property rights of academics based at UK institutions, RCUK will be directly handing commercial opportunities to companies based overseas as it is highly likely that in many non-English speaking territories the content will be translated and repackaged by intermediaries and local publishers and sold for profit without the need to pay authors any royalties.
23. At the same time overseas authors, deterred by the lack of control over their intellectual property, are likely to bypass UK journals that comply with RCUK policy, compromising the international standing of UK journals.
24. The requirement for CC-BY could potentially put upward pressure on APCs as publishers will lose secondary income from commercial re-use, which they will seek to recover through higher APCs.
25. The CC-BY licence requirement should be replaced with a CC-BY-NC-ND licence, which prevents use of the work for commercial purposes and any alteration or transformation of the work.
26. The PSA believes that until all these concerns have been fully investigated and legal opinion is clear that CC-BY licences pose no dangers to the integrity of the intellectual property rights of authors, research funders should not insist that work is published under these licences.
27. We note that non-UK-based publishers have indicated serious concerns about CC-BY licences and are unlikely to wish to publish UK-based authors' work if a condition is that it is published under a CC-BY licence. The creative commons movement is ideologically constructed from a US libertarian perspective. It is hostile to traditional publishing. While this is not a problem for many of the STEM outputs that are patent protected, it is not an appropriate licence for most work in humanities and social science, that have a different methodology and creative dynamic requiring a licence that reflects this. Furthermore, the implications of third party intellectual property is not fully protected or indeed apparently understood by those advocating CC-BY. It does not seem to us as though there has been sufficient legal counsel taken before the rush to implement this flawed licence.
28. We also note that of the 14,500 authors who responded to a Routledge survey on open access only 4% chose CC-BY as their 'most preferred licence' (by far the least popular of six alternatives), while a majority of 52% chose CC-BY as their least preferred licence. The most popular licence choices were
 - Exclusive licence to publish (29% preferred this most). Under this licence the author grants the journal owner the right to publish their paper on an exclusive basis. The author retains copyright and reuse requests are handled by the journal owner on behalf of the author.
 - Copyright assignment (21% preferred this most). Under this licence the author transfers ownership of copyright in their article to the journal owner, who manages the author's intellectual property rights on their behalf, maintains their article as the Version of Record and can represent the author in cases of copyright infringement.
 - CC-BY-NC-ND (18% preferred this most). Under this licence others may download an author's work and share it with others as long as they credit the author, but they cannot change the work in any way or use it commercially.

29. We note that these three forms of license enable authors to retain full control of their articles and how they will be reused. Where authors sign one of these licences they can expect their rights and interests to be defended and can additionally benefit from secondary rights income from commercial re-use. This would not be possible under CC-BY. Further, these forms of licence ensure that authors are not restricted in their uses of third party source material. In HSS inclusion of third party copyright material is vital and under CC-BY authors would need to seek permission from rights holders to use material that when reproduced under CC-BY could be used freely by anyone. Such use could include commercial re-use and under CC-BY the rights holder would not be entitled to royalties or compensation. This would have the effect of restricting the ability of authors working in HSS to secure permission from rights holders and where permission is granted, increase the cost of re-use. A further unintended consequence could be a significant increase in potential damages if material was re-sued without permission and published on a CC-BY basis.

Exceptions (Paragraphs 17-21)

30. It is unrealistic in a globalised industry, for reasons stated above, to expect that all outputs can be published in a form consistent with the expectations in the funding bodies' document.
31. We reiterate points made above about work published with the support of funding other than UK public funders (or those few UK charities which have an open access mandate) and work published by non-UK-based academics recruited to UK institutions during the REF period. There can be no realistic requirement for such work to be subject to funding bodies' regulations, so these forms of work must be treated as exceptions. We do not think it possible at this stage, without much more evidence-based work, along with impact assessment of the cost to universities of any regulations in this field, to move towards a percentage threshold for REF submissions compliant with funding bodies' open access regulations.
32. Great care needs to be taken about notice periods. It is not uncommon for a period of up to two years (and sometimes more) to elapse between submission and publication of work in the social sciences and humanities. We do not think a notice period for work subject to new open access requirements based on publication date to be sufficient; submission date may be a more appropriate measure.
33. At a minimum the notice period should be well after RCUK has published the findings of its review and the research community has had sufficient time to digest the findings and understand their implications.

Monograph Publications (Paragraphs 22-23)

34. We agree that consideration of monographs as potential open access publications has been extremely limited so far. We see no rationale at this point – given the 'delicately balanced' economics of monograph publication – for including monographs in discussions about open access in the same way as journal articles. The same can be said for other kinds of publication included edited books, and chapters in edited books. At the moment – and for the foreseeable future - all these would need to be treated as exempt from open access requirements for the next REF.

Open Data (Paragraphs 24-25)

35. Like the funding bodies we do not think it feasible at present to provide open access to research data. The debate on open data for HSS subjects is a separate issue which should not be conflated with open access publication. It requires further careful consultation over a longer time-period. We suspect that this is a further area in which the differences of social science and humanities disciplines in what they treat as 'data' have not been recognised. HSS subjects utilise a wide variety of qualitative and quantitative methods, originating from different approaches to the social world. A one-size-fits-all approach based on STEM disciplines' understanding of data would not be appropriate and has the potential to impact considerably on the very practice of how social science research is conducted. For example, there are very great ethical limitations to the disclosure and re-use of qualitative data because of confidentiality and anonymity requirements, the potential for harm to research respondents and the guarantees that researchers can provide to their respondents. Many of these issues also have relevance to quantitative approaches, even if the principle of replicability is more widely accepted. We therefore do not think moving towards open data is currently feasible within HSS. Any consultation on these issues must be extensive but kept wholly separate from discussions on open access.

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