**SLSA GUIDANCE ON OPEN ACCESS FOR REF 2021[[1]](#footnote-1)\***

1. **INTRODUCTION**
   1. **How is this relevant to me?**

* If you wish to be entered in REF 2021 (for publications from 2014 onwards)
* If you hold or have held or aspire to hold a grant (including a studentship) from the ESRC, AHRC, another UK Research Council, the Wellcome Trust or the European Research Council
* If you are on a journal editorial board
* If you are connected with higher education anywhere in the world

Then you need to be aware of open access debates, publication requirements and journals’ open access policies.

While the specific requirements addressed in this guidance apply to UK academics, it also provides information for international scholars on the UK situation and material which may be useful in local open access debates.

* 1. **What is open access?**

Open access is the ability of any prospective reader to freely access peer-reviewed publications via the internet, without the need for a personal or institutional subscription, special login, one-off payment or any other barrier or restriction.

The SLSA supports the general principle that publicly funded research should be freely available to all who wish to have access to it. Equally scholars wishing to publish should not be barred from this simply because of an inability to access resources to fund publication. However, reaching this ideal in a sustainable way is a significant challenge.

Various bodies in UK higher education have adopted open access requirements (detailed below) to hasten the move towards the ideal state. Currently, these requirements apply primarily to **peer-reviewed articles**rather than books or book chapters, although several projects are being conducted around the viability of open access monograph publishing, so these are likely to be included some time in the future.

More generally, this has been an area of rapid policy development in the UK since June 2012. This guidance reflects the position as at 30 September 2019. It is aimed specifically at informing readers on the rules and practices in relation to Open Access as regards the **forthcoming REF 2021.**

**Further policy changes** are certainly forthcoming and are under consultation. Most importantly the Europewide **Plan S** process will see a transition to requiring immediate Open Access of the published version of journal articles (Gold OA) starting in 2021 with completion envisaged by 2024. Major research funders, including UKRI, the Welllcome Trust and the ERC, are committed to Plan S and they are likely to implement this requirement as a condition of funding. A similar process is envisaged for monographs and book chapters, although the dates for this have not been specified.

The detail of these changes is still under consultation. As a result, it is **not possible for us to give precise guidance for the period after REF 2021**. Where information on planned rule changes is available we have included this. But such information should not be taken as definitive. This is a fluid landscape and readers are advised to consult the relevant funder or regulator’s website. Updates on proposed and implemented policy changes will also SLSA open access [webpage](http://www.slsa.ac.uk/content/view/307/) at for updates

**1.3 Terminology**

There are several different forms of open access:

* A copy of a peer-reviewed article or conference paper (either a pdf of the published version, or the final accepted manuscript after peer review but without the publisher’s formatting) can be deposited in an institutional or subject repository. In order to protect their subscription revenue, the journal in which the piece is published may impose an ‘embargo period’ before the full text can become freely available. This is known as **Green** open access.
* A journal can make a peer-reviewed article freely available to everyone immediately it is published, upon payment by the author (or their institution) of an ‘article processing charge’ (APC). This is known as **Gold** open access.
* A journal can make a peer-reviewed article freely available to everyone without any charge to the author. An increasing number of web-based journals operate on this model, but it has no generally agreed name. Some refer to this as a form of Gold open access, on the basis that the article becomes freely available immediately upon publication. Others have referred to it as Diamond or Platinum open access because of the association of Gold open access with APCs. We will use the term **Platinum** in this guidance document in order to avoid confusion with journals that charge APCs. Note, however, that UK policies generally include this form of open access within the concept of ‘Gold’.
* A journal can provide individual authors with a choice of Gold open access or standard restricted access. That is, you are given the option to pay an APC to make your article immediately open access; or to assign copyright or give an exclusive publication licence to the journal which will make the article available only to subscribers. Journals which offer this choice are known as **hybrid journals**. Such journals may also offer a Green open access option, but you often have to hunt for it in the small print.
* Many researchers make the submitted version of an article, prior to peer review, freely available online on their own webpage, in their institution’s repository, or in research databases such as SSRN. These are known as **pre-prints**, and do not count for the purpose of open access mandates. Only the *peer-reviewed, revised* *and accepted* version of an article satisfies the definition of Green open access.

1. **GUIDANCE FOR RESEARCHERS**
   1. **Open access mandates**

**Research England** is responsible for running the **REF 2021 process**, in collaboration with the Scottish Funding Council, the Higher Education Funding Council for Wales and the Department for the Economy, Northern Ireland. It’s policy is that certain items (set out below) submitted to REF 2021 must have been published in an open access format. Moreover, they must have been ‘born’ open access, rather than starting life as restricted access and then being converted to open access in time for the REF submission. The types of outputs covered must meet specified deposit, discovery and access requirements unless an exception applies. The outputs covered are

* *journal articles and conference proceedings* with an International Standard Serial Number (ISSN), accepted for publication after 1 April 2016
* this includes both peer-reviewed and non-peer-reviewed journal articles
* it does not include conference proceedings published as part of a book (with an ISBN) or book series.

The deposit requirements are:

* the author’s accepted and final peer-reviewed text must be deposited in an institutional or subject repository no later than three months after the point of acceptance for publication (as evidenced by a letter or email to the author)
* any subject repository (such as SSRN) must meet the discovery and access requirements (below)
* the final peer-reviewed manuscript may be replaced subsequently in the repository by the final published version of record
* outputs provisionally accepted for publication subject to revisions are not considered as final text.

The discovery and access requirements are:

* the output must be presented in a way that is discoverable both by readers and by search engines – this will typically mean storage in a form that includes a record of bibliographic or metadata
* anyone with internet access must be able to search electronically within the text, read it and download it without charge
* there is no preference as between Green, Gold or Platinum open access. In the case of Green open access, outputs may be deposited under an embargo period not exceeding 24 months for Law/Humanities/Social Sciences, in which case the above access requirement must be met no later than one month after the end of the embargo period. (But they may still be submitted for the REF even if the embargo period has not expired.)

A range of exceptions are provided to the Research England policy. The most important ones are:

* the individual whose output is being submitted was unable to secure the use of a repository at the point of acceptance
* the individual whose output is being submitted was not employed by a UK HEI at the time of *submission* for publication
* the output depends on the reproduction of third-party content for which open access rights could not be granted
* the publication concerned requires an embargo period that exceeds the stated maximum, and was the most appropriate publication for the output
* the publication concerned disallows open access deposit in a repository, and was the most appropriate publication for the output.

In the first two cases the output is not subject to any requirements. In the last three cases, a closed-access deposit is required and the open access requirements should be met as soon as possible. Any output submitted to the 2021 REF that falls within the policy but does not meet the open access requirements or does not come within an exception will not be assessed and will be given an unclassified score.

***UK Research and Innovation (UKRI*** which includes the ESRC and AHRC) has adopted a policy requiring all *peer-reviewed journal articles* which acknowledge UKRI funding to be published in an open access format. UKRI has a *preference* for Gold or Platinum (i.e. immediate) open access, and has provided block grants to some universities and other eligible research institutions to partially cover the payment of APCs for articles arising from UKRI grants. This funding has been confirmed up to 31st March 2021. In addition, some research-intensive universities (e.g. Nottingham) have entered agreements with publishers to cover all APC payments for researchers within their institutions.

The majority of universities, however, either receive no funding, or the block funding they receive is not adequate to cover APCs for all journal articles arising from UKRI grants. According to UKRI, however, researchers may only opt for Green open access if the journal in question allows the full text to be freely available after a maximum 12-month embargo period. In cases where a Gold open access option is available, but the author does not have access to APC funding, UKRI will allow Green open access with a maximum 24-month embargo period. Note, too, that it is not possible when applying for an RCUK grant to include a budget line for APC charges to publish the outputs of the project.

Within the broader framework of Plan S, UKRI are reviewing OA policies across research funding councils. A draft policy is planned for autumn 2019 with a nine-week consultation period to follow. In tandem with this UKRI is also collaborating with UK HE funding bodies in a REF OA working group, with a more detailed draft policy and consultation process to follow in 2020. **This process will not affect the rules on OA to be applied in the forthcoming REF 2021 as we have set them out above.**

***The European Research Council*** – The current ERC open access mandate applies to peer-reviewed journal articles arising from projects funded by it. They must be made available on Green OA as soon as possible, and no later than the date of publication. Unlike the UKRI system of block grants to universities, however, it is possible to apply to the ERC for a sum to cover APC charges as part of a specific grant application. Like UKRI the ERC is committed to the Plan S process and changes to its OA rules are expected.

**The Wellcome Trust**

Under its current policy - in force **until 1st January 2021** - the Wellcome Trust expects researchers funded by it ‘to maximise the opportunities’ to make articles, monographs and book chapters freely available. Wherever possible, researchers should ‘ensure [research] is available immediately on publication in its final published form’. In any event, Wellcome requires that articles (within 6 months), monographs and book chapters (includes co-authored work, maximum embargo of 6 months) be made available via PubMed Central (PMC)/ PMC Bookshelf and Europe PMC. PhD theses and certain other publications are excluded. However, PhD theses should be made available via the [EThOS Repository](https://ethos.bl.uk/Home.do;jsessionid=C83BE1A094765FA1415DE68900F55487) ‘as soon as possible’ following completion.

A **new policy** will be in force **from 1st January 2021** in relation to all peer-reviewed research submitted for publication from that date (excluding monographs and book chapters). The policy is set out [here](https://wellcome.ac.uk/sites/default/files/wellcome-open-access-policy-2021.pdf). Under it, APCs will only be paid to OA journals (up to a reasonable amount), not to subscription journals. For a limited time - from 1st January 2021 to 31 December 2024 - and in limited circumstances, Wellcome will support costs associated with transformative [OA arrangements](https://www.jisc-collections.ac.uk/Transformative-OA-Reqs/): chiefly the costs of publication in hybrid journals which are moving towards full OA. Authors *or* institutions *must* retain copyright in the work *and* must ‘hold the rights necessary to make a version of the article immediately available under a compliant license’. All publications must comply with Wellcome’s [data sharing policy](https://wellcome.ac.uk/funding/guidance/data-software-materials-management-and-sharing-policy).

***The British Academy, Nuffield Foundation and Leverhulme Trust***– do not currently require that funded publications be available on open access. Open access charges (ie. APCs) incurred during the period of an award are a permissible expense in applications to the Leverhulme Trust. By contrast this is not allowed by the British Academy or the Nuffield Foundation.

***Internationally*** – other countries have or are contemplating open access mandates for certain kinds of funded research.

* 1. **Licensing**

When published work is made open access, it is open to be *read* by anyone, but the author can still specify via a **licence** how it may otherwise be *used* by consumers (though in practice the publisher may offer the author no or only a limited range of choices of licence, or the funding body may mandate a particular licence, as set out below).

* The typical form of licensing for open access works is the **CC-BY** (Creative Commons Attribution) licence. This allows anyone to freely reproduce the work, in whole or in part, and to mix it with any other work, for any purpose (including commercial purposes), subject to acknowledging the work’s authorship and initial publication venue. It has been argued that this kind of licence is more appropriate to the STEM disciplines, where researchers can protect their inventions by patents, than to humanities, arts and social sciences, where researchers may find their academic labour exploited and appropriated for no reward. Others argue, however, that it is better to have one’s work disseminated in whatever way, and it is likely to have more impact that way. One particular problem with the CC-BY licence is that if your work contains third-party copyright material that is used by permission (e.g. a photograph, or substantial text extract), then you do not have the right to make that material freely available for reproduction or commercial or derivative use by others. Another problem is that authors receive no support from publishers in tracking and policing re-use.
* The **CC-BY-NC**(Non-Commercial) licence permits all of the above uses, but *not* the use of the work for commercial purposes. This helps to assuage some of the concerns about commercial exploitation of academic work.
* The **CC-BY-ND** (Non-Derivative) licence permits whole or partial reproduction of the work for commercial or non-commercial purposes with attribution, but *not* mixing it with other work. This helps to assuage some of the concerns about appropriation of academic work, and particularly the risk that it may be taken out of context, distorted or wilfully misrepresented.
* The **CC-BY-NC-ND** licence prohibits both commercial and derivate use of the work.

***Research England*** does not specify any particular kind of licence for open access works to be submitted to the REF, although it advises that outputs published under a CC-BY-NC-ND licence would meet the access requirements.

***UKRI*** requires that where Research Council (i.e. block grant) funds are used to pay the APC for a Gold open access article, it must be made available under a CC-BY licence. It also requires that for Green open access, the publisher must allow deposit of the relevant version of the article under either a CC-BY or CC-BY-NC licence.

***The Wellcome Trust*** currently provides funding for APCs, but the author and publisher must use a Creative Commons Attribution License ([CC-BY](https://creativecommons.org/licenses/by/4.0/); where not available other forms of CC license may, exceptionally, be acceptable, e.g. [CC-BY-ND](https://creativecommons.org/licenses/by-nd/2.0/)), and comply with all other aspects of Wellcome’s OA policy.

* 1. **Deciding where to publish your article in the run up to REF 2021**

The following are considerations to take into account when deciding where to publish your article or conference paper:

* First and foremost, which is the best journal in which to publish your research?
* Is your piece subject to one of the mandates outlined above – i.e. might it be one of your next REF pieces, or did it arise from UKRI or ERC research funding? If NO – go ahead and submit to your chosen journal. If YES 🡪
* Does that journal offer any open access options? (See Appendix, or find out at <http://www.sherpa.ac.uk/romeo/>) If so, what are they?
  + Platinum – go ahead and submit
  + Green only (within permitted embargo period and with CC-BY or CC-BY-NC licence for RCUK) – go ahead and submit
  + Gold only (with CC-BY licence for RCUK) – see (1) below
  + Green or Gold – see (2) below
  + None of the above – see (3) below

1. What is your university’s policy on payment of APCs? Some universities will pay APCs automatically, some will not pay APCs at all, some have limited funds for APCs and policies on how they are distributed. Are you able to obtain APC funding? If YES – go ahead and submit. If NO, see (3) below.
2. In case of a choice between Green and Gold, your university may have a policy which makes the choice for you. Check this first. If you still have a choice, here are some factors to take into account in making it:
   1. Is your chosen journal published by a learned society (e.g. *Legal Studies* published by SLS or *The Law Teacher* published by ALT), or does it use its funds to support postgraduate students, seminars and other discipline-building activities (e.g. *MLR*, *JLS*, *Social & Legal Studies*)? If so, you should choose Green. Green enables journals to continue to receive royalties from subscriptions. Loss of royalty income will mean loss of all those discipline-supporting activities.
   2. What is your university’s policy on the distribution of APCs? Is it equitable? Equally available to all disciplines, to postgraduate students and early career scholars, to ‘outsider’ scholarship? If not, don’t exploit your privilege and perpetuate academic hierarchies. Choose Green. (And contest the policy.)
   3. Are you concerned about the implications of your work being available under a CC-BY licence or does it contain copyright material that precludes the use of such a licence? Will choosing Green enable you to alleviate these concerns?
   4. Is your chosen journal a hybrid journal? If so, is the publisher ‘double dipping’ – i.e. charging you an APC to publish via the Gold route while still charging your university the same subscription price to access non-Gold content? If so, choose Green to avoid these double charges.
   5. Is the piece co-authored? How does the choice affect your co-authorship? For example, will only one of your institutions pay for an APC, contingent on that institution’s author being named first? You may want to choose Green to avoid complications and maintain equity.
3. If your chosen journal does not offer any open access options (or any viable ones, e.g. unaffordable APC or impermissibly long embargo period):
   1. Are there alternative journals available that would be just as good for your research which do offer open access options? If YES – see decision factors above. If NO 🡪
   2. You may want to discuss your publication options with colleagues and/or your research director.
   3. Given a choice between publishing in the most appropriate journal and not complying with the mandate, or publishing in an inappropriate journal in order to comply with the mandate, we would always advise the former. Research England provides an explicit exception in these circumstances.
   4. Learned societies are also interested in tracking difficulties with compliance on a discipline-by-discipline basis. So please notify the SLSA Chair at [r.j.harding@birmingham.ac.uk](mailto:r.j.harding@birmingham.ac.uk) if
      1. You find yourself compelled to publish in a non-preferred journal in order to comply with the UKRI mandate, or
      2. You decide to publish in a preferred journal even though it doesn’t offer a viable open access option.
4. **GUIDANCE FOR JOURNAL EDITORS AND MEMBERS OF EDITORIAL BOARDS**

**3.1 Open access policies**

Does your journal have a policy on open access?

* If not, it will need one, and you want to be consulted in its formulation
* If so, does it provide a Green open access option? Is there any prospect of moving to Platinum open access? See the arguments concerning the different options below.

In consultation processes around open access policies, it is important for you to inform yourself widely. Contact other journal editors/EB members to find out what they are doing. Don’t just rely on your publisher for information.

**3.2 Hybrid journals**

One of the key issues for most journals is maintaining economic viability. Humanities/social science journals publish a relatively small number of substantial articles each year (in comparison with STEM journals, which publish large numbers of short articles). Consequently, it is very difficult to replace the revenue stream from library subscriptions with anything like the same revenue from charging APCs. In order to be able to maintain subscription income, current journals which exist both in print and online are tending to become hybrids offering

* a Gold open access option at a high price (too many Gold articles and subscriptions would collapse), and/or
* a Green open access option with as long an embargo period as possible (too short an embargo period and subscriptions would collapse).

While maintaining subscriptions clearly imposes ongoing restrictions on the accessibility of research, the SLSA is of the view that Green open access is currently the most viable and sustainable of these options (noting however the likely changes to REF and funder rules in post-REF 2021 period as a result of the Plan S process). Our reasons for preferring Green to Gold are:

* While Gold demolishes barriers for readers, it re-erects those barriers in a different place – for authors. Differential access to funds to pay for APCs is inevitable – between different institutions, different disciplines, different levels of the academic hierarchy, grant-getters and those without grants, different kinds of scholarship, and authors in different countries.
* In hybrid journals, adding Gold open access as a (limited) option has the potential to deliver a windfall to the publisher – they get the same subscription income *plus* APCs. Universities pay twice (and possibly three times if a commercial publisher then capitalises on the CC-BY licence to use open access works in textbooks free of charge, which they then sell to University libraries). It is likely that in the future UK journal subscription prices will be adjusted to offset APC payments, but this is still very much a developing area.

Therefore, if you are on the editorial board of a hybrid journal or a journal moving to hybrid, we would urge you to lobby the publisher to ensure that:

* the journal offers a Green open access option (so that it is rated within the Sherpa Romeo database as a ‘Green’ journal —<http://www.sherpa.ac.uk/romeo/>)
* if the journal imposes a limit on the number of Gold open access articles it will publish, that no APC is charged for those articles (i.e. the limited number of immediate open access ‘slots’ are offered on a Platinum rather than Gold basis), or
* any windfall profits from APCs are directed towards discipline-building activities, and/or APC ‘bursaries’ for those without access to APC funding, and/or payment of the peer reviewers of these articles.
* the publisher implements offsetting or other measures to avoid ‘double dipping’ for the benefit of *all* UK library subscribers.
* if your journal is associated with a learned society, that members of the society receive a meaningful discount on APCs

In any event, both publishers and journal editorial boards should be transparent about the income they receive from subscription packages, royalties and APCs, and how the revenues derived from these sources are spent.

**3.3 Platinum open access**

The economics of Platinum open access publishing are quite different. These journals are online-only, and therefore do not incur the production costs of print journals. They often use open source software such as Open Journal System (OJS) rather than the bespoke web platforms the major publishers have established. They have few overheads, and run on the basis of ‘free’ academic labour. Their modest costs for server space and technical support are met by institutional hosts. Because they offer immediate open access without charging APCs, they are truly open both to authors and readers.

Concerns about online journals relate to quality and sustainability. There is an undeniable prejudice against online as opposed to print publication, although the key issue in this respect is the journal’s refereeing policy. The quality of a journal is guaranteed not by its publication format but by high standards of peer review. In relation to sustainability, such journals do rely on willing and enthusiastic volunteers to take on editing and publishing roles, and there are some questions about long-term archiving of journal contents and future access. Since April 2013, however, the British Library and other legal deposit libraries have a mandate to collect and preserve UK open access online publications. The SLSA is supportive of peer-reviewed Platinum open access journals. It encourages the establishment of new journals and the conversion of existing journals to this model, as an important part of the open access future.

1. **FURTHER INFORMATION**

See the SLSA’s open access web page, which provides links to a wide variety of resources at <http://www.slsa.ac.uk/content/view/307/>.

1. \* This guidance was originally prepared by a Working Group of the SLSA Executive Committee in 2014. It was subject to consultation with SLSA members before finalisation. It was reviewed and updated in September 2019 by the SLSA OA Working Group: John Harrington, Smita Kheria, Antonia Layard, Marie Selwood and Tom Webb. [↑](#footnote-ref-1)