

# Critique of RCUK's Response to BIS Recommendations on UK Open Access Policy

Critique of excerpts from

## Research Councils UK Response to BIS Committee

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**Summary:** RCUK has agreed that in order to comply with the RCUK Open Access (OA) Mandate, fundees are free to choose either to publish in any journal at all, and self-archive the final refereed draft (Green OA), or to publish in an OA journal (Gold OA), although RCUK prefers Gold. With the help of the HEFCE addendum that all articles must be deposited in the author's institutional repository immediately upon acceptance for publication in order to be eligible for REF2020, irrespective of whether the author chooses Green or Gold, or whether OA is immediate or embargoed, RCUK follows the spirit if not the letter of the BIS recommendations. The HEFCE requirement recruits institutions to monitor and ensure timely compliance with the both the RCUK and the HEFCE mandate, and the institutional repository provides the automated request-a-copy Button to tide over research user needs during any embargo.

***RCUK:** compliance targets for the numbers of papers made available Open Access will be increased year-on-year, as will the funding we make available to support Article Processing Charges (APCs).*

This is a publishing industry timetable and terms.

The RCUK compliance target should be for OA (Green + Gold), not just for Gold payments; and the annual OA target should be 100%.

Funding-based annual targets slow OA growth whilst making it much more costly to provide OA.

What is needed is a [mechanism for monitoring and ensuring timely compliance](#). That's what institutions (recruited by [HEFCE](#)'s immediate-deposit mandate for [REF2020](#) eligibility) will provide.

***RCUK:** During the transition period, we are allowing authors to use journals with embargo periods longer than the headline figure in the policy, but in line with those agreed by the Government, for publicly funded research where no funds are available to cover the payment of APCs.*

This is unclear. Relaxing the enforcement of embargo limits on Green is good, because it preserves author freedom of choice of journal. But if it is only for when there's no money to pay for Gold, it again incentivizes publishers to offer over-priced, double-paid hybrid Gold and to adopt or lengthen Green embargoes so as to collect as much extra UK Gold revenue as available.

***RCUK:** We are not convinced that institutional repositories are always the best way of providing [OA], and that solutions such as 'request a copy' button or emailing the researcher for a copy of the paper are not scalable to a wider constituency of users.*

RCUK has misunderstood the repositories' [request-a-copy Button](#). It only requires a key press by the requestor and a key press by the author; the emailing is then automatic, by the repository software.

It is not clear what RCUK means by "not scalable": Any requestor with email access can request a copy, for either research or educational purposes.

The purpose of the Button is

- (1) to make immediate-deposit mandates adoptable and scaleable to all institutions and funders;
- (2) to provide Almost-OA during any embargo period;
- (3) to immunize against publisher embargoes on Green OA;
- (4) to make sure authors only need to deposit once, institutionally (from there, deposits can be exported or harvested);
- (5) to recruit institutions to monitor and ensure compliance with OA mandates;
- (6) to make sure all articles are deposited;
- (7) to document the demand for OA;
- (8) to increase global demand and pressure for immediate OA;
- (9) to hasten the transition from Almost-OA to OA.

***RCUK:** the headline figure quoted in the report that 60% of journals already allow immediate un-embargoed self-archiving of the peer-reviewed version of the article does not reflect the reality for Research Council funded authors. A comparable figure for journals used by Research Council funded authors is between 17% and 20%.*

[Sixty percent](#) continues to be the worldwide estimate of the proportion of subscription journals that do not embargo Green OA. It is not clear where or how RCUK draws its UK-specific estimates, but it is likely that they are factoring the [perverse effects](#) of the Finch/RCUK policy itself, which has induced major publishers like [Elsevier](#) -- which does not embargo Green OA -- to adopt embargoes for UK content (if UK authors seek the re-use rights RCUK prefers) unless hybrid Gold fees are paid, as well as to add pseudo-legal hedges about "[voluntariness](#)" and "[systematicity](#)" to its formerly unhedged policy on Green OA.

RCUK is confusing cause and effect in its assessment of embargoes: The UK's explicit funding and preference for CC-BY Gold and downgrading of Green as "embargoed OA" has induced (some) publishers to adopt or lengthen Green embargoes. RCUK now cites this effect as if it were a justification for RCUK's having adopted what in fact caused it in the first place.

**RCUK:** *RCUK has a preference for immediate, unrestricted, on-line access to peer-reviewed and published research papers, free of any access charge and with maximum opportunities for re-use. This is commonly referred to as the 'gold' route to Open Access. RCUK prefers 'gold' Open Access*

**Gold OA** means the publisher provides the OA. **Green OA** means the author provides it.

**Gratis OA** means free online access. **Libre OA** means free online access plus "maximum opportunities for re-use" (e.g., CC-BY).

Gold OA does not necessarily entail Gold OA APCs and most Gold OA is not Libre OA.

Both Green and Gold OA can be immediate or embargoed.

RCUK conflates "Gold OA" with immediate OA and Libre OA.

RCUK conflates "Green OA" with embargoed OA.

Hence most of the RCUK's evidence and reasoning amounts to self-justifying definitions and self-fulfilling prophecy.

**RCUK:** *by going directly to the journal web site a reader can be confident that they are accessing the final peer-reviewed and formally published record of research.*

By paying publishers a considerable amount of extra money for Gold OA, over and above what publishers are already being paid for subscriptions, the UK can indeed give readers this tiny increase in confidence -- But the reader can be almost as confident in the Green OA version, without this vast extra payment.

**BISCOM:** "RCUK should build on its original world leading policy by reinstating and strengthening the immediate deposit mandate in its original policy (in line with HEFCE's proposals) and improving the monitoring and enforcement of mandated deposit (paragraph 31)."

**RCUK:** *The current RCUK policy is much stronger in requiring deposit and access within clearly defined time periods. Reinstating individual council policies would be a backward step.*

Former council mandates were Green, but weak. They did not require immediate deposit, but only deposit after an allowable embargo period had elapsed, with no monitoring to ensure timely compliance.

A forward step is to upgrade the former council mandates to require immediate institutional deposit, whether or not access to the deposit is embargoed for an allowable period (as HEFCE has since proposed, for eligibility for REF2020). Institutions monitor and ensure compliance with funding conditions and the institutional repository's request-a-copy Button tides over usage needs during the embargo.

The backward step is to prefer to double-pay for immediate Libre Gold with the UK's scarce research funds -- and to portray Green OA as meaning embargoed Gratis OA or a version of which one cannot even be confident. (To have bought into this specious argument is the surest sign of how publisher interests have been allowed to penetrate what ought to have been UK research interests.)

RCUK is completely silent about the fundamental objections BIS raised against funding hybrid Gold (subscriptions + Gold OA APCs):

- (1) Hybrid Gold is arbitrarily over-priced.
- (2) Hybrid Gold is double-paid (subscriptions + Gold OA APCs)
- (3) Hybrid Gold makes double-dipping possible
- (4) Double-dipping subscription rebates to all subscribing institutions worldwide only returns 6% of 6% of UK's Gold OA APC subsidy to the UK.
- (5) Subsidizing and encouraging hybrid Gold encourages publisher adoption and lengthening of Green OA embargoes to pressure authors to pick and pay for Gold.

**BISCOM:** "Given the importance of ensuring that UK open access policy does not result in reduced access in the UK or worldwide, the Government and RCUK must monitor and evaluate the impact of their open access policy on embargo lengths imposed by UK publishers. The impact on different subject areas must also be carefully monitored. That information must inform future meetings of the Finch Group and RCUK's reviews of open access policy (paragraph 51)."

**RCUK:** *we welcome the recent reduction in embargo periods by Elsevier, such that the majority of its journals now offer a green option with 12/24 month embargo periods in line with those agreed by the Government for publicly funded research where no funds are available to cover the payment of APCs, as well as a hybrid-gold option.*

RCUK is astoundingly ill-informed: Since 2004, well before Finch/RCUK, Elsevier has not embargoed Green OA at all. Under the incentive of the Gold OA funding mandated by Finch/RCUK, Elsevier has now adopted explicit embargoes for Libre Green, as well as some (meaningless) double-talk about Gratis Green (it must be "voluntary" and must not be "systematic").

Nothing for RCUK to welcome, if RCUK's interests are with research access rather than publisher profits.

**BISCOM:** "We are concerned that the expectation appears to be that universities and research organisations will fund the balance of APCs and open access costs from their own reserves. We look to the Government and RCUK to mitigate

against the impact on university budgets. The Government must not underestimate the significance of this issue (paragraph 64)."

**RCUK:** *Publication of research results is an integral part of the research process, and is thus a legitimate part of the cost of undertaking research. RCUK is committed to providing the necessary funding to cover the costs of publishing papers arising from the research funded by the Research Councils.*

This re-statement of the [Wellcome Trust mantra](#) continues to ignore the fact that the UK (but not Wellcome) also has to pay the costs of journal subscriptions. Hence the Gold APC costs are over and above subscription costs (which are likewise "a legitimate part of the cost of undertaking research").

That means Gold OA APCs today are needless double-payments: "Fool's Gold." The only way they can turn into "Fair Gold" is if Green OA first prevails, eventually allowing [subscriptions to be cancelled](#) (and driving down publication costs by offloading access-provision and archiving onto Green OA repositories). Then the price of Gold will drop to a fair, affordable, sustainable level, single-paid out of the institutional subscription cancellation savings, instead of double-paid, needlessly, as now, out of scarce research funds. -- Needless, because while subscriptions are still being paid, Green OA can provide the OA.

**RCUK:** *The shared ultimate goal of full Gold open access*

The proximal goal (still far away) is 100% Gratis OA; this can be reached by mandating Green OA (with the [immediate-deposit clause + Button](#)). The ultimate goal is affordable, sustainable OA, at a fair price, with as many re-use rights as users need and researchers want to provide.

**BISCOM:** "The Government and RCUK should clarify that Gold open access is the ultimate goal of, rather than the primary route to, their open access policies. We recommend that the Government and RCUK reconsider their preference for Gold open access during the five year transition period, and give due regard to the evidence of the vital role that Green open access and repositories have to play as the UK moves towards full open access (paragraph 70)."

**RCUK:** *RCUK's preference is for immediate, unrestricted on-line access, aka Gold open access, for reasons defined in section 2 of this response.*

Gold OA means publisher-provided OA. RCUK is referring to immediate, fee-based Libre Gold OA -- but re-naming it "Gold OA" as if to contrast with Green OA.

Green OA means author-provided OA. RCUK is trying to portray Green OA as embargoed Gratis Green OA. This is publishers' preferred way of spinning the meaning of "Green OA": the same publishers that are embargoing Green OA in an attempt to make their definition a self-fulfilling prophecy.

And, regrettably, under the influence of the publishing lobby (unwittingly aided and abetted by the [Wellcome Trust](#) as well as the minority of researchers who are in a great hurry for [Libre OA](#)), Finch/RCUK have fallen for it, hook, line and sinker.

**BISCOM:** "RCUK's current guidance provides that the choice of Green or Gold open access lies with the author and the author's institution, even if the Gold option is available from the publisher. This is incompatible with the Publishers Association's decision tree, and RCUK should therefore withdraw its endorsement of the decision tree as soon as possible, to avoid further confusion within the academic and publishing communities (paragraph 71)."

**RCUK:** *...the 'decision tree'... represents the post-transition 'end state' ... institutions now understand the flexibility we are offering during the transition period, and that the 'decision tree' has to be seen within the context of this flexibility.*

Why attach a decision tree to a new policy, now, that authors are trying to understand, now, when the decision tree does not apply now, but will only apply eventually (maybe)?

(Is this not yet another way of digging heels in with: "[My mind's made up: Don't confuse me with facts!](#)")

**BISCOM:** "If RCUK and the Government continue to maintain their preference for Gold, they should amend their policies so that APCs are only paid to publishers of pure Gold rather than hybrid journals. This would eliminate the risk of double dipping by journals, and encourage innovation in the scholarly publishing market (paragraph 77)."

**RCUK:** *RCUK made an explicit decision not to restrict the RCUK block grants only to covering APC costs for pure Gold journals. To have done so would have restricted the choice of authors as to where they could publish their research by limiting them to pure Gold journals if they wanted to 'go gold'... RCUK commitment to provide APC funding without restriction has already driven change within the publishing industry, with many major subscription journals now offering a hybrid-gold option for the journals that Research Council authors chose to publish in. It is unlikely that publishers would have made these changes if RCUK had restricted its APC funding to pure Gold journals.*

"[My mind's made up! Don't confuse me with facts!](#)" -- facts about over-pricing, double-payment, double-dipping, "rebates," and perverse effects:

Gold payments are in any case double-payments (subscriptions + Gold APCs). If paid to the same publisher (hybrid Gold), they also allow publisher double-dipping. But even if not double-dipped, but instead paid back as a rebate to all subscribing institutions, *that just means the UK's 6% double-payment subsidizes all subscribers worldwide with a 6% subscription reduction!* The UK itself [only gets back 6%](#) of the Gold APC subsidy it has provided for the rest of the world.

And far from following the UK's profligacy with this needless foray into paying for [Fool's Gold](#), the rest of the world -- which mandates Green, not Gold -- is left saddled with the perverse effects of the UK's incentives to hybrid Gold publishers: offer hybrid gold, pick your price, and adopt or lengthen embargoes on Green!

**RCUK:** *RCUK considers that publishers need to ensure that subscriptions paid by institutions for hybrid journals reflect any additional revenue that the journal has received through the APCs that the institution has paid in order to publish 'gold' papers in that journal.*

See above: RCUK thinks that a 6% rebate of a needless 6% double-spend (6% of 6%) is sufficient solace. It is not clear that UK tax-payers would or should see it that way. Nor should UK researchers. (Nor should researchers worldwide, in view of the perverse effects of UK policy on Green OA embargoes worldwide.)

***RCUK:** Whilst RCUK does not restrict its policy to supporting only pure Gold journals, institutions are free to decide how they allocate their RCUK block grants, and this could include declining to make APC payments to specific hybrid Gold journals that institutions may consider guilty of 'double-dipping'.*

How are institutions supposed to figure out whether publishers are double-dipping?

The best thing institutions can do with the scarce research funds RCUK has needlessly re-directed to double-paying publishers for [Fool's Gold](#) is to make sure all their authors immediately deposit their final, refereed drafts in the institutional repository and make them Green OA as soon as possible.

And instead of wasting the RCUK OA funds on Fool's Gold, they should spend them on implementing a reliable mechanism for monitoring and ensuring timely compliance with the [HEFCE immediate-deposit requirement](#).

**Stevan Harnad**