

Consultation on the second Research Excellence Framework

Page 1: Respondent details

Q1. Please indicate who you are responding on behalf of

Subject association or learned society

Please provide the name of your organisation

Society of Legal Scholars (SLS). The Society of Legal Scholars is a learned society whose members teach law in a University or similar institution or who are otherwise engaged in legal scholarship. Founded in 1909, and with almost 3,000 members, it is the oldest as well as the largest learned society in the field. The great majority of members of the Society are legal academics in Universities, although members of the senior judiciary and members of the legal professions also participate regularly in its work. The Society's membership is drawn from all jurisdictions in the United Kingdom and Ireland and also includes some affiliated members typically working in other common law systems. The Society is the principal representative body for legal academics in the UK as well as one of the larger learned societies in arts, humanities and social science. It publishes Legal Studies, a leading academic law journal, listed on Scopus and ISI.

Page 2: Overall approach

Q2. 1. Do you have any comments on the proposal to maintain an overall continuity of approach with REF 2014, as outlined in paragraphs 10 and 23?

We agree. The Society's view is that successive exercises have generated considerable confidence in their assessments.

Page 3: Unit of assessment structure

Q3. 2. What comments do you have about the unit of assessment structure in REF 2021?

We have no comment so far as concerns the general issue. The Society is keen that Law continue to be recognised as distinct and remain a separate UoA. We note that in para 26 there is a reference to giving consideration within the UoA structure to criminology which, under the REF2014 structure, straddles several sub-panels in Main Panel C, including law. The Society was content with the treatment of Criminology in 2014. It is an interdisciplinary field with strong links to law and we hope that it should remain possible to submit criminological work to Law.

Page 4: Expert panels

Q4. 3a. Do you agree that the submissions guidance and panel criteria should be developed simultaneously?

Yes

Q5. 3b. Do you support the later appointment of sub-panel members, near to the start of the assessment year?

Comments:

The Society does not have a view as to the timing. It does, however, take the view that the fewer 'appointment events' the better. This is partly to reduce the workload on those involved, and partly to ensure, so far as is possible, continuity of those involved in consultations upon the appointments, so as to avoid the need to inform new participants of events to that point.

Q6. 4. Do you agree with the proposed measures outlined at paragraph 35 for improving representativeness on the panels?

No

Comments:

The Society considers that previous panels have not been as representative of the profession as would be ideal, and that it is appropriate to take measures better to achieve that. It does not believe that the measures suggested would achieve this objective. The Society would not want to see the range of nominating groups extended. We do not see the problem so much being to do with conflict of interest – though that would need to be addressed. The Society sees the major objection to the extension of the range of nominating groups beyond the academic legal professions as being one of lack of expertise. The members of the Society are academics working in the field, and they reject the idea that external bodies and individuals have the expertise to know who might or might not be best placed to assess their outputs. It is important for Law (and some other disciplines) of reflecting the different jurisdictions within the UK, especially since so much policy-related activity is now focussed at the level of the devolved administrations. We suggest that Para 35(c) be rephrased as follows: “This information will be used both for monitoring, and selection purposes, in accordance with s158 of the Equality Act 2010”.

Q7. 5a. Based on the options described at paragraphs 36 to 38 what approach do you think should be taken to nominating panel members?

The nominating process in Law did not operate well for 2014. We need far greater clarity than last time from HEFCE in advance of the start of the nomination process as to what they are looking for, how many nominations they want for the number of places, and whether they plan to rely on subject associations to take part in the selection process after the nominations have been made. As regards self-nomination, the evidence seems to be that it does not widen the pool, i.e. white middle class men would be most likely to put themselves forward.

Q8. 5b. Do you agree with the proposal to require nominating bodies to provide equality and diversity information?

Yes

Comments:

Yes, in principle, because this would force nominating bodies to justify their choices, at least internally. We would need to know more about the information required from nominating bodies.

Q9. 6. Please comment on any additions or amendments to the list of nominating bodies, provided alongside the consultation document.

It is not entirely clear what the qualifying criteria are for nominating bodies. We think that in Law this may need to be revisited.

Page 5: Staff

Q10. 7. Do you have any comments on the proposal to use HESA cost centres to map research-active staff to UOAs and are there any alternative approaches that should be considered?

This would usually work for Law, but not always.

Q11. 8. What comments do you have on the proposed definition of 'research-active' staff described in paragraph 43?

The proposed definition is 'staff returned to the HESA Staff Collection with an activity code of 'Academic professional' and an academic employment function of either 'Research only' or 'Teaching and research'. As is acknowledged, this definition would include individuals employed as research assistants, and so a measure of independence would be required in the definition. We seek views on whether such an approach would identify only those staff who are research-active.

The Society does not see any issues specific to law in the proposal.

Q12. 9a. The proposal to require an average of two outputs per full-time equivalent staff returned?

The Society does not believe that requiring an average of two outputs per FTE staff would generate a proper representation of the excellent research produced. It would also alter the 'standard' expectations of researchers from four articles/chapters to two books, and that might not benefit legal scholarship overall.

Q13. 9b. The maximum number of outputs for each staff member?

No comment.

Q14. 9c. Setting a minimum requirement of one for each staff member?

We think that there should be minimum requirement for each staff member of two outputs, and that there should be special provision for Early Career researchers and special circumstances cases.

Q15. 10a. Is acceptance for publication a suitable marker to identify outputs that an institution can submit and how would this apply across different output types?

No comment.

Q16. 10b. What challenges would your institution face in verifying the eligibility of outputs?

No comment.

Q17. 10c. Would non-portability have a negative impact on certain groups and how might this be mitigated?

The Society takes the view that across successive assessments portability of outputs has been beneficial to the legal academy as a whole, and would wish to see it continue, and to be extended to impact. We think that to change the rules on portability, particularly with retrospective effect, would unfairly prejudice those researchers and institutions that have made appointments on the basis of the 2014 regime. In general, we think that a transfer market in which REF performance is important has operated better than the previous regime.

As to the specific issues that might give negative impacts:

On an individual level, non-portability will impact adversely in particular upon early career staff, for whom early publications, perhaps from a PhD, are a means of establishing a career. It can also have effects further into the career, where a person might move in the expectation of being allowed portability only to have his/her value to and status in a new department diminished where it is not.

At the Institutional level, a harmful effect of non-portability of outputs or impact arises from the effect of rates of staff turnover. Some institutions have higher rates of staff turnover than others. There are numerous reasons for this. Geography – including but not limited to the proximity of competing institutions - is an obvious one. The higher the rate of staff turnover, the more the institution will lose (as against a system that permitted portability) from non-portability.

Q18. 10d. What comments do you have on sharing outputs proportionally across institutions?

A system based on sharing outputs proportionally, rather than having an “all-or-nothing” choice between portability and non-portability, would appeal. It would also militate against one of the effects of successive assessments, that of staffing levels peaking at census dates. It can be very difficult, however, to say, in Law, where particular work was done. We think this is an area where the laboratory model will not work for many other disciplines, so without a clear rule on that, we think the idea unworkable.

Q19. 11. Do you support the introduction of a mandatory requirement for the Open Researcher and Contributor ID to be used as the staff identifier, in the event that information about individual staff members continues to be collected in REF 2021?

Comments:

No comment.

Q20. 12. What comments do you have on the proposal to remove Category C as a category of eligible staff?

We do not think it would make a significant difference.

Q21. 13. What comments do you have on the definition of research assistants?

We think that this is an answer to a problem in the sciences, where research assistants might not have the independence which (typically) they do enjoy in Law.

Q22. 14. What comments do you have on the proposal for staff on fractional contracts and is a minimum of 0.2 FTE appropriate?

Since very few fractional contracts are for proportions smaller than 0.2 FTE it is unlikely to make any difference.

Page 6: Collaboration

Q23. 15. What are your comments in relation to better supporting collaboration between academia and organisations beyond higher education in REF 2021?

We are not convinced that this is best captured in the environment section, or, for that matter, the REF itself.

Page 7: Outputs

Q24. 16. Do you agree with the proposal to allow the submission of a reserve output in cases where the publication of the preferred output will post-date the submission deadline?

Yes

Comments:

The Society does not see any benefit in compelling institutions to gamble on matters that are outside their control, so favours the use of reserve outputs.

Q25. 17. What are your comments in relation to the assessment of interdisciplinary research in REF 2021?

No comment.

Q26. 18. Do you agree with the proposal for using quantitative data to inform the assessment of outputs, where considered appropriate for the discipline? If you agree, have you any suggestions for data that could be provided to the panels at output and aggregate level?

No

Comments:

For reasons given during every prior exercise, the SLS has always opposed the use of quantitative data in the assessment of outputs, whether unidisciplinary or multidisciplinary. Quantitative measures are generally not appropriate for Law for reasons of jurisdictional specificity and the insularity of US student-edited journals, which dominate the key citation indexes. In addition, arrangements for collecting quantitative data relating to citation of monographs and contributions to edited volumes, both of which are significant forms of high-quality output for legal scholars, are, as yet, undeveloped.

Page 8: Impact

Q27. 19. Do you agree with the proposal to maintain consistency where possible with the REF 2014 impact assessment process?

Yes

Comments:

We do. It takes time for these ideas to become embedded: they have, and command general acceptance.

Q28. 20. What comments do you have on the recommendation to broaden and deepen the definition of impact?

We welcome the incorporation of a wider range of impacts. We particularly welcome the inclusion of impact on public engagement and understanding, academic impacts outside the field and impacts on teaching.

Q29. 21. Do you agree with the proposal for the funding bodies and Research Councils UK to align their definition of academic and wider impact?

If yes, what comments do you have on the proposed definitions?

This is a matter for those bodies.

Q30. 22. What comments do you have on the criteria of reach and significance?

The Society considers that reach and significance can be inferred reasonably clearly from the published studies.

Q31. 23. What do you think about having further guidance for public engagement impacts and what do you think would be helpful?

We do not think it would be helpful.

Q32. 24. Do you agree with the proposal that impacts should remain eligible for submission by the institution or institutions in which the underpinning research has been conducted?

No

Comments:

No: our view on portability is that it should extend to impact (see answer to question 10 above).

Q33. 25. Do you agree that the approach to supporting and enabling impact should be captured as an explicit section of the environment element of the assessment?

No

Comments:

We do not. The Society takes the view that the impact should be the best evidence of its support.

Q34. 26. What comments do you have on the suggested approaches to determining the required number of case studies? Are there alternative approaches that merit consideration?

No comment.

Q35. 27. Do you agree with the proposal to include a number of mandatory fields in the impact case study template to support the assessment and audit process better (paragraph 96)?

Comments:

No comment.

Q36. 28. What comments do you have on the inclusion of further optional fields in the impact case study template?

No comment.

Q37. 29. What comments do you have in relation to the inclusion of examples of impact arising from research activity and bodies of work, as well as from specific research outputs?

We agree with this proposal.

Q38. 30. Do you agree with the proposed timeframe for the underpinning research activity (1 January 2000 - 31 December 2020)?

Comments:

We do not see this as raising an issue of principle.

Q39. 31. What are your views on the suggestion that the threshold criterion for underpinning research, research activity or a body of work should be based on standards of rigour? Do you have suggestions for how rigour could be assessed?

The Society is not convinced that a threshold is necessary. If there is to be one, then the 2014 one (essentially 2*) is as good as any.

Q40. 32a. The suggestion to provide audit evidence to the panels?

The Society does not think that any standardised quantitative data can be helpful in the assessment of Law outputs.

Q41. 32b. The development of guidelines for the use and standard of quantitative data as evidence for impact?

The Society does not think that any standardised quantitative data can be helpful in the assessment of Law outputs.

Q43. 33. What are your views on the issues and rules around submitting examples of impact in REF 2021 that were returned in REF 2014?

No comment.

Page 9: Environment

Q44. 34a. Do you agree with the proposal to change the structure of the environment template by introducing more quantitative data into this aspect of the assessment?

No

Comments:

We would not welcome the introduction of more quantitative data.

Q45. 34b. Do you have suggestions of data already held by institutions that would provide panels with a valuable insight into the research environment?

No.

Q46. 35. Do you have any comment on the ways in which the environment element can give more recognition to universities' collaboration beyond higher education?

No comment.

Q47. 36. Do you agree with the proposals for providing additional credit to units for open access?

Comments:
No comment.

Q48. 37. What comments do you have on ways to incentivise units to share and manage their research data more effectively ?

No comment.

Page 10: Institutional level assessment

Q49. 38. What are your views on the introduction of institutional level assessment of impact and environment?

We are sceptical as to whether this can be done without 'double-counting' or 'double punishment'. The Society takes the view that the institutions are the sum of their parts.

Q50. 39. Do you have any comments on the factors that should be considered when piloting an institutional level assessment?

No.

Page 11: Outcomes and weighting

Q51. 40. What comments do you have on the proposed approach to creating the overall quality profile for each submission?

This looks clear and workable.

Q52. 41. Given the proposal that the weighting for outputs remain at 65 per cent, do you agree that the overall weighting for impact should remain at 20 per cent?

Yes

Comments:
We do.

Q53. 42. Do you agree with the proposed split of the weightings between the institutional and submission level elements of impact and environment?

Comments:
No comment.

Page 12: Proposed timetable for REF 2021

Q54. 43. What comments do you have on the proposed timetable for REF 2021?

This looks workable.

Page 13: Other

Q55. 44. Are there proposals not referred to above, or captured in your response so far, that you feel should be considered? If so, what are they and what is the rationale for their inclusion?

None.

Page 14: Contact details

Q56. If you would be happy to be contacted in the event of any follow-up questions, please provide a contact email address.

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