

Confidentiality and data security arrangements for REF panels

Updated January 2013

Introduction

1. This document sets out arrangements for the 2014 Research Excellence Framework (REF) panels to maintain the confidentiality and security of information they generate and have access to throughout the REF process (referred to throughout this document as 'confidential information'). All REF main and sub-panel chairs, members, assessors, secretaries, advisers, observers and specialist advisers are bound by the terms set out below. For the purpose of this document, we refer to these people as 'panel members'.
2. This document deals only with the relationship between the four UK higher education funding bodies on the one hand and panel members on the other. It does not give rise to any rights relating to, or any obligations to or from, higher education institutions participating in the REF.

Purpose

3. The objectives of the confidentiality arrangements are:
 - a. Subject only to any legal obligations on the UK higher education funding bodies to disclose further information, in order to properly manage the REF we wish to ensure that public comment from REF panels and their constituent members on individual submissions is limited to:
 - The overall assessment outcomes awarded to each submission (comprising the overall quality profile and the three sub-profiles for outputs, impact and environment).
 - The concise written feedback on submissions provided in confidence to heads of institutions.
 - b. Subject to any overriding legal obligation, we wish to avoid any situation in which parties not involved in the assessment process approach or place pressure on panel members to disclose information about the panel's discussion of particular submissions. In other words, maintenance of confidentiality is essential if panel members are not to be inhibited from expressing their opinions freely in panel discussions, which is essential to the effective operation of the REF as an expert review exercise.

c. Given the nature of the information that panel members will have access to, the confidentiality arrangements also set out measures to prevent acts by a panel member which might, in certain circumstances, lead to a claim being made against them or the UK higher education funding bodies for breach of data protection legislation, breach of a common law duty of confidentiality, defamation or infringement of intellectual property rights in research outputs; or which might otherwise give rise to financial or reputational losses for which a legal claim is made.

Panel members' obligations

General obligations

4. Acceptance of the obligations owed to each of the four UK higher education funding bodies set out in this document is a condition of appointment as a panel member. By accepting the appointment, panel members agree to these terms. The chief executives of the four UK higher education funding bodies reserve the right to terminate appointments in the event of any breach of these terms.

5. Panel members shall use confidential information only for the purposes of the REF. Confidential information must be handled in accordance with reasonable instructions given by the REF team. In particular, the REF team may require the deletion of any or all copies of confidential information, or to take such additional reasonable steps to preserve the security of the confidential information as the REF team may determine. Panel members must promptly comply with any such instructions.

6. Confidential information shall not be disclosed to any other person except panel members and the REF team. All reasonable steps shall be taken to ensure that other people cannot have access to the information, whether held in paper or electronic copy. In particular:

a. It is important to remember that computer systems, and specifically e-mail, are not necessarily secure, and panel members shall agree to exercise appropriate caution when using them.

b. Information will be made available to members via secure, password-protected systems. Passwords must not be divulged to any other person.

7. Nothing in this agreement prevents panel members from disclosing information after it becomes freely available in the public domain (without the breach of any obligation of confidentiality), or that which they are required by law to disclose, or that which was already known and not subject to confidentiality obligations before being disclosed in the context of the REF. It would be prudent, however, to contact the REF manager in advance to discuss any such disclosure.

8. Some confidential information may have to be disclosed by the UK higher education funding bodies under the Freedom of Information Act 2000 or other legislation. If any requests for information are received, these must be passed to the REF manager

immediately for consideration and action, and should not be responded to by panel members.

9. If there is any doubt with regard to any issue of confidentiality, either in general terms or in relation to a particular piece of information, panel members should seek advice from the REF manager.

10. The obligations set out in this document will subsist indefinitely.

Specific obligations during the criteria-setting phase (2011)

11. During the course of the criteria-setting phase, REF panels will be provided with a range of information, such as draft guidance documents and sample citation data.

12. Where such confidential information has not already been made public by the REF team, copies shall not be made except as is necessary to carry out functions as a panel member. Originals and any copies that may be made of such confidential information shall be destroyed, or returned to the REF manager, as soon as they are no longer needed for that function or on the request of the REF manager, whichever is sooner. This provision applies equally to paper copies or those stored in electronic or other non-paper formats.

Specific obligations during the assessment phase (2013-14)

13. During the assessment phase panel members will have access to a range of confidential information, including information provided by institutions in their submissions and information generated by the panels when assessing those submissions.

Information contained in REF submissions

14. Institutions will submit a range of information to the REF team for the purpose of assessment by the REF panels. In recognition of this purpose panel members shall use any information contained in REF submissions, supplied by the REF team, only for the purposes of carrying out their functions as panel members.

15. Panel members shall not make copies of such information except as is necessary to carry out their functions as a panel member. Panel members shall destroy, or return to the REF manager, originals and any copies made of such information, as soon as they are no longer needed for that function or on the request of the REF manager, whichever may be sooner. This provision applies equally to paper copies or those stored in electronic or other non-paper formats.

Information identified as confidential by institutions

16. Submissions may include information that the institution identifies as confidential or sensitive. Panel members must observe the following arrangements, to enable institutions to include such information in their submissions:

- a. Institutions may identify the names of panel members who the institution believes would have a conflict of interest in assessing a specific confidential output or case study. The REF team will not make the confidential output or case study available to those named panel members. Panel members who do have access must not share the confidential output or case studies with other panel members.
- b. Institutions may identify parts of their submissions (including specific members of staff, outputs or case studies) that should be redacted or excluded from publication by the funding bodies, where publication of that information is likely to cause harm to an individual or organisation. Information about material that has been identified for redaction or exclusion from publication may be discussed only with fellow panel members, and may not be divulged to any other party even after the submissions have been published.
- c. Where approved by the REF manager, institutions may submit case studies that include classified information. These case studies will be made available for assessment only to panel members with appropriate national security vetting clearance. In these instances the REF team will make arrangements for the institution to make the case study available to the specific panel members at a secure location. Neither the REF team nor any other panel members will have access to these case studies.

17. Panel members will treat as confidential all information identified as such by institutions, including the research outputs or case studies themselves, details of sponsors or commissioning organisations, and other information to be excluded from publication. Even if a panel member personally considers that a designation as confidential may be wrong, they agree to accept any designation of confidentiality which an institution has placed upon any part of its submission. If a panel member feels in a particular case that this inhibits them from carrying out their function as a panel member, they should raise the issue with the REF manager who will be able to provide or seek advice.

18. An institution's submission may contain material which is patented or patentable or which is subject to other intellectual property (IP) rights. Institutions make submissions to the REF on the understanding that their position in these respects will not be prejudiced by the fact of submission. Panel members shall respect and honour that understanding and agree not to infringe the IP rights of the property owners. Panel members are reminded that all IP rights infringements are actionable in the civil courts. Panel members' attention is drawn to the danger of 'prior disclosure' in the case of potentially patentable material, and the paramount need therefore to respect the confidentiality of such material.

Sensitive personal data

19. Information about individual staff circumstances that is submitted to the REF will be kept confidential to the REF team and the members of the relevant sub-panel (for clearly defined circumstances) and to the REF team, the Equalities and Diversity Advisory

Panel, and main panel chairs (for complex circumstances). Sub-panel members will know that there are complex circumstances and will receive a decision about the appropriate reduction in outputs in these cases, but will not have access to further information about the circumstances.

20. Information about individual staff circumstances may contain sensitive personal data and panel members should take extra care to ensure the information is kept confidential, and is destroyed or returned to the REF team once no longer required for the assessment.

Information generated by REF panels

21. REF panels will generate a range of information when assessing submissions including personal notes, provisional scores, comments, e-mails and other communications. Panel members must store and transmit all such information securely and confidentially, according to the directions in paragraph 26 below.

22. Panel members will restrict their discussion of submissions and their assessment (in any media) to other panel members they are working with and the REF team. They shall not discuss with anyone who is not involved in the assessment process as described above, either the submission or the assessment of an identifiable institution or group of institutions whose individual members could be identified, still less the work of individual researchers named in submissions, even if ostensibly made anonymous. Panel members may comment on the process and conduct of the REF in general terms, and should seek advice from the REF manager if unsure what is covered by 'in general terms'.

Storage, transmission and retention of information

23. Panel members will be provided with the information contained in submissions that is necessary for the panel to carry out its assessment. Submitted information will be provided to panel members via a secure panel members' web-site, electronically on encrypted USB devices, and (where requested) in printed hard copy.

24. Panel members will be provided with spreadsheets to record their provisional scores and comments. These spreadsheets must be stored securely on the encrypted USB devices, and transmitted to the panel chair and secretary through the secure panel members' web-site.

25. Panel members will also be provided with a secure password-protected webmail facility to communicate with other panel members about the assessment of submissions, in between meetings. Any e-mail correspondence with other panel members or the REF team containing confidential information should be conducted via this webmail facility.

26. Panel members are obliged to adhere to the following directions:

- a. Confidential REF data must be stored only on the encrypted USB device provided by the REF team.

b. Only information that is not confidential, such as publicly available published outputs, may be stored on other devices.

c. Panel members must take appropriate precautions when using desktop computers, laptops and similar devices when undertaking REF business. This includes ensuring there is an appropriate level of virus protection on the devices, having password security in place, and locking the device when not in use. Further guidance on the precautions which should be taken can be found on the panel members' web-site.

d. Paper copies of confidential data must be kept in a secure place and not disclosed to anyone not directly involved in the assessment. It is the responsibility of the panel member to take the necessary precautions to ensure the security of the information.

e. Paper copies of REF data must not be transmitted in any way, for example faxed, scanned, e-mailed, or photographed.

f. The secure REF webmail accounts provided to all panel members must be used if confidential information is to be exchanged by e-mail. This includes any e-mail distribution or discussion of REF submissions and their assessment. REF webmail accounts will be closed and their contents destroyed by the REF team at the end of the assessment phase.

g. Panel members shall destroy, or return to the REF manager, originals and any copies made of REF data including the submissions and information generated by panels, as soon as they are no longer needed for the assessment and no later than 30 November 2014. Panel members must return the encrypted USB devices to the REF team, either at the final panel meeting or by post such as Royal Mail. Paper based information should be destroyed using a cross cutting shredder with a cutting width of 4mm or less (BS EN 15713:2009 shred number 6 is recommended).

27. Panel members must report any security incident in relation to information contained in REF submissions or generated by REF panels. A security incident is any unplanned or unforeseen event which has the potential to cause a security breach by disclosing the data deliberately or accidentally, and must be reported immediately to the REF manager. Possible security incidents include, but are not limited to, loss of the encrypted USB provided by the REF team, paper copies of submissions or other confidential REF data, or laptops containing information relating to the REF.