It’s time to talk about rights retention and researcher copyright: how the UK-SCL can help

Chris Banks, Assistant Provost (Space) & Director of Library Services, Central Library Imperial College London
IT’S TIME TO TALK ABOUT RIGHTS RETENTION AND RESEARCHER COPYRIGHT:
HOW THE UK-SCL CAN HELP

April 2018

Chris Banks @ChrisBanks
https://orcid.org/0000-0002-7735-9412

This work is licensed under the Creative Commons Attribution 4.0 International License.
The “policy stack” challenge

- Many funder policies:
  - Different compliance requirements
  - Differently funded (or not)
- Many different publisher policies
  - Some publishers have different policies depending on who funds the researcher
- REF policy in particular, differs substantially from other policies and applies to all UK academics
- Publisher policies are not always in line with funding or Research Council policy
- Difficult to know what to do to comply both with Funder and REF policies
- Underlying issues
  - Researcher reward mechanisms
  - Institutional vs publisher copyright policies
A particular UK Challenge

Multiple funder and publisher OA policies create a complex “policy stack” – knowing what is best/right can be difficult to figure out.

Funders are introducing progressive “open” policies whereas some significant publishers are setting embargo periods that are either at or beyond the maximum allowed by funders with the consequence that opting - and paying - for hybrid open access may be the only means of compliance.

This appears to be a particular issue in the UK
Imperial context – why an issue?

~£500m research funding covered by OA policies
~1200 outputs per year covered by these policies
Put another way:

• You’ve had your idea
• You’ve applied for your research grant
• You’ve hired the staff, done the research, crunched the data and written your findings up

• … then this – all in aid of working out whether your work is compliant with your funder(s) and eligible for the REF

Arthur Smith. *Open Access policy, procedure & process at Cambridge*  
https://unlockingresearch-blog.lib.cam.ac.uk/?p=1613
Funders on copyright and rights retention

RCUK recognises that copyright in the manuscript itself normally remains with the author, as reflected in the historical right and tradition of authors to publish online manuscript versions of their papers even before submission, and this will continue.

RCUK Policy on Open Access and Supporting Guidance: Compliance of journals

The Accepted Manuscript is also known as the Author’s Manuscript, the Author’s Accepted Manuscript or as the Postprint. It is also worth noting that it is normal for authors to retain copyright of their Accepted Manuscript, and we expect this to continue.

RCUK Policy on Open Access and Supporting Guidance: 3.9(iii)

We further recommend that institutions fully consider the extent to which they currently retain or transfer the copyright of works published by their researchers, as part of creating a healthy research environment.

Policy for open access in the next Research Excellence Framework: Updated November 2016: 36
A particular UK opportunity

• Funder policies are progressive
  – They set minimum criteria and some (REF) will reward those that go beyond those criteria
  – The Research Councils encourage institutions to challenge the status quo regarding copyright transfer
• Academics are covered by multiple funders
  – Drives progression - even if going for the minimum compliance, will often end up exceeding the criteria for, e.g., the REF
• This combination has made it possible for institutions to consider an even more progressive institutional policy – largely to address complexity but, inter alia, also to support more liberal OA
RCUK will accept a delay of no more than six months between on-line publication and the final Accepted Manuscript becoming Open Access. In the case of papers in the arts, humanities and social sciences (which will mainly be funded by the AHRC and the ESRC), the maximum embargo period will be twelve months.

RCUK recognises that the journey to full Open Access is a process and not a single event and therefore it expects compliance to grow over a transition period anticipated to be five years;
Where a higher education institution (HEI) can demonstrate that it has taken steps towards enabling open access for outputs outside the scope of this definition, credit will be given in the research environment component of REF 2021.

However, where an HEI can demonstrate that outputs are presented in a form that allows re-use of the work, including via text-mining, credit will be given in the research environment component of REF 2021.
[The] Environment template will include a section on ‘open research’ which should detail the submitting unit’s open access strategy, including where this goes beyond the REF OA policy requirements . . .

The intent of the REF OA policy is to provide a set of minimum requirements for OA, while providing an environment where researchers and HEIs can choose to move beyond the minimum requirements. This may include:

1. Enabling open access for outputs beyond the scope of the minimum policy requirements

2. Licencing of content that allow use beyond the minimum of ‘search within the text, read it and download it without charge’

3. Embargo periods that are shorter than the maxima set by the policy.
Funder OA policies necessitate revision of institutional OA policies

• Need to ensure that institutional policies are in alignment with funder (RCUK, REF, etc.) policies

• Publisher policies vary considerably – many do not enable easy compliance with both funder(s) and REF policies

• Want to preserve academic choice as to where to publish, including academic freedom to sign whatever licence/© transfer agreement is necessary (whilst separately continuing to encourage scrutiny of those licenses)

• Desire to maximise impact of publication

• Desire to retain some re-use rights for use in teaching etc., including rights in diagrams and graphs produced for the publication.
Options explored with academics

- Academic signs © over to publisher
- Academic signs © over to publisher but licenses back right to publish AAM in repository (SPARC model)
- Institution requires academic to license institution right to AAM but allows academic to retain © (Harvard model)
- Institution claims © on all academic outputs
Harvard policy chosen by academics

- Well established – has been in use since 2008
- Allows authors to share and reuse accepted manuscripts (through the grant of a non-exclusive licence to university)
- Where a journal seeks a waiver, this can be managed by exception (happens <5% in the USA)
- Over 70 implementations
  - From Harvard, MIT and the University of California
  - To smaller institutions, including two in Kenya
Key components of the model policy

• Retain the right to make accepted manuscripts of scholarly articles available publicly for non-commercial use (CC BY-NC 4.0) from the moment of first publication.

• UK modifications:
  – Allow authors to request a waiver for applying this right for up to 12/6 months (AHSS and STEM, REF panels).
  – Allow publishers to request a blanket waivers for applying this right for up to 12/6 months (AHSS and STEM, REF panels).

• Supports academics whose only option is to self-archive, or who choose to self-archive
Three parts to the SCL

• Rights retention on behalf of the academic: these rights come into existence at the point the AAM comes into existence. Academics grant them (through contract) to the institution. The rights are then transferred back to the academic(s)
• Licence on deposit: the default is CC BY-NC in line with the minimum requirements for RCUK. We recently added the option for a ND choice for those with no funder requirement to have the more liberal default licence
• AAM availability through the repository: default is zero months after publication (earlier if publishers allow). For an interim period publishers can apply for blanket 6/12 month embargos also in line with minimum RCUK requirements
With a single deposit action, authors can:

- retain more rights in their own work
- continue to publish in journal of choice
- make their work OA through self-archiving
- reuse own work in research and teaching
- minimise reliance on increasingly expensive hybrid OA
- meet funder requirements
- Ensure eligibility for the REF
Funder policy clarifications

Policy statements: what the main UK funders have to say

http://ukscl.ac.uk/funder-policy-statements/
The UKRI review will be carried out internally and is expected to be completed within the year, Walport said. The review, expected to kick off shortly after UKRI is launched in April, will seek to ensure the UK’s open-access policies are “financially sustainable” and that they deliver “maximum impact for taxpayers”.

UKRI looks to move away from hybrid journals

But what about ©?

- Open Access
- Open Data
- Open Science
- Public Good
- Economic Growth

- But…

- By assigning © to a publisher, only that publisher can derive economic benefit

- Is that necessary?

- Should we retain limited rights (UK-SCL) or pass limited rights to the publisher (Licence to Publish)?
Where are we now with the UK-SCL?

- Progressive funder policies add backbone to the initiative
- Significant sectoral interest and engagement, nationally and internationally
- Strong institutional and support @ Imperial and elsewhere
- Publisher engagement suggests that we are on the right track
- Policy makers are taking notice and seeing it as part of their solution, c.f. UKRI

- Publishers are lobbying:
  - Funders
  - Academics
  - Learned Societies

- Implementation concerns – some of the concessions add back complexity into the administration of the policy
Ongoing engagement

- Publishers (via the Publishers’ Association)
- Academics (via institutions and learned societies)
- Policy makers
- Other interested parties
Immediate focus

- Work with funders, particularly UKRI and the open science review to inform how any further funding for OA might best be allocated and how the UK-SCL might form part of the solution
Other areas of focus

• Academics: engage on the benefits to them, understand the demand for change, understand their concerns and perceptions
• Engage with a broader community concerned about © transfer
• Learned Societies: work together to understand the support needed for transition (for those seeking to) or for sustainable self-archiving
• Implementation: work on a pragmatic achievable phased adoption and implementation with a group of universities
• Set out what the longer term goals of the initiative are
• Analyse data from the first five years of Finch – where has the real transition impact been seen?
Questions we ask ourselves

• Soft launch: adopt the policy but make licence choice and deposit optional/opt-in?
  – Allow the choice of a more restrictive licence at deposit?
• Does the SCL approach force a more balanced discussion about an affordable gold model or perpetuate the subscription model?
• How threatening are the threats to publishing choice?
• We describe the SCL as an interim measure but we haven’t articulated the destination. Can we?
• Is it necessary for © to be transferred to the publisher? Would a licence to publish be sufficient instead?
The lightning rod effect

Further reading & watching

- “Focusing upstream” – recording of talk given at UKSG 11 April 2017: https://tv.theiet.org/?videoid=10043
- “Copyright and Licensing session: Rights as the foundation of scholarly communication” – outputs (ppt and recording) from talk given at the OAI10 – CERN – UNIGE Workshop on Innovations in Scholarly Communication https://indico.cern.ch/event/405949/contributions/2487876/
UK SCHOLARLY COMMUNICATIONS LICENCE AND MODEL POLICY

RESEARCHERS RETAIN RE-USE RIGHTS IN THEIR OWN WORK

The UK-SCL is an open access policy mechanism which ensures researchers can retain re-use rights in their own work, they retain copyright and they retain the freedom to publish in the journal of their choice (assigning copyright to the publisher if necessary).

Re-use rights retention enables early public communication of research findings and use in research and teaching, including online courses. Increased visibility of research outputs greatly improves opportunities for increased impact and citations.

A single deposit action under the model policy ensures eligibility for REF2021 and compliance with most funder deposit criteria.

Researchers retain copyright and remain free to assign it to the publisher.

ukscl.ac.uk