

Reviewing the Rights Retention Strategy – A pathway to wider Open Access?

*Launched in 2021 by cOAlition S ([an international consortium of research funders](#)) the Rights Retention Strategy (RRS) aims to ensure that researchers funded by these organisations retain the rights to their work. Reflecting on the implementation of the strategy a year after its launch, cOAlition S Ambassador **Sally Rumsey**, outlines the aims of the RRS its success to date and the potential for the wider application of the RRS across other institutions.*

The cOAlition S [Rights Retention Strategy \(RRS\)](#) came into force for its “early adopters” in January 2021. The RRS ensures that authors apply a CC BY licence to the Author Accepted Manuscript of their submissions. That licence declared at submission has legal precedence over any later publisher’s licensing agreement. It enables authors to retain sufficient rights on their articles, making it possible for the author to reuse their work as they see fit, and to make a copy of their published article immediately available in a repository. In this way, cOAlition S funded authors can meet their funder’s open access (OA) requirements. The RRS is encapsulated in cOAlition S research grant agreements. It is intended to circumvent the restrictive conditions publishers impose on authors in licence to publish agreements.

There are now numerous examples of authors who have used the RRS and made their article freely available in a repository whilst the publisher’s version remains behind a paywall (For example: [Author’s Accepted Manuscript \(AAM\)](#) and [Publisher’s Version](#)).

However, there are still [difficulties and barriers for authors](#). Although the RRS establishes sufficient copyrights over the AAM, some publishers counter it under contract law. They do so despite, having been previously informed about the RRS and fully aware that requirements are embedded in authors’ grant contracts.

cOAlition S funders can only influence those researchers whose research they fund and the funder plays no part in the agreement between author and publisher. A [change in national laws](#) could break the stranglehold publishers hold over researchers’ rights, but

such a move would take time. This being said, institutions can support their staff to retain their rights now. Currently most institutions lack awareness that their researchers are freely giving away their copyrights, to the detriment of the individual researcher, the institution, and the general public. Thoughtlessly handing over those rights is arguably a form of academic exploitation.



Thankfully, institutions are becoming wise to this anomaly, and a growing band of universities is adopting local institutional author rights retention policies (IARRP). This enables their researchers to retain ownership of rights and content in the works they create.

IARRPs are not just 'nice to have.' They are an essential policy instrument to support researchers on a par with examination regulations, employment & career development, and health & safety policies.

An IARRP largely consists of the following elements:

- *Researchers (i.e. authors) retain copyright as a function of their institution's*

regulations. It supports all researchers, not just funded ones.

- *Researchers agree to grant the University a non-exclusive, irrevocable, worldwide licence to make article manuscripts publicly available under the terms of a (typically) [Creative Commons Attribution \(CC BY\)](#) licence.*
- *Researchers provide the university with a copy of their works for deposit in the institution's repository.*
- *The university will make the copy of the work freely and immediately available.*
- *The policy typically applies to research articles and conference proceedings.*

IARRPs are not new: [Harvard](#) adopted a policy in 2008 and [many others followed](#). A new wave of adoptions is underway, some encouraged by the implementation of the cOAlition S RRS. Recent adopters include the universities of [Tromsø](#), [Edinburgh](#), [Sheffield Hallam](#), and the [Norwegian University of Science and Technology](#) (NTNU). There's a year-long pilot at [Cambridge](#) and a pilot starting at the University of Oxford in 2023.

Recent adopters acknowledge the previous work of Harvard and others, and the preparatory work on the [UKSCL](#) (UK Scholarly Communications Licence). They note that consultation with other adopters is helpful.

Universities' with IARRPs have considered the following:

- *IARRPs enable them to remain relevant in a changing environment, and for future flexibility.*
- *Academics across all disciplines must be involved, and staff in relevant support departments. Familiarity with internal committee structure is key.*
- *IARRPs can provide a realistic alternative when negotiating journal deals (budgetary considerations).*
- *IARRP simplify copyright permission procedures for researchers*
- *IARRPs support publication choice for authors and allay fears of legal action from publishers ("Our researchers do not have to inform the publisher and can be at ease as [NTNU will take legal responsibility](#)."*
- *IARRPs reduce administrative burden on support staff (for example by removing the need to manage embargoes)*
- *IARRPs recognise '[ownership of expression of ideas by researchers](#)'*

Such policies recognise the central role and importance of the institutional repository as

the corpus of the university's members' publications, and for preserving, maximising visibility, and disseminating research outputs.

Recently two institutions, [Edinburgh](#) and [Cambridge](#), published progress reports on their policy implementations.

Notable points include:

- *Some publishers continue to state that RR (rights retention) is not 'permitted' and that they require an embargo period.*
- *Some Cambridge authors refused to bow to publishers' demands for appropriation of their rights or swapping to a paid option, and submitted their papers elsewhere.*
- *Both institutions experienced an increase in the numbers of items across a variety of publishers deposited in their repository using the RR policy. Although a significant proportion of Edinburgh's articles are open via paid OA routes (for example via [Transformative Agreements](#)), the RR policy enabled 'the remaining 27% to be published via the repository Green OA route mostly without embargo.'*
- *Even if inclusion of the RR statement is technically unnecessary because the article is published OA, some publishers insisted on removing it. Sam Moore at Cambridge surmises that this is because they do not want any additional publicity for the initiative.*
- *Researchers require support. They are not always aware that the policy is there to help them.*

Most importantly Edinburgh reports that *"some publishers even assert that their licensing terms will supersede any other prior agreements. We dispute this and if challenged the University will be able to bring a legal claim against the publisher as they have willingly procured a breach of contract against our pre-existing rights."*

In the case of funded grantees, rights retention is often treated as a compliance matter. This misses recognition of rights retention as a core factor in control and ownership within modern open scholarship. Control of when, how, and to whom research findings are disseminated, and ownership of the content, should not be handed over to a 3rd party service provider, i.e. a publisher. A service provider should be paid for services – not take control and ownership of content.

RR enables ownership and control of intellectual content to remain where it belongs –

within academia. It is heartening that this fundamental principle is being recognised, and institutions are stepping up to support their researchers via the growing adoption of IARRPs. It is hoped, too, that federal funders in the US operating under the recent [OSTP guidelines](#) will be keen to adopt similar policies.

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