

# Are universities finally waking up to the value of copyright?

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*Whereas a large majority of universities have been proactive about claiming ownership of intellectual property such as patents or teaching materials, only a small percentage have been similarly assertive about copyright. However, amidst continued debate over the affordability of and access to scholarly communication, what practical attempts have been made to retain copyright within the academy rather than assign it to publishers? **Elizabeth Gadd** has examined copyright policies at 81 UK universities and found that, while a majority still relinquish copyright in scholarly works, an encouraging 20% of university policies sought to share rights with academic staff through licensing. Moreover, the development of a UK equivalent to 'Harvard-style' open access policies should help further coordinate efforts to retain copyright within the academy.*



I think it's fair to say that copyright has traditionally been viewed by universities as something of a poor relation to other forms of intellectual property. In fact, just a couple of decades ago, most university IP policies barely mentioned copyright in scholarly works, other than to 'waive' all interests in it (if that was legally possible). The main reason for this, of course, was universities' morbid fear of impinging on 'academic freedom' – of being seen to appropriate their academics' intellectual property for some suspected commercial purpose. The irony was that those same academics wouldn't usually bat an eyelid when abandoning the aforesaid intellectual property at the door of a journal publisher for an actual commercial purpose: publication in a journal.

Compounding the irony is the fact that UK copyright law actually gives employers the rights to certain forms of IP produced by their employees. Many have argued that this does not extend to scholarly works produced by academics because their relationship is not a typical employee/employer one. However, with 65% of the UK Research Exercise Framework being based on research outputs, most academics would be hard-pushed to argue that producing journal articles is not a fundamental part of their job. Despite this, some recent research we've done into UK HEI copyright policies showed that whilst 99% of universities claimed ownership of patents and [77% claimed ownership of teaching materials \(86% of e-learning materials\)](#) only [6% claimed outright the ownership of scholarly works](#).



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The strange thing is that the economics of this don't really add up. Whilst virtually all UK universities claim ownership of patents, they generate about [£102 million per annum](#); and whilst only a very low percentage of universities claim ownership of scholarly works, subscriptions to journals cost the sector an estimated [£180 million per annum](#). And that's before we factor in the cost of article processing charges ([£14 million for RCUK APCs in 2016/17](#)), secondary licensing such as Copyright Licensing Agency licence fees to reuse scholarly works in educational activities ([about £15 million per annum](#)) and, where such secondary licences don't reach, direct permission-seeking costs.

Of course it is not as though the sector is oblivious to this situation. The so-called serials crisis has been bemoaned for decades. And the various solutions to the problem of affordable, immediate, quality-assured scholarly communication has become an industry in itself, the main feature of which is some form of open access. However, what seems to have been lacking is any practical attempt to address [what Chris Banks recently referred to as the "root cause" of this problem](#): a failure to retain copyright within the academy. If universities don't own it, academics certainly do, and yet the principle copyright holder in journal articles and conference papers is publishers. So much so that, when the CLA distribute their licence fee income from journals, [76% goes to publishers compared to just 23% that goes to authors](#) (with the remaining 1% going to visual artists).

So, amidst all the turbulence surrounding scholarly communication, are universities responding by seeking to assert any rights over scholarly works? To find out, [we took a look at 81 UK HEI copyright policies](#). We found that whilst 74% of policies still relinquished copyright in scholarly works to staff (through either assigning or waiving the rights), an encouraging 20% sought to 'share' the rights in those works with their academic staff through licensing. Either the university claimed ownership but licensed rights back to staff (e.g. to allow them to publish), or staff were declared the rightful owners on the understanding they would license rights back to the university on a non-exclusive perpetual basis. Overall, 28% of policies sought to reuse scholarly works in some way; e.g. for research, teaching, marketing or adding to the institutional repository. Even more encouraging was the fact that those policies seeking share or reuse rights in scholarly works tended to be the more recent ones (and usually belonged to the larger Russell Group institutions). This could suggest a trend towards a more joined-up approach between universities and academics in the area of copyright retention.

Before finishing, it would be remiss of me not to note that in almost half of all cases in which reuse rights were asserted by universities, it was academic staff that were expected to communicate those terms to publishers. This is clearly not a practical way of implementing policy. However, fortunately, help may be at hand in the form of a new initiative led by Imperial College London. Following in the footsteps of the [‘Harvard-style’ open access policies](#) that have proved so popular in the US, [Imperial College are now heading up the development of a UK version](#), which would give UK universities a non-exclusive licence to make their academics’ work available in their institutional repositories, under a CC BY-NC licence, and on the date of publication. It is early days for this initiative, but it would seem to offer the best opportunity so far for enabling the retention of copyright by academia for academia. Perhaps, at long last, copyright in scholarly outputs will remain with those who both create and consume them.

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*This blog post is based on the author’s article, [‘UK university policy approaches towards the copyright ownership of scholarly works and the future of open access’](#), published in the *Aslib Journal of Information Management* (DOI: 10.1108/AJIM-06-2016-0092).*

*Note: This article gives the views of the author, and not the position of the LSE Impact Blog, nor of the London School of Economics. Please review our [comments policy](#) if you have any concerns on posting a comment below.*

### **About the author**

**Elizabeth Gadd** is the Research Policy Manager (Publications) at Loughborough University. She co-founded the LIS-Bibliometrics forum for those involved in supporting bibliometrics in UK universities, and is the Metrics Special Interest Group Champion for the Association for Research Managers and Administrators. Having worked on a number of research projects, including the JISC-funded RoMEO Project, she is currently studying towards a PhD in the impact of rights ownership on the scholarly activities of universities.

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