

A primer on the rights retention strategy

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What is rights retention?

One key development in scholarly publishing is the rise of open access. Making articles freely available under particular copyright licences (such as CC-BY) is now required by UK research councils and other funding bodies. Journal publishers have responded to these requirements in various ways, e.g. by offering ‘gold open access’ routes, that often require payment of substantial article processing charges (APCs).

Funders also permit ‘green open access’ as a route to compliance with their rules. This is where the author deposits their version of the manuscript (the author accepted manuscript, AAM) into an institutional repository or similar archive. Many publishers have previously allowed some form of self-archiving, but usually with constraints, e.g. imposition of an embargo period (between 6-24 months). These constraints contradict funders’ requirements that prohibit any embargo period.

As a way of overcoming these restrictions, researchers and their institutions have developed their own policies to permit sharing of their work. Perhaps the most well-known example of these is the policy led by [Harvard](#) faculty in 2008. Within the UK, proposals for a UK Scholarly Communications Licence [UK-SCL](#) have been created. Most recently, the “rights retention strategy” has been developed by a group of international funders, cOAlition S, to allow researchers to retain rights on their scholarly writing and thus meet the requirements of their funders. This primer describes how authors can retain their rights using this rights retention strategy.

Why should authors retain their rights?

The primary reason why researchers might wish to retain their rights is simply to comply with funders’ requirements. Ignoring these requirements could affect a researcher’s chance of future funding. This might be seen by some researchers as simple rule-following with little benefit to themselves. However, work that is available open-access often tends to be more highly cited than work that is only available behind a paywall (Langham-Putrow, Bakker, and Riegelman 2021). Open-access licences on work allows for rapid reuse by everyone in the community, including the researchers who originally made the material. This includes, but is not limited to books, talks, wikipedia and social media, for teaching and research.

In many professional disciplines, the creator of the work naturally maintains rights to their work. Many journal publishers have previously stated that they require exclusive rights to publish the work. This is simply not true (Suber 2022).

How to retain rights to your manuscripts

In theory, the process of retaining rights on your manuscripts is simple. Before submitting your work to a journal, add the following phrase to your manuscript e.g. in the Acknowledgements section:

For the purpose of open access, the author has applied a Creative Commons Attribution (CC BY) licence to any Author Accepted Manuscript version arising from this submission.

It is also a good idea to tell the editor, in your cover letter, that you wish to retain rights to any author-accepted manuscript resulting from your submission.

That's it. If your paper is accepted by the editor after peer-review, your author accepted manuscript can then be deposited in a suitable open repository under a CC-BY licence without embargo. You are then free to also share the manuscript however you choose.

What if things go wrong?

Researchers may be sceptical that this approach may always work without concerns. Open access advocates have raised concerns about the legality (Khoo 2021) and longer-term implications (Kamerlin 2020) of rights retention approaches. Although those concerns have yet to materialise, there are indeed several caveats that should be mentioned:

1. A journal editor may decline reviewing ("desk reject") your manuscript because it uses rights retention language. To date, I am aware of only one journal publisher, the American Society of Hematology, that has chosen this route. Whilst unfortunate, each publisher may decline to review articles for many reasons. However, although many traditional publishers have voiced their concerns about rights retention https://ioppublishing.org/signatories_publish_statement_on_rights_retention_strategy/, those same publishers are allowing authors to exert their natural rights <https://github.com/rossmounce/rrs-language-including-outputs>.
2. One of the largest publishers, Springer Nature, noted in April 2021 that in some cases they will effectively ignore rights retention language in manuscripts <https://www.springernature.com/gp/advancing-discovery/blog/blogposts/continuing-the-open-access-transition/19045440> and require a transfer of copyright. This will create a conflict once the manuscript has been editorially accepted. Ignoring researcher rights on their work is highly unethical, and puts researchers in a very difficult position. To avoid this stalemate, a researcher could seek confirmation from the editor that they can retain their rights before submitting their manuscript. A simpler approach would be to avoid that publisher.
3. If you publish your work in a subscription journal, as long as you make your AAM freely available without embargo, you do not need to pay the journal an APC. (The journal may still demand other charges, such as for colour figures in-print.) However, if you publish your work in an open-access journal, you may still need to pay an APCs to have your work published. Often these costs are covered by institutional arrangements with the publisher.

The route to open access is therefore often more complicated than it need be. If in doubt, researchers may seek local advice e.g. from library staff, when choosing which journal to submit their work to, and funding sources for any charges. The journal checker tool <https://journalcheckertool.org/> provides information about journal compliance with funders' OA policies.

Institutional support for rights retention

Researchers can and should use the rights retention strategy by themselves to comply with funders' requirements for open access. To support their researchers, several UK institutions have already adopted rights retention policies that apply to their employees. These policies typically give the institution a non-exclusive right to archive author accepted manuscripts. The researcher gains an extra layer of institutional support in the (hopefully rare) case that a publisher raises a concern with rights retention language in the manuscript. A list of current institutional policies is available at: <https://github.com/sje30/rrs/blob/main/ukinstitutions.csv> ; this list is expected to grow considerably during 2023 and 2024. However, even with an institutional policy supporting the researcher, it is pragmatic to still include the rights retention statement in your manuscript.

References

- Kamerlin, Shina Caroline Lynn. 2020. "Open Access, Plan s, and Researchers' Needs." *EMBO Rep.* 21 (10): e51568. <https://doi.org/10.15252/embr.202051568>.
- Khoo, Shaun Yon-Seng. 2021. "The Plan S Rights Retention Strategy Is an Administrative and Legal Burden, Not a Sustainable Open Access Solution." *Insights Imaging* 34 (October). <https://doi.org/10.1629/uksg.556>.
- Langham-Putrow, Allison, Caitlin Bakker, and Amy Riegelman. 2021. "Is the Open Access Citation Advantage Real? A Systematic Review of the Citation of Open Access and Subscription-Based Articles." *PLoS One* 16 (6): e0253129. <https://doi.org/10.1371/journal.pone.0253129>.
- Suber, Peter. 2022. "Publishing Without Exclusive Rights." *J. Electron. Publ.* 25 (1). <https://doi.org/10.3998/jep.1869>.