

# UK Scholarly Communications Licence and Model Policy v1 (~~13/10/2017~~09/11/2017)

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## 1 Why a model open access policy is needed in the UK

There are three drivers:

- Works that are available open access typically receive more citations than equivalent works available only through publisher subscriptions
- Peer reviewed journal articles and conference proceedings written by UK research academics are covered by numerous policies. Funder policies typically give minimum compliance requirements and are increasingly encouraging researchers to go beyond those. Funder policies are not yet aligned making funder compliance and REF eligibility complex. Publishers, too, have different policies, some of which vary depending on the funding received by the researcher. We've called this the "policy stack".
- This "policy stack" is complex for academics to navigate and administratively complex to manage.

The UK-SCL is a model policy and licence intended to support authors. It can be implemented by universities and, through a single deposit action, ensures the academic retention of re-use rights, compliance with the deposit requirements of most major research funders and eligibility for submission of outputs to the REF2021 exercise. It allows authors to reuse their own content, for example in teaching and future scholarship. The UK-SCL has been drawn up with the aim of being reasonable to authors, funders and publishers, whilst preserving the academic freedom to publish in the journal of their choice. It is not intended to undermine the publishing process and all the benefits that that brings, including, as is in widespread use currently, peer-review, esteem, promotion and career progression. The UK-SCL is seen as an interim solution<sup>i</sup> to help authors make their outputs available as open access and meet funder requirements until sustainable open access publishing models emerge.

In particular, the licence supports researchers by:

- Enabling the timely communication of the findings of publicly-funded research (thereby increasing citations and impact);
- Supporting academics in meeting funder requirements for open access whilst preserving the right to publish in the journal of choice;
- Allowing academics to retain © in their outputs and, if required by the publisher, to assign © to the publisher
- Through the automatic granting of a licence, allowing the reuse of research outputs, for example for research and teaching;
- Allowing the accepted manuscript to be made available in digital repositories;
- Enabling compliance with multiple funder policies and REF2021 eligibility through a single action.

## 2 Key elements of the UK-SCL

Under the UK-SCL, research institutions implement local policies which ensure the retention of re-use rights through a non-exclusive licence in author accepted manuscripts of scholarly articles written by their staff (all individuals employed by the university who publish scholarly outputs). The licence is non-exclusive so that

the final version of record can still be published through a journal in the same way as before. No legal agreement with the publisher is required and there is no need for authors to sign or modify any paperwork or take any other action for the licence to apply.

The licence allows the institution to make the peer-reviewed manuscript of the article publicly available (usually through its repository) following publication of the version of record by the publisher (or earlier if the publisher's own policy allows). Manuscripts will be available under the widely-used Creative Commons licence CC BY NC (4.0), allowing *non-commercial* reuse with the proviso that the author(s) always have to be credited. This licence meets funder requirements for open access, e.g. for RCUK and Horizon2020 funded research as well as ensuring eligibility of the outputs for REF2021. Copyright, and, by extension, moral rights, are retained by the author.

The institution automatically sublicenses all authors and institutions credited on the paper to do the same. This means authors can re-use their author accepted manuscript for teaching and research, and they can share it widely on platforms of their choice.

If an author is concerned about the author accepted manuscript being made available they can request the institution to waive the rights for a certain period (waiver; see below).

### **3 Institutional implementation**

Research institutions implement the UK-SCL through their own policies and processes, in-line with established institutional practice and culture. To be considered to have implemented the UK-SCL, an institutional policy needs to include the following conditions:

- 1) Retain the right to make accepted manuscripts of scholarly articles authored by its staff available publicly under the CC BY NC (4.0) licence from the moment of first publication (or earlier if the publisher's policy allows).
- 2) Allow authors and publishers to request a temporary waiver for applying this right for up to 12 months for AHSS and 6 months for STEM (aligned to REF panels).
- 3) Where a paper is co-authored with external co-authors, the institution will:
  - a. Automatically sublicense this right to all co-authors credited on the paper and to their host institutions.
  - b. Not apply the licence if a co-author (who is not based at an institution with a UK-SCL-based model policy) objects.
  - c. Honour waiver requests granted by other institutions which have adopted the UK-SCL model policy.

### **4 Implication for authors**

- 1) Papers with a single author or co-authors based at UK-SCL institutions:
  - There is no additional action required as far as their institution is concerned.
  - A publisher may request a waiver (see above) in order to publish the output. The institutions will make a simple workflow available to meet these requests. During an implementation and trial phase, initially for 2018 and 2019, institutions will issue blanket waivers for all publishers who request them, so that authors do not have to take action. This approach will be negotiated and managed centrally and will be reviewed annually.

- 2) Papers with co-authors at institutions who have not implemented the UK-SCL:
  - Co-author consent for the UK-SCL to apply can be managed using existing mechanisms for managing journal selection, copyright assignment and institutional repository deposit. Institutions will provide simple boiler-plate text to facilitate this process, and will seek to add a relevant clause to research collaboration agreements to facilitate this process in the future. ~~Co-authors need to give their consent for the UK SCL to apply. This can be managed by what is called 'estoppel', i.e. corresponding authors informing their co-authors and taking silence as consent. Institutions will provide simple boiler-plate text to facilitate this process, and will seek to add a relevant clause to research collaboration agreements to facilitate this process in the future.~~
  - During the early implementation of the policy the institution will support the communications with co-authors by seeking consent from co-authors on behalf of staff, by supporting staff through the provision of boilerplate text, or will not require staff to ask co-authors for consent (& consequently not deposit under the terms of the UK-SCL).
- 3) Authors who use content (such as images) with third party rights in their articles:
  - The same rules apply as for any deposit in an open access repository: authors are either able to secure the rights to reproduce the content under the licence used by the repository, or to note the elements of the manuscript that are to be made available with a rights reserved statement.
- 4) Authors who publish open access already:
  - Where an article is published under a CC BY licence by the publisher, the institution will use the open access version of record from the publisher and not the accepted manuscript (which will remain under closed access in the repository).

## 5 Model policy<sup>ii</sup>

To help institutions with implementation of the UK-SCL this model policy is provided to guide local implementation.

- 5.1 *(university name)* is committed to disseminating its research and scholarship as widely as possible. It supports the principle that the results of research should be freely accessible to the public. To enable staff<sup>iii</sup> to publish their work in a journal of their choice and still meet funder requirements for open access, *(university name)* adopts the following policy:
- 5.2 Each staff member grants to *(university name)* a non-exclusive, irrevocable, sub-licensable, worldwide non-commercial licence to make manuscripts of his or her scholarly articles publicly available. This licence is granted on condition that, if *(university name)* does make the said scholarly articles available, it will only do so on the terms of a Creative Commons Attribution Non-Commercial v4 (CC BY NC) licence.
- 5.3 The licence applies to all scholarly articles (including conference proceedings) authored or co-authored while the person is a staff member of *(university name)* including any third party content where rights in that content have been secured (all for the purposes of this policy "articles") except for any articles submitted before the adoption of this policy and any articles for which the staff member entered into an incompatible licensing or assignment agreement before the adoption of this policy. It does not apply to monographs, scholarly editions, text books, book chapters, collections of essays, datasets, or other outputs that are not scholarly articles. Upon express and timely<sup>iv</sup> direction by a staff

member, the (*Provost*)<sup>v</sup> or (*Provost's*) designate will give every consideration<sup>vi</sup> to a waiver of the terms of the licence and allow a delay in the public release of the manuscript for a period of up to twelve months from the date of first publication (embargo).

- 5.4 Where this policy applies to an article that is co-authored, the staff member will use all reasonable endeavours to obtain a licence to (*university name*) from all the co-authors on the same terms as the licence granted under this policy by the staff member. (*university name*) automatically sub-licenses the rights granted to it under this policy to all co-authors and their host institutions, on condition that if the said co-authors and/or host institutions make a co-authored scholarly article publicly available, they will do so on the terms of a CC BY NC licence. Consequently, the staff member need not seek permission from co-authors employed by institutions that have adopted this policy or other policies that give institutions and/or authors the same rights.
- 5.5 Each staff member will provide an electronic copy of the accepted manuscript<sup>vii</sup> (AM) of each article at no charge to the appropriate representative of the (*Provost's*) Office in an appropriate format (such as PDF) specified by the (*Provost's*) Office. (*university name*) will deposit the AM in a digital repository, with article metadata usually available immediately upon deposit and the AM being made accessible to the public on the date of first publication (online<sup>viii</sup> or otherwise) under a Creative Commons Attribution Non-Commercial (CC BY NC) licence except where the version of record is published open access and with a Creative Commons Attribution (CC BY) licence, in which case the AM will remain on closed deposit. Deposit of other types of scholarly outputs is encouraged but neither required nor included in the licence grant.
- 5.6 Staff members will, when providing the electronic copy of the AM, notify the (*Provost's*) Office if any rights or permissions needed to make third party or co-authored content in an article publicly available under a CC BY NC licence have not been secured and which consequently need to be made available with a rights reserved statement.
- 5.7 The (*Provost's*) Office will be responsible for interpreting this policy, resolving disputes concerning application, and recommending changes. The (*Provost's*) Office shall use all reasonable endeavours to inform publishers and relevant agents of the existence and contents of this policy. The policy will be reviewed annually.

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<sup>i</sup> **interim solution:** It remains to be seen how long this policy will remain necessary or appropriate. It may evolve over time following periodic review. For example, under a pure open access publishing model the policy would no longer be necessary.

<sup>ii</sup> This model policy is based on the Harvard Model Open Access Policy - <https://osc.hul.harvard.edu/modelpolicy/> (accessed 22 September 2017) with adjustments to take account of the UK legal framework.

<sup>iii</sup> **staff:** The wording here applies to all individuals employed by the university, whether research active or not, who publish scholarly outputs, including students who are considered as “employees” by an institution, and any other persons who have agreed that this policy applies to them by virtue of the terms on which they are engaged by the university or are given access to the facilities and resources of the university.

<sup>iv</sup> **timely:** Once the output is made public in the repository the Creative Commons licence cannot be changed retrospectively. Staff should request a waiver at acceptance.

<sup>v</sup> “**Provost**” may be replaced with “President”, “Principal”, “Vice Chancellor” etc. as appropriate.

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<sup>vi</sup> **every consideration:** The waiver addresses concerns authors may have regarding the policy. These include concerns about academic freedom, freedom to accommodate publisher policies, external co-authors with objections to immediate open access, and the like. The university will generally grant waivers but reserves the right to define criteria for conditions under which waiver requests will not be granted (for example when a waiver would put the university under risk of non-compliance with a funder policy).

<sup>vii</sup> **accepted manuscript:** The peer-reviewed version of an article that has been accepted for publication in a journal or conference proceeding. The accepted manuscript is not the same as the typeset or published paper. The Funding Councils require deposit of the accepted manuscript to make an output eligible for the REF.

NISO definition: <http://www.niso.org/publications/rp/RP-8-2008.pdf> (accessed 1 September 2017)

HEFCE: <http://www.hefce.ac.uk/rsrch/oa/faq/#deposit4> (accessed 1 September 2017)

<sup>viii</sup> **First publication:** This policy is intended to align with the HEFCE definition of first publication outlined in section 4.5 of the HEFCE FAQ <http://www.hefce.ac.uk/rsrch/oa/faq/> (accessed 13 October 2017)