



Managing Copyright for Open Access

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The Open Access to Knowledge (OAK) Law Project

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OAK LAW PROJECT REPORT NO. 1

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CREATING A LEGAL FRAMEWORK FOR COPYRIGHT MANAGEMENT OF OPEN ACCESS
WITHIN THE AUSTRALIAN ACADEMIC AND RESEARCH SECTOR

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- **Chapter 5 – Implementation:**
- **A Guide to Developing Open Access Through Your Digital Repository**
 - A practical guide for repository managers to assist in copyright management
 - Contains ‘Repository Deposit Licences: A Guide’ and sample repository deposit licences
- **OAKList**
 - An online, searchable database of information about Publishing Agreements and publisher’s open access policies and practices, accessible by authors, copyright administrators and repository managers in Australia and overseas.



A Guide to Developing Open Access Through Your Digital Repository

A practical guide for repository managers to assist in copyright management





A Guide to Developing Open Access Through Your Digital Repository

Assistance in:

- Explaining open access concepts and terms
- Effectively establishing and managing your repository
- Determining the extent of open access that your repository will provide
- Defining the extent of your obligations in relation to your repository
- Addressing the legal rights of copyright owners, depositors and users of the repository



A Guide to Developing Open Access Through Your Digital Repository

Practical tools:

- Sample Open Access Policy
- Checklists for organising and managing your repository
- List of Australian digital repositories
- Sample Repository Deposit Licence for Publications



Why Should you Have a Digital Repository?

- Enables easy access to scholarly and research material generated by members of your institution
- Stable, long-term archiving of information and research output
- Information is widely and quickly disseminated so that it achieves the highest impact
- Facilitates greater citation of deposited articles and increasing the profile of your institution and contributing authors



Why Have an Open Access Policy?

An Open Access policy:

- Establishes the scope of materials that may be deposited into the repository, and the conditions on which they can be accessed and used
- Sets out the repository's obligations in managing and maintaining the materials that are deposited into it



Sample Open Access Policy and Principles

- We support the principle of open access to and the wide dissemination of knowledge
- We recognise the importance of access to the results of publically funded research
- We believe that sharing work should not be prevented by restrictive laws, practices or contracts
- We support publishing in open access journals and depositing in digital repositories
- We encourage authors to retain copyright where possible



Draws on international statements –

- Bermuda Principles – 1996
- Budapest Open Access Initiative – 2002
- Bethesda Statement on Open Access Publishing – 2003
- Berlin Declaration – 2003
- Statements of research funding organisations such as ARC and NHMRC



Setting up and managing your digital repository

There will be many things to consider, including:

- Who can deposit in your digital repository?
 - Staff
 - Students?
 - Visiting academics?



Setting up and managing your digital repository

- What material may be deposited in your repository?
 - Books and book chapters
 - Journal articles
 - Research papers
 - Conference papers?
 - Data sets?
 - Multimedia objects?



Setting up and managing your digital repository

- Will deposit be mandatory or voluntary?
- Will you always require the full text of the material to be deposited, or will you accept abstracts only?
- At what “stage” must the material be at?
 - Pre-print
 - Post-print
 - Publisher’s version



Setting up and managing your digital repository

- What format will the material take (e.g. PDF)?
- What other requirements or restrictions may be imposed?
- What metadata records will you require to be submitted?



Copyright Issues

- Where copyright is assigned to a publisher or other party
- Where third party material is included in a submission

- Permission must be obtained from the copyright owner to:
 - Deposit the submission in the repository
 - Grant to the repository the right to allow end-users to access and reuse the submission (this can be subject to some restrictions)



Copyright Issues

If depositor does not own copyright or has permission to deposit:

- Material cannot be deposited at all; or
- Material cannot be deposited in full; or
- Material may still be deposited, but access will be restricted (usually in the case of embargo periods).



Repository Deposit Licence

- Depositors must enter into a Repository Deposit Licence before depositing material into repository
- Defines what repository can and cannot do with material
- Informs authors about the purpose of the repository
- Reassures authors that repository does not take copyright ownership in deposited material
- Establishes legal relationship between repository and depositors



Establishing a legal relationship - power to enter into the Repository Deposit Licence

Depositors must:

- own copyright or be authorised by the copyright owner (which may be the publisher) to deposit the material into the digital repository and
- have the authority to grant to the repository the rights necessary to make the material available for access by end users in the digital repository



Establishing a legal relationship - power to enter into the Repository Deposit Licence

Repository managers should:

- be very careful about checking that authors actually do have permission to deposit their material in the repository and enter into a Repository Deposit Licence
- encourage authors to be more proactive in asserting their rights when dealing with publishers



What can authors do to assert their rights?

- Where possible, resist assigning copyright to a publisher
- Publish in an open access journal
- Obtain a licence from the publisher to allow depositing of the material into a repository



End-Users

- Who should have access to your repository?
 - General public
 - Anyone within the institution (e.g. all staff and students)
 - A select group within the institution
 - Only people “signed up” to the repository, which may include people from other approved institutions



End-Users

- What will be the scope of the end-user's access?
 - The same access rights apply to all material in the repository and to all end-users
 - Some material will be widely accessible to end-users, but access to other material will be limited depending on the status of the end-user
 - The scope of access to the material will be decided in agreement with the depositor.



End-Users

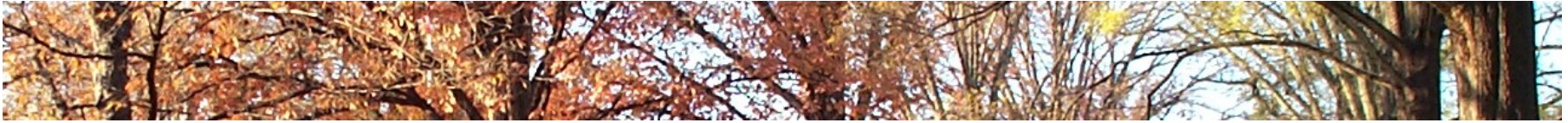
- What rights may be given to end-users?

For example:

- View and use deposited material for specified (limited) purposes
- View, use, and further distribute deposited material (usually non-commercially)

- How are these rights granted?

- Author to repository to end-user – governed by the Repository Deposit Licence
- Author direct to end-user – governed by an Author Distribution Agreement (one example is a Creative Commons licence)



Author to End-User:

- The author licenses directly to end-users under an Author Distribution Agreement
- The author must be the copyright owner or have permission from the copyright owner to grant the licence
- The terms of the licence to end-users must be consistent with the copyright owner's permission
- The repository merely makes the material available to end-users

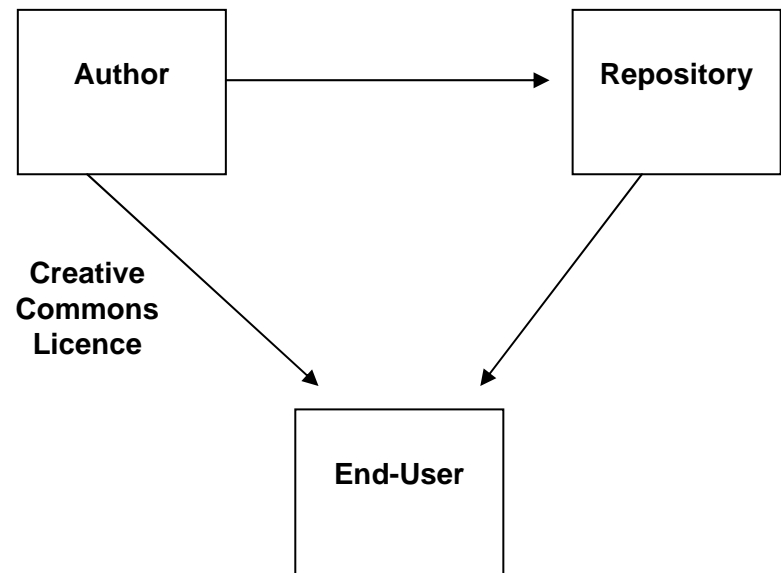




Creative Commons Licence

A licence which allows open access to material but which may impose restrictions on how that material is used:

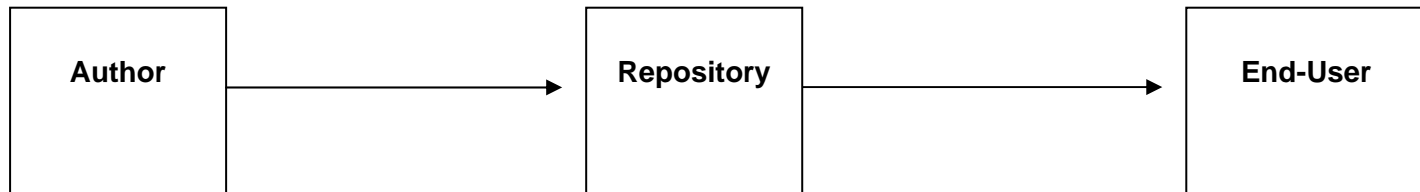
- Non- Commercial
- No Derivatives
- Share Alike





Author to Repository; Repository to End-User:

- The author gives a licence to the repository to make the material available in the digital repository and to licence the material to end-users
- The author must be the copyright owner or have permission from the copyright owner to grant these rights to the repository
- The repository licenses the material to end-users on terms consistent with the author's grant of rights.
- The repository may attach a Creative Commons licence to the material, if this is within the scope of the rights granted to the repository





Technical Considerations

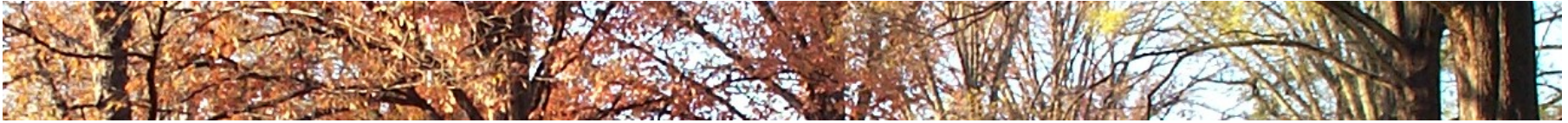
- What software package do I use?
- Managing the repository:
 - Technical maintenance of the repository
 - Assisting authors to deposit their work into the repository
 - Helping authors convert their files to PDF or other accepted digital formats
 - Checking that documents are uploaded to the repository correctly
 - Checking (or even entering) metadata
 - Performing copyright checks
 - Removing any unauthorised material for the repository
 - Helping end-users access material in the repository



Advocacy

- Making authors aware of the repository and your Open Access Policy
 - Seminars; hand outs; engaging with academics

- Addressing authors' concerns:
 - Concerns about the repository itself
 - Concerns about their copyright and other rights
 - Concerns about the deposit process



Overview - Management Frameworks

Defining the limits, including:

- Depositors – who can and cannot deposit and what authority the repository has to compel deposit
- Material – what should and should not be included in the repository, the appropriate format of material, and whether material should be peer reviewed
- Access rights – who can have access to the repository and what they can do with the material they have accessed
- Metadata – what metadata fields are necessary to ensure that material is searchable and that a record is retained of the material in the event that it must be removed from the repository for copyright or other reasons. There should also be in place a system for checking the accuracy of metadata entered by depositors



Overview – Legal Frameworks

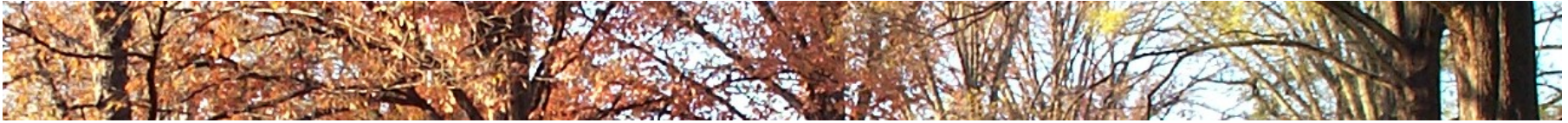
Establishing the legal rights, including:

- Ensuring depositors have necessary rights to deposit material into repository
- Implementing a comprehensive Repository Deposit Licence
- Considering the access rights that are granted to end-users and ensuring that these are consistent with the rights granted by the author in the Repository Deposit Licence
- Providing facilities to authors to place Creative Commons licences, or other end-user licences, on their work (with permission from the copyright owner where necessary)



Repository Deposit Licences : A Guide

- **A further short guide which explains the importance of having a Repository Deposit licence**
- **Provides a range of options for determining scope and application of Repository Deposit Licence**
- **Structuring the Deposit Licence**
- **Criteria for Depositing material into repository**
- **End- User Access Rights**
- **Licensing Options:**
 - **Repository Distribution (End-User) Agreements**
 - **Author Distribution Agreement – Creative Commons Licences**



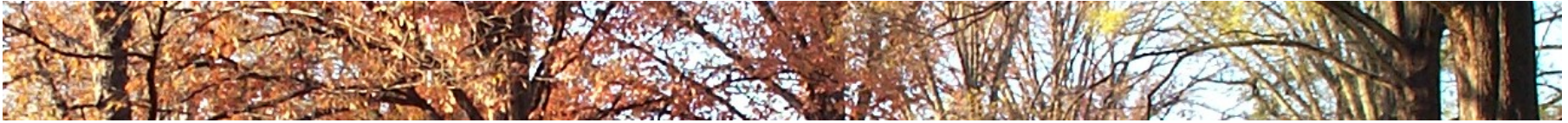
****Some Aspects of the Sample Repository Deposit Licence**

- **Depositors Rights – not transfer copyright to the repository**
- **Right to use current and future versions**
- **Reassurance to publishers that published version is recognised and cited**
- **Depositor declaration of copyright ownership or permission from copyright owner to deposit material into the repository**
- **Grant of rights to the repository – non-exclusive right to reproduce material for the purposes of making material available to end-users through the repository**
- **End- User access Rights - what rights an End-User has to use and deal with the deposited material. For example:**
 - **View and Use for a Specified Purpose**
 - **View , Use and further Distribute (usually Non-Commercially)**



OAK Law Sample Repository Deposit Licence for Publication

- **Comprehensive Licence Agreement**
- **Designed for Academics to deposit work into Digital Repositories**
- **Covers issues such as Ownership, Depositor's Rights, Moral Rights and the Rights of End-Users**
- **Intended to be used as an online digital document**
- **Accompanying notes that explains the use and effect of major licence clauses in Plain English**
- **Optional Clauses – can be used or deleted as you choose**
- **Allows End-User Agreements to be attached**
- **Six Creative Commons Licence Options to choose from**



The OAKList was Brought to Life on 7 February 2008

The screenshot shows the OAKList website interface. At the top, there is a navigation bar with the GUT logo (Queensland University of Technology, Brisbane Australia) on the left and the Faculty of Law logo on the right. Below the navigation bar is a search bar and a 'Contact us' link. The main content area is divided into several sections:

- OAKList Database:** A search box with the text 'Search the OAKList databases.' Below it are options for 'Search For' (Publishers, Publications), 'Order By' (Record Name), and a 'Search the OAKList' button.
- Browse by Record Colour:** A section with radio buttons for 'All', 'Green', 'Blue', 'Yellow', and 'White', and links for 'What the colours mean' and 'How to search the OAKList'.
- News and Events:** A section with three news items: 'Methodology report now available', 'University of Wollongong (Legal Intersections Research Centre) has been updated with new information', and 'Monash University, School of Languages, Cultures & Linguistics has been updated with new information.' A fourth item, 'Media International Australia has been updated with new information.', is partially visible.
- About OAKList:** A section with links for 'Contact', 'OAKList Team', 'Background/history', and 'Our Mission'.
- Guides to Open Access Publishing:** A section with three sub-sections: 'Authors' (contains information on open access repositories and publishing), 'Publishers' (contains information on open access and publishing models), and 'Repositories' (contains information on establishing and managing an open access repository).
- Resources:** A section with links for 'OAK Law Project', 'SHERPA', and 'SURF'.
- Quicklinks:** A section with links for 'Creative Commons', 'Open Access Journals', 'Peter Suber's Blog', 'Ulrichs Periodicals', and 'Australian Repository Links'.

At the bottom of the page, there is a footer with the text 'Funded by Australian Government Department of Education, Employment and Workplace Relations'. On the left side of the footer, there are links for 'About OAKList', 'Guides to Open Access Publishing', 'Australian Repository Links', 'GUT Home', 'OAKList Home', 'OAKList Admin', 'OAKList API', and 'CRICOS No. 00213J'. On the right side of the footer, there are links for 'Privacy', 'Copyright', 'Accessibility', 'Last modified 12-Feb-2008', 'Contact us', 'Feedback', and 'Disclaimer'.

www.oaklist.qut.edu.au



Queensland University of Technology

The OAK Law Project
www.oaklaw.qut.edu.au

CRICOS No. 000213J



The Open Access and Research Conference

24-26 September 2008

Stamford Plaza, Brisbane

Alma Swan

John Wilbanks

Tony Hey

www.oar2008.qut.edu.au





- Our thanks to Kylie Pappalardo who assisted with the preparation of this presentation.
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