RQF and Copyright

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Disclaimers

- I am not a lawyer
- I am not a researcher
- I do not work for DEST
- This is a mixed audience – content has been pitched appropriately

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Introduction

- A cautionary tale about the HERDC.

- What was the right answer and why?
  - Yes
  - No
  - Yes, but …

- Are we back there now with the RQF?
Summary

- Research repositories – what are they?
  - open access
  - other purposes

- RQF – how is this different? or not?
  - RQF and repositories – what is required?
  - RQF and repositories – what are the issues?
  - What is being done with regard to RQF-focused research repositories? - OAK Law, ARROW, DEST

- Managing risks

- Summary: how to stay nice in a troubled world
Research repositories

What is an institutional research repository?

- Database of research publications & other outputs
- Institutional focus and management
- Online, content very findable
- Some rules to achieve interoperability, open standards
- Full text content, and full open access where possible
- Structured information (metadata) about the documents
- Longish-term plans, and permanent URLs
- Links to other research management systems
Research repositories – why?

- A repository of any kind is all about **access** (now and in the future)

- Originally about **open access**: see the American Scientist Open Access Forum – Stevan Harnad and many others

- But there are many purposes
  - Resource discovery
  - Dissemination of research widely
  - Research evaluation and assessment
  - Institutional and personal impact
  - Information asset management by institutions
  - Process improvements – store once, use many times
RQF – what will be required?

- Use of repositories to support RQF is one of many purposes.
- DEST rules and requirements are still evolving.
- Repositories must hold the 4 selected works of each group member and be able to deliver to panels within 4 days.
- Holding the whole “body of work” – a competitive advantage?
- Repositories: a single location for full text research outputs.
- There will be funding through the ASHER program:
  - “... to place their research outputs, including journal articles and less traditional outputs such as digitised artworks or x-ray crystallography images in an accessible digital store for RQF assessment.”
  - to migrate research outputs.
What are the issues?

- Published and unpublished work
- Copyright in research outputs
- Versions
- Funny research outputs
- Issues relating to access – copyright and contractual
- RQF and HERDC – battle of acronyms
Published and unpublished

- A spectrum between published and unpublished – from very published to very unpublished (i.e. a bottom drawer)

- In copyright terms, published means “supplied (whether by sale or otherwise) to the public;”

- Problem of embedded third party copyright material.

- Examples (a) Published: journals, commercial printed books, some conference papers, and (b) Unpublished: theses, some conference papers

- Online, unpublished works may be MORE accessible

- As material moves online, unpublished material is dying out.
Copyright in research outputs

- Who owns copyright – author, publisher, employer?
- OAK Law Report has a detailed analysis (ch.5)
- With journals, we assume copyright is given away – but how do we know? How does the author know?
- We need publisher agreements which provide for inclusion in repositories.
- How will a repository help us? What information do we need to input? Where?
- University copyright policies mostly don’t claim rights to publications
- Conferences have issues too – most often uncertainty
Legal relationships

The OAK Law Report treats these relationships:

A. Funder — author/research institution

B. Author — employer

C. Author — publisher: the relationship can be seen as a continuum with various options

D. Author (or copyright owner) — institutional repository

E. Institutional repository — end users

F. Copyright collecting society — institutional repository and end users
Versions

- Version both a copyright and owner permission issue

- What versions?
  - Publisher final formatted version
  - Author’s final accepted draft
  - Link such as a DOI to publisher version
  - Preprint / author’s earlier draft

- Copyright is unlikely to be divisible

- Which version required for the RQF?
  - Important not to be prescriptive – a local decision
Funny research outputs

i.e. not published, refereed articles, or books; e.g.

- Artworks (which will be copies)
- Confidential commercial research reports
- Performances (which will be copies in a quite different format)
- Journalism
- Research data

File formats may be an issue.
HERDC and RQF – battle of acronyms

- Answer to the question in slide 2

- What we do for the HERDC process

- Are we back there?

- What we will do for the RQF

- Issues
  - We already create photocopies of full text + evidence
  - We will now create machine-readable copies
  - Access is the real issue

- We are doing similar things – how is copyright different?

- Or is it distribution that is different?
All about access

Means of access? There are layers of access which a repository may choose to provide:

- Full text final version taken from the published journal
- DOI link to the licensed final published version
- Version for which publisher permission is available; e.g. author final draft

For whom? – access must be provided for RQF assessment panels to relevant material

To what? – at least the four selected works for each researcher

Under what conditions?
What is being done

Or, don’t reinvent the wheel. Answers and guidance are being developed (this isn’t it) by the following.

- OAK Law Project – wide range of resources and advice on the legal aspects of repositories.
- ARROW (with OAK Law) – workflows for incorporation of unpublished works into repositories.
- DEST – advice to universities on establishment and management of repositories.
What is being done – OAK Law plans

- Development of model agreements – e.g. author-publisher
- Review of policies and practices – university employment contracts and IP policies, funding bodies’ policies.
- Tools and checklists to help research students manage copyright
- Work on updating and complementing the SHERPA list of publisher conditions / author rights & negotiate with publishers
- Surveys where there is missing information
- Other documents: disclaimers, take-down procedures, repository policies.

See http://www.oaklaw.qut.edu.au
What is being done – ARROW

■ ARROW repository management workflows project
   (unpublished works)

■ Jointly with OAK Law Project

■ Goals

  □ Analyse practice in managing unpublished material

  □ Develop guidelines for repository managers

  □ Contribute to an influence practice

  □ Draw on the ARROW usability analysis project – understanding users and their environment
What is being done – DEST

DEST is doing this in relation to copyright

- Will provide formal business specifications for universities submitting to the RQF
- Will providing program guidelines for ASHER (Australian Scheme for Higher Education Repositories) and the IAP (implementation Assistance Program)
- Will provide some general advice on managing copyright
- The OAK Law project is DEST-funded is part of a strategy to create a relevant copyright environment.
Managing risk

1) Seek permission or clarification from publisher copyright owners – negotiate with them if there is lack of clarity or an unsatisfactory response – being done through OAK Law

2) Ensure that author copyright owners make clear and informed warranties; training for researchers in copyright options.

3) Define terms carefully e.g. final publisher version, final author’s draft, author’s submitted version

4) Work together and where possible take approaches which have been either canvassed extensively or agreed within the sector. The OAK Law and other SII projects will assist.

5) Follow a good flow chart / work procedure which is clear – being developed by ARROW and OAK Law.
More risk management

6) Disclaimers: a clear statement about the status of items in the repository.

7) Take down notices and procedures – follow the terms set out in the safe harbour legislation Part V Division 2AA even though it does not specifically apply to universities.

8) Promote open licences where they are relevant, such as Creative Commons licences.

9) Ensure that use of copyright material is for a narrowly-defined and limited purpose that does not impinge on the interests of the copyright owner.

10) Seek further amendment of the copyright Act – e.g. along the lines of the new Section 200AB – perhaps a simple amendment adding the words “research or” to section 200AB(3)(b)!
Last word for Stevan Harnad

- Taking research out of the bottom drawer.
- Drawn by Judith Economos to illustrate Stevan Harnad’s award-winning poem, Publish or Perish.