Recently, research institutions have been taking more of an interest in rights over scholarly works than in the past. Partly, this has been driven by an agenda from governments that encourages institutions to pay greater attention to intellectual property and ownership of outputs. Open Access has, however, also influenced this area.

Institutional managers developing Open Access policies need to find ways of dealing with the copyright issue, primarily because when copyright has been assigned in full to publishers the fate of the work is thereafter outside the control of both the creator and the creator's institution. Where publishers do not permit self-archiving, the work must remain accessible only through a toll and this conflicts with the core academic value of the sharing of knowledge.

As well as authors deciding to retain copyright in their own work, institutions are also beginning to assert some rights, or at least to require their researchers to assign to the institution the right to make a work public on an Open Access basis. If this agreement between institution and researcher pre-dates the creation and publication of the work, the publisher does not have the means to prevent Open Access by self-archiving.

One example of such an agreement is the recent Open Access policy from MIT. Within the wording of the policy is this clause:

"Each Faculty member grants to the Massachusetts Institute of Technology nonexclusive permission to make available his or her scholarly articles and to exercise the copyright in those articles for the purpose of open dissemination. In legal terms, each Faculty member grants to MIT a nonexclusive, irrevocable, paid-up, worldwide license to exercise any and all rights under copyright relating to each of his or her scholarly articles, in any medium, provided that the articles are not sold for a profit, and to authorize others to do the same. The policy will apply to all scholarly articles written while the person is a member of the Faculty except for any articles completed before the adoption of this policy and any articles for which the Faculty member entered into an incompatible licensing or assignment agreement before the adoption of this policy."

There are a number of such policies already extant, particularly in US institutions, and most of the recently-announced institutional policies have been of this type. It is likely that this 'institutional non-exclusive licence' form will become the norm for institutional policies in future.
This is important for three stakeholder groups. Institutions planning an Open Access policy may find this a helpful approach since it obviates at a stroke one of the major author concerns about self-archiving ("Does my publisher allow me to do this?"). Faculty members acting together to introduce 'ground roots' Open Access policies, such as those that have emerged in recent months from certain faculties at Harvard, Stanford, Oregon State University, the University of Oregon, and from across the whole institution at MIT, may find this formula the best one for their purposes, too. And publishers will need to monitor such policies because authors from institutions with these policies will be coming to them with manuscripts that have prior assignment of self-archiving rights.