SECTION 8

STUDENT DISCIPLINARY PROCEDURE

Students are advised to seek impartial help, advice, guidance and support from sabbatical officers in the Students’ Union and Students’ Union Advice Centre.

Definitions

In this Section 8, the following words and phrases will have the following meanings:

8A Disciplinary Panel means the panel convened to hear complaints referred under the procedure set out at paragraph 3.6, the membership of which shall consist of:

- The Pro Vice-Chancellor (Teaching and Learning) or nominee (who shall be the Chair);
- A sabbatical officer of the Students’ Union;
- The Head of Registry

8B Restriction means selective restriction on attendance at placement, lectures or access to other areas of the University; or prohibition on exercising the functions or duties of any office or committee membership in the University, the exact details to be specified in writing. An order of Restriction may include a requirement that the student should have no contact of any kind with a named person or persons.

8C School AMD Panel means the panel convened to hear complaints referred under the School Attendance Monitoring Disciplinary Procedure set out at paragraph 11, the membership of which shall consist of:

- One member of staff from the School (who shall be the Chair); and
- A sabbatical officer from the Students’ Union;

A note taker will also be present at a meeting of the School AMD Panel; they are not a member of the Panel and should not ask any questions of the student or Panel unless it is for the purpose of clarifying the notes.

8D Suspension means a total prohibition on attendance at or access to the University and on any participation in University activities, but it may be subject to qualification, such as permission to attend for the purpose of an examination. An order of Suspension may include a requirement that the student should have no contact of any kind with a named person or persons. Suspension shall be used only where Restriction would be inadequate.

1 INTRODUCTION

1.1 These procedures have been approved by the University Council in accordance with the provisions of the Articles of Government.

1.2 These procedures will be invoked for dealing with formal complaints about those areas of student behaviour that fall outside the scope of other procedures which cover the use of the University’s computing and library facilities, Fitness to Practise and Academic Integrity. Details of these other procedures can be found at: http://www.hud.ac.uk/regs/.
1.3 The University shall have the right to investigate any allegation of misconduct against a student, and may take disciplinary action where it decides, on the balance of probabilities, that an act of misconduct has been committed. In the event of an allegation being proved after a student has been awarded credit or graduated, any credit, degree or other award of the University that is held by the student may be revoked by the Disciplinary Panel.

1.4 The existence of these procedures is not intended to discourage the practice of dealing with less serious complaints informally by the Dean at School level.

1.5 The University expects its students to behave responsibly. Actions which constitute improper interference, in the broadest sense, with the proper functioning or activities of the University or with those who work or study in it and actions which otherwise damage the University may be deemed misconduct under these procedures.

1.6 The University works closely with external bodies to explain the benefits the University brings to the area and to promote the good name of the University. Students living in the community are subject to the various statutory and legal requirements that protect society as a whole. The University will not tolerate anti-social behaviour. If a student is found to have acted in an anti-social manner, whether or not on University property, the University reserves the right to take action if it reasonably believes that the student may have damaged the reputation of the University.

1.7 Social media is widely used for both socialising and work purposes. Care must be taken not to cause offence or distress when making comments about staff, students or other individuals external to the University. The University has a Social Media Policy and will take disciplinary action as appropriate. Students on courses leading to professional qualifications should be aware of and abide by the requirements of their respective Codes of Conduct, both in respect of use of social media and generally.

1.8 The following are examples of behaviour that may constitute misconduct. This is not an exhaustive list:

a. disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the University, whether on University premises or elsewhere;

b. improper interference with the functions, duties or activities of any student or member of staff of the University or of any authorised visitor to the University;

c. violent, indecent, disorderly, threatening or offensive behaviour whilst on or external to University premises or engaged in any University activity;

d. fraud, deceit, deception or dishonesty in relation to the University or its staff or in connection with holding any office in the University, in the Students’ Union or in relation to being a student of the University;

e. breach of professional conduct;
f. action likely to cause injury, impair safety or raise false alarm on University premises;

g. sexual, homophobic, racial or other unlawful harassment of any student or member of staff of the University, or of any authorised visitor to the University;

h. breach of the Regulations which students accept as a condition of enrolment;

i. damage to, or defacement of University property or the property of other members of the University community caused intentionally or recklessly, and theft or misappropriation of such property;

j. placing posters, signs or notices on any surface other than where authorised to do so in accordance with University policy;

k. Misuse of a Student ID card issued at enrolment or upon request. This includes passing to or exchanging ID cards with another student or persons external to the University.

l. dropping litter of any description on University premises whether inside or outside buildings or smoking in unauthorised areas;

m. misuse or unauthorised use of University premises or items of property;

n. breach of the University’s Social Media Policy;

o. the submission of a complaint found to be frivolous, vexatious or motivated by malice;

p. behaviour which renders the student unfit to practise any particular profession to which that student’s course of study leads directly (see Fitness to Practise policy and procedure);

q. conduct which may be regarded as a breach of the criminal law where that conduct:

i. took place on University premises, or

ii. affected or concerned other members of the University, or

iii. damages the good name of the University, or

iv. itself constitutes misconduct within the terms of these procedures, or

v. is an offence of dishonesty, where the student holds an office of responsibility in the University;

r. behaviour which, in the reasonable opinion of the University, brings the University into disrepute;

s. failure to disclose name and registration details to an officer or employee of the University in circumstances when it is reasonable to require that such information be given;
t. failure to comply with a previously imposed penalty or instruction under these procedures or any other University procedure.

1.9 Where there is a breach of the University’s Attendance Monitoring Policy the School will invoke the Attendance Monitoring Disciplinary Procedure which can be found at the end of this section and http://www.hud.ac.uk/regs/.

1.10 The University reserves the right to continue under these procedures notwithstanding the instigation of criminal proceedings. In cases where it is considered that the alleged misconduct would also constitute a serious offence under the criminal law (i.e. one that is likely to attract an immediate custodial sentence if proved in a court of law), the Pro Vice-Chancellor (Teaching and Learning) may in his absolute discretion determine that no action (other than Suspension or Restriction) may be taken under these procedures pending any criminal investigation or prosecution.

1.11 Acquittal or discontinuance of criminal proceedings shall not preclude the University from continuing disciplinary action in respect of the alleged misconduct.

1.12 Where a finding of inappropriate conduct is made and the student has already been sentenced by a criminal court in respect of the same facts, the court’s penalty may be taken into account in determining the penalty under these procedures.

1.13 The Pro Vice-Chancellor (Teaching and Learning) may delegate his or her powers under these procedures to a nominee either generally or in respect of a particular case.

2. SUBMISSION OF COMPLAINTS OF MISCONDUCT

2.1 Complaints of misconduct, either by one student against another or by a member of staff against a student, should wherever possible be dealt with informally by the School and in consultation with the persons concerned.

2.2 A formal complaint about behaviour of the kind described in 1.8 above may be made by any member of the University or person(s) responsible for a professional practice placement. The complaint must be made in writing and must be lodged with the Dean of the School which administers the course on which the student who is the subject of the complaint is enrolled.

3. PROCEDURES FOR DEALING WITH COMPLAINTS OF MISCONDUCT

3.1 The Dean in receipt of a complaint may decide that informal procedures ought to be followed in the first instance and may rule that the complaint be dealt with accordingly.

3.2 In order to establish and record facts:

a. which may be relevant to a decision as to whether or not the formal procedure should be followed; or
b. which may assist the application of an appropriate sanction under paragraphs 3.3 or 3.4;
the Dean will refer the case for investigation by a member of Registry staff who has no previous involvement with the case. Where the complaint involves breach of professional conduct, the Dean will refer the case for consideration under the Fitness to Practise procedure.

The investigator will meet with the complainant, the student and any other persons pertinent to the investigation. Where the complaint relates to a placement or work place matter, the investigator will not meet with service users or patients. A report will be prepared and submitted to the Dean and Head of Department normally within 10 working days. If there is to be any delay in completing the investigation and/or submitting the report, the student must be advised in writing (not via email) by the investigator.

3.3 On receipt of the report and having sought advice from the Head of Registry, if the Dean considers that the complaint should be upheld, but that due to its relatively minor nature, referral to the Disciplinary Panel pursuant to paragraph 3.4 below is not required, the Dean may exercise discretion to apply one or more of the following sanctions:

a. a formal written warning;
b. a restriction notice;
c. a suspension of no more than 2 weeks;
d. a fine of up to £250 or;
e. Attendance at the University’s Attendance Awareness Course

The Dean will advise the student in writing of his/her decision within 10 working days from receipt of the investigator’s report. The student may apply for leave to appeal the sanction imposed by the Dean. Such appeals must be made in writing to the Head of Registry not later than 10 working days from the date of the Dean’s letter to the student. Leave to appeal will only be granted if:

a. the student can demonstrate a material irregularity has occurred; or
b. the student presents Extenuating Circumstances which for very good reason could not be presented during the process outlined at 3.2 above.

Disagreement with the severity of the sanction imposed by the Dean will not of itself constitute grounds for appeal. If leave to appeal is granted, the student will be invited to a formal Disciplinary Panel and will follow the procedure as laid out in section 8 paragraphs 8 to 8.7

3.4 Where the Dean, having received the report referred to in paragraph 3.2 above and having received advice from Registry, considers that the matter should be referred to the Disciplinary Panel, the complaint must be referred to the Pro Vice-Chancellor (Teaching and Learning) and to the Head of Registry and the procedure set out at paragraph 3.6 will be followed. In reaching his/her decision, the Dean should have regard to, amongst other considerations, the complexity of the matter, and whether, should the complaint be upheld, an appropriate sanction might exceed the scope of the sanctions authorised to be applied by the Dean under paragraph 3.2. Such additional sanctions could include exclusion.
3.5 In determining whether alleged misconduct should be dealt with under the provisions of 3.3 or 3.4 above, the Dean may take advice from the University Solicitor.

3.6 Following referral of the complaint to the Pro Vice-Chancellor (Teaching and Learning) and the Head of Registry under paragraph 3.4, a Disciplinary Panel will be convened and will normally meet within 20 working days of receipt of the complaint in Registry. The student will be supplied with a copy of the complaint and will be entitled to appear before the Disciplinary Panel accompanied by one other person as a supporter, normally a member of the University community or the Students’ Union Advisory Service. A supporter will not normally act as an advocate. Notification of the date of the Disciplinary Panel will be forwarded to the student at least 10 working days in advance of the meeting. The student must ensure that any additional evidence or mitigation is delivered to the Head of Registry at least five working days before the Disciplinary Panel meets. This date will be indicated on all letters to students.

4. RESTRICTION AND SUSPENSION PENDING A HEARING

4.1 A student who is the subject of a complaint of misconduct; or against whom a criminal charge is pending; or who is the subject of police investigation, may be suspended or restricted by the Pro Vice-Chancellor (Teaching and Learning) or deputy acting under the delegated authority of the Vice-Chancellor and pending the Disciplinary Panel hearing or the trial.

4.2 Written requests for such action must be made by the Dean in writing to the Head of Registry.

4.3 When the Pro Vice-Chancellor has delegated the power under this section, a full report shall be made to the Vice-Chancellor of any Restriction or Suspension under this section.

4.4 Restriction or Suspension pending a hearing shall not be used as a penalty. The power to restrict or suspend under this provision is to protect the members of the University community in general or a particular member or members and the power shall be used only where the Pro Vice-Chancellor or deputy is of the opinion that it is urgent and necessary to take such action. Written reasons for the decision shall be recorded and made available to the student.

4.5 Where a student is restricted or suspended he or she will be advised of his/her right to make representations in writing to the Vice-Chancellor.

4.6 In cases of great urgency, the Pro Vice-Chancellor or deputy shall be empowered to suspend a student with immediate effect, provided that the opportunities mentioned in 4.5 above are given and the matter reviewed within 10 working days.

4.7 A decision to restrict or suspend from academic activities associated with the student’s course of study shall be subject to review, at the request of the student, where it has continued for 10 working days. Such a review will not involve a hearing or submissions made in person, but the student shall be entitled to submit written representations. The review will be conducted by the Deputy Vice-Chancellor where the decision to suspend or restrict has been made by someone
else, and by the Vice-Chancellor where the decision has been made by the Deputy Vice-Chancellor.

4.8 The Pro Vice-Chancellor or other person who took the original decision shall review the Suspension or Restriction every 10 working days in the light of any developments, and of any representations made by the student or anyone else on his or her behalf.

5 **WITNESS STATEMENTS**

5.1 If the student wishes to supply witness statements, it is the responsibility of the student to supply the witness statements and to ensure that any witnesses are informed of the date of the Disciplinary Panel hearing and that they are available to attend. The student should also inform Registry of any witnesses he/she wishes to call. Where appropriate, students should be advised that the names of service users or any other means of identifying service users should not be included in their statement or those of their witnesses. Any details identified in documents received from the student will be removed prior to the Disciplinary Panel hearing. Vulnerable persons will not normally be asked to produce statements or attend the Disciplinary Panel hearing. For example, students who fear intimidation, harassment or other reasonable fear of reprisal may request via Registry that their names and addresses be removed from any statements provided to the Disciplinary Panel hearing and to the student.

5.2 The evidence provided to tribunals may be oral or in writing. It is expected that anyone wishing their evidence to be heard would attend a tribunal. In the event that a person having provided evidence does not wish to attend a tribunal, any statement submitted must be signed and dated. In these circumstances tribunals must give due consideration to the fact that the witness has not been present to respond to questioning.

6 **ATTENDANCE AT DISCIPLINARY PANEL HEARINGS**

6.1 If a student has indicated that they are attending but is prevented from doing so for good reason, which can be evidenced, and the student advises the Head of Registry before the meeting, the hearing will be deferred to a later date.

6.2 If the student has indicated that they are attending but fails to attend and does not inform the Head of Registry prior to the hearing, the hearing will go ahead and a decision will be reached based on the information available to the Disciplinary Panel.

6.3 If a student has indicated that they are not attending, the hearing will go ahead in absentia and a decision will be reached on the basis of information available to the panel.

6.4 If a student fails to confirm attendance and all attempts to contact the student have failed, the hearing will go ahead and a decision will be reached based on the information available to the Disciplinary Panel. Attempts to contact the student will be recorded on ASIS/WISDOM, copy letters will be held on file and receipts for recorded delivery letters will be requested.
6.5 A student who does not attend the hearing without good reason waives the right of appeal.

6.6 Students who have been asked to attend a Disciplinary Panel hearing and who withdraw from the course before the date of the hearing will not be allowed to return to any University course until the hearing has taken place and the outcome is known. Any references provided about the student will record that a disciplinary hearing is outstanding.

7 STUDENTS WITH HEALTH RELATED ISSUES

7.1 If at the initiation of an interview with a student under paragraph 3.2, or at a Disciplinary Panel hearing, it appears that the student may be experiencing health difficulties that materially affect their behaviour and/or judgement, then the Student Services Wellbeing Team should be consulted by the student. It is the student’s responsibility to ensure that s/he is properly supported throughout the process and that the misconduct procedure is informed by a clear understanding of the significance of the student's health for the allegation being considered. The School and Registry are not normally obliged to contact Student Services on behalf of the student unless they believe that the student may be at risk of harm to themselves or others.

7.2 If a student is to be Restricted or Suspended pending a School investigation or Disciplinary Panel hearing and the University has actual knowledge that the student has health related issues, the student must be directed to the Student Services Wellbeing Team. The School and Registry are not normally obliged to contact Student Services on behalf of the student unless they believe that the student may be at risk of harm to themselves or others.

7.3 In all cases reasonable adjustments should be made to take into account the student’s health or known disability. This may include:
   a. additional support at any meetings/tribunals for example, a signer, note taker;
   b. tribunals may need to take place with the student being given a break of at least 15 minutes in between school, student and witness representations;
   c. adjournment of tribunals to another date.

8 OUTCOMES OF DISCIPLINARY PANEL HEARINGS

8.1 If the allegation made against the student is upheld or upheld in part by the Disciplinary Panel, the Disciplinary Panel may apply one or more of the following sanctions:
   a. final written warning;
   b. Suspension, for a period to be determined by the Disciplinary Panel;
   c. Suspension, for a period to be determined by the Disciplinary Panel and with conditions imposed on the student and with which the student must engage prior to return to study;
   d. fine of up to £500;
   e. Attendance at the University delivered Attendance Awareness Course
9  CONDUCT OF DISCIPLINARY PANEL HEARINGS

9.1 All parties to the Disciplinary Panel hearing procedure shall ensure that confidentiality is maintained throughout and after the proceedings. The student must receive all the documentation that will be considered at the hearing at least 10 working days prior to the date of the hearing to give the student time to consult with a supporter.

9.2 The meeting must include the Panel as provided in paragraph 7A what? Other attendees will include:

   a. the student;
   b. if required by the student, the student’s supporter who will not normally act as an advocate;
   c. the investigator and/or the complainant, normally the Head of Department or Dean;
   d. witnesses for the School or the student; and
   e. the note taker.

9.3 The Chair shall ensure that all parties are given at least 10 working days’ notice of the date of the Disciplinary Panel hearing. The agenda and notice of the Disciplinary Panel hearing which must be sent to all parties shall include:

   a. details of the membership of the Disciplinary Panel, who the other attendees will be and in what capacity they are attending;
   b. details of the alleged misconduct;
   c. a summary of the events thus far from the School;
   d. minutes of relevant meetings undertaken as part of the School’s investigation and copies of relevant evidence;
   e. any statements submitted by either party including witness statements;
   f. the procedures that will apply at the Disciplinary Panel hearing and the student’s rights under this procedure.

9.4 The student has the right:

   a. to attend the Disciplinary Panel hearing;
   b. to be accompanied by a supporter who will not normally act as an advocate;
   c. to be present whilst evidence is given;
d. to challenge any evidence presented to the Disciplinary Panel;
e. to submit additional evidence at least five working days in advance of the hearing; (tabled evidence will not be accepted);
f. to question those giving evidence;
g. to supply written witness statements to the Panel at least five working days in advance of the hearing; (tabled evidence will not be accepted);
h. to make an oral statement to the Disciplinary Panel.

9.5 Subject to paragraph 7.3 or unless there are good reasons to the contrary (which reasons will be explained to the School and to the student), the tribunal will proceed as follows:

a. Following introductions the Chair will invite the School to present its case.
b. The student and Disciplinary Panel have the opportunity to challenge both the evidence and the allegations brought by the School.
c. Any witnesses for the School are asked to join the hearing and present evidence.
d. The student and Disciplinary Panel have the opportunity to question the School witness.
e. The School witness(es) will leave the hearing.
f. The student is asked to present his/her defence and or mitigation to the Disciplinary Panel.
g. The School and Disciplinary Panel have the opportunity to challenge the student’s statement or mitigation.
h. Any witnesses for the student are asked to join the hearing and present evidence.
i. The School and Disciplinary Panel have the opportunity to question the student’s witnesses.
j. The student’s witness(es) will leave the hearing.
k. The School is asked to summarise the complaint.
l. The student is asked to summarise his/her response.
m. The School representative(s), student and supporter are asked to leave the hearing.

9.6 The Chair, acting under the delegated authority of the Vice-Chancellor, and in consultation with Disciplinary Panel members, will have a private meeting to consider the evidence presented and will inform the parties of its decision in writing within 10 working days. The decision of the hearing will be sent to the student by first class post to their home address, normally within 10 working days from the date of the Disciplinary Panel hearing. In exceptional circumstances, the Disciplinary Panel may adjourn the hearing for no more than 15 working days to obtain additional evidence or clarification.

9.7 In cases where the Disciplinary Panel concludes that the student should be excluded from the University, no further consideration of that student by an Assessment Board may take place. The student may normally retain any credit or award which has been formally conferred by the Assessment Board up to and
including the date of the tribunal, but no further conferment of credit or award may be considered.

10 REQUESTS FOR REVIEW OF DECISIONS REACHED BY DISCIPLINARY PANEL

10.1 A student who has been the subject of a complaint may request a review of a decision reached by the Disciplinary Panel. Such a request must rest on the grounds either that there is evidence to show that the Disciplinary Panel was not conducted fairly or that there is new material evidence which ought to be taken into account, that for good reason could not have been divulged before the hearing. A request for a review of a decision reached by the Disciplinary Panel must be made in writing to the Vice-Chancellor within 20 working days from the date of the Disciplinary Panel hearing.

10.2 Disagreement with the severity of a sanction imposed by a Disciplinary Panel will not of itself constitute grounds for a review.

10.3 Following receipt of a request for a review of a decision of the Disciplinary Panel, the Vice-Chancellor (or his delegate) will conduct such enquiries as seem appropriate and will determine within 20 working days whether the request will be upheld. Where a request is upheld, the Disciplinary Panel will be advised of the grounds on which this has been done and will be required to review its decision.

11 SCHOOL ATTENDANCE MONITORING DISCIPLINARY PROCEDURE

11.1 SPOT CHECK DISCIPLINARIES

11.1.1 All Schools will record spot check discrepancies in the Attendance Monitoring Database, via the associated 'flag'. All flagged students will be issued with a standard caution email advising that if it happens again the student will be required to attend a School Attendance Monitoring Disciplinary Panel (AMD) hearing. A record of the email must be kept in the School. If a student proves to the School’s satisfaction that it was an administrative error on the part of the School and that the student had been in attendance, the flag will be removed.

11.1.2 If the student responds to the email stating concerns about the process and disputing his or her absence, the Attendance Monitoring Disciplinary (AMD) Panel responsible staff will ask them if they would like to invoke the appeals procedure and attend a School AMD Panel hearing.

11.1.3 If students are identified as absent from a class register for a second time, having swiped into the class, they will be invited to a School AMD Panel hearing.

11.1.4 If students are identified as absent from a class register for a third time, having swiped into the class and having already attended a School AMD Panel hearing, they will be invited to a University Disciplinary Panel hearing, conducted in accordance with paragraph 9.

11.2 FRAUDULENT ACTIVITY
11.2.1 The following applies to students who are caught by a member of staff swiping into a class and then leaving, swiping in for another student who is not present or signing the register for a student not present. The member of staff or student making the allegation of fraud will provide a brief report to the AMD Panel responsible staff or appointed nominee detailing the situation and how the student(s) was caught.

11.2.2 If following investigation by the School, the student is found to have involved another student in their deception, for example, passing their card to another student to swipe or asking another student to sign the register for them, the student will be referred to a University Disciplinary Panel hearing, conducted in accordance with paragraph 9.

THE SCHOOL AMD PANEL HEARING

11.3 NOTICE OF THE HEARING

11.3.1 Students will be given 10 clear working days' notice of the hearing. The student will be supplied with a copy of the allegation against him/her and will be entitled to appear before the School AMD Panel accompanied by one other person, normally a member of the University community or the Students' Union Advisory Service. A supporter will not normally act as an advocate. The student must ensure that any additional evidence or mitigation is delivered to the School at least five working days before the hearing meets. This date will be indicated on all letters to students. The notice will require the student to confirm his/her attendance and if he/she will be accompanied.

11.4 CONDUCT OF THE HEARING

11.4.1 The School AMD Panel hearing will follow the format as detailed in paragraph 9 (Conduct of Disciplinary Panel hearings).

11.5 OUTCOMES OF SCHOOL PANEL HEARINGS

11.5.1 If the allegation made against the student is upheld or upheld in part the School AMD Panel may apply one or more of the following sanctions:
   a) a written caution;
   b) a fine of £100;
   c) referral to the Pro Vice-Chancellor (Teaching and Learning) and Registry under paragraph 3.4 above.

11.5.2 The decision and notes of the School AMD Panel hearing must be approved by the Panel and the decision letter forwarded to the student via email within 10 working days and the notes of the School AMD Panel hearing forwarded to the student via email within 20 working days.

11.6 REQUESTS FOR REVIEW OF DECISIONS REACHED BY SCHOOL AMD PANEL

11.6.1 A student who has attended a School AMD Panel hearing may request a review of a decision reached by the Panel. Such a request must rest on the grounds either that there is evidence to show that the hearing was not conducted fairly, or that there is new material evidence which ought to be taken into account that, for good
reason, could not have been divulged before the hearing. A request for a review of a decision reached by the School AMD Panel must be made within 20 working days from the date of the hearing and addressed to the Office of the Head of Registry. The Head of Registry, or their delegate, will conduct such enquiries as seem appropriate and will determine within 20 working days whether the request will be upheld.

11.6.2 Disagreement with the severity of a sanction imposed by a School hearing/University hearing will not of itself constitute grounds for a review.

11.6.3 Where a request for a review of a decision of a School AMD Panel is upheld, the School AMD Panel will be notified of the grounds on which this has been done and a University Disciplinary Panel hearing will be convened to review the decision, following the procedure set out at paragraph 3.6 above. The student will be invited to attend the University Disciplinary Panel hearing. The decision of the University Disciplinary Panel made following a request under paragraph 11.7.1 will be final and not subject to further review within the University. Para 11.7.1 doesn’t exist?