

# FUNDACIÓN ACS WHISTLEBLOWER CHANNEL

## OPERATING POLICY

Reference	8_Whistleblower Channel Policy_2_2023
Title of the <i>Regulation</i>	FUNDACIÓN ACS WHISTLEBLOWER CHANNEL OPERATING POLICY
Geographical area	Global
Category	Policy
Proposed approval date	14 December 2023
Approval body	Board of Trustees
Current version	V2

<b>IMPORTANT INFORMATION ABOUT THIS DOCUMENT</b>
--

Document identification	Whistleblower Channel Operating Policy
Reference	8_Whistleblower Channel Policy_2_2023
Geographical scope	Global
Section of other regulations it implements	Code of Conduct
Regulations it replaces	Previous version of the regulation
Regulations it repeals	
Main body responsible for oversight	Compliance Committee
Proposing body or department	Compliance Committee
Author	Compliance Committee
Approval body	Board of Trustees
Proposed approval date	14 December 2023
Proposed implementation date	14 December 2023
Published and accessible on	Extra and the Intra-net

## Control of Changes

Version	Date	Approval body	Author	Summary of changes
1	16 December 2021	BOARD OF TRUSTEES	Compliance Committee	
2	14 December 2023	BOARD OF TRUSTEES	Compliance Committee	Adaptation to Law 2/2023

---

## CONTENTS

<b>1. Purpose of FUNDACIÓN ACS's Whistleblower Channel Operating Policy</b>	<b>4</b>
<b>2. Communication channels</b>	<b>5</b>
<b>3. Scope</b>	<b>7</b>
<b>4. Principles and safeguards of the Internal Whistleblower System</b>	<b>8</b>
<b>5. Protection of the parties involved in a Report</b>	<b>12</b>
5.1 <i>Scope of protection</i>	12
5.2 <i>Protection and support measures</i>	12
5.3 <i>Activation of protection</i>	13
<b>7. Roles and Responsibilities</b>	<b>16</b>
7.1 <i>Compliance Committee</i>	16
7.2 <i>BOARD OF TRUSTEES</i>	16
7.4 <b>Address</b>	<b>17</b>
<b>8. Personal data protection</b>	<b>17</b>
8.1 <i>Storage of information</i>	18
8.3 <i>More information on personal data processing</i>	20
<b>Appendix I</b>	<b>21</b>
<b>Definitions</b>	<b>22</b>
<b>Appendix II:</b>	<b>26</b>
<b>Examples of Possible Reprisals and Harmful Conduct</b>	<b>26</b>
<b>Examples of Possible Reprisals and Harmful Conduct</b>	<b>27</b>
<b>Appendix III:</b>	<b>29</b>
<b>Examples of possible support and protection measures</b>	<b>29</b>
<b>Examples of possible protection and support measures</b>	<b>30</b>

## 1. Purpose of FUNDACIÓN ACS's Whistleblower Channel Operating Policy

The purpose of this *FUNDACIÓN ACS Whistleblower Channel Operating Policy*, approved by its *BOARD OF TRUSTEES*, is to specify the criteria for using and managing the different communication channels in place at *FUNDACIÓN ACS* that *Members of the Organisation, Business Partners* and *Third Parties* may use to submit *Queries* and/or *Reports* regarding potential *Infringements* that may arise within the *Organisation* in the performance of its activities.

In line with *FUNDACIÓN ACS's Code of Conduct* and *Criminal Compliance and Anti-Bribery Policy*, this document details the different channels that may be used for this purpose, ranging from simple reporting to one's hierarchical superior, who must notify the *Compliance Committee*, to submitting a communication through *FUNDACIÓN ACS's Whistleblower Channel*.

All *Members of ACT FOUNDATION* have the obligation to report individual or collective behaviour or activities that occur in the context of their activities in *FUNDACIÓN ACS* and that may involve a breach of this document or the other documents of the *Criminal Compliance Management System*, regardless of whether that behaviour has been ordered or requested by a superior.

The purpose of this *Policy*, which sets out the obligation to use the *FUNDACIÓN ACS Whistleblower Channel* and how to use it, is to provide advice, certainty and protection to anyone who becomes aware of potential *Infringements*. *FUNDACIÓN ACS* wishes to emphasise that, in any case, *Reprisals* and other *Harmful Conduct* on the grounds of having filed a *Query* and/or *Report* is strictly prohibited.

The defined terms of this document are set out in **Appendix I** to this document.

## 2. Communication channels

Different internal channels have been made available to *Members of the Organisation*, *Business Partners* and *Third Parties* so that they can submit any type of *Communication* related to possible *Infringements*.

In particular, written reports may be sent through the following channels:

- The online channel accessible via the corporate website  
<https://www.fundacionacs.com/compliance.html>
- or directly via the following link:  
<https://www.fundacionacs.com/compliance/canal-etico>
- By post to the following address:

Attn: Canal Ético FUNDACIÓN ACS

Avda. Pío XII 102, 28036 Madrid, Spain

Verbal *Communications* may also be submitted (in case of *Reports* or *Enquiries* made by *Members of the Organisation*) to:

- Direct supervisor or a member of *FUNDACIÓN ACS*'s management;
- *Compliance Committee* member;

Lastly, *Whistleblowers* can also request a face-to-face meeting with the *Compliance Committee*, or any of its members, within seven (7) days of when they requested the meeting.

In any case, in the case of verbal *Reports*, the *Whistleblowers* will be notified in advance that the communication or a transcript of it will be recorded, and will be informed that their data will be processed in accordance with data protection law.

Regardless of which channel they chose, *Whistleblowers* may designate a preferred means of communication to receive information on the status of their *Report* or to contact the *Whistleblower* for further information and/or clarification.

*FUNDACIÓN ACS* encourages all *Members of the Organisation* and anyone who suspects or knows of *Infringements* related to *FUNDACIÓN ACS* to use these internal channels to submit their *Reports* to *FUNDACIÓN ACS*.

Any *Query* or *Report* will be handled by the *Compliance Committee* as stipulated in the *FUNDACIÓN ACS Whistleblower Channel Operating Policy* and developed in the

Procedure for Managing Reports Received in the *FUNDACIÓN ACS* Whistleblower Channel.

Furthermore, the *Organisation* informs any potential *Whistleblowers* that they may also use the external channels available to notify the competent authorities and, where appropriate, the institutions, bodies, organs and agencies of the European Union, including (without limitation):

- For matters related to securities markets: [Reports form \(cnmv.es\)](#).
- For defence of competition matters: [Report of prohibited conduct | CNMC](#).
- For AML matters: [Communication based on \*prima facie\* evidence | Sepblac](#).
- For tax offences: [Tax Authority: Reports](#).
- For fraud and irregularities linked to European funds: [Fraud prevention hotline Reports channel of the Recovery and Resilience Mechanism | Recovery, Transformation and Resilience Plan Government of Spain. \(planderecuperacion.gob.es\)](#).

*FUNDACIÓN ACS* also informs potential *Whistleblowers* that there is a public body called the *Independent Whistleblower Protection Authority* that they may also contact.

Those submitting *Reports* must cooperate with the *Compliance Committee* in the analysis and investigation phase when so requested by that *Committee*. They must also maintain due confidentiality regarding the collaboration provided and the facts brought to the attention of *FUNDACIÓN ACS*. This obligation is also assumed by *FUNDACIÓN ACS*.

### 3. Scope

This *Policy* applies throughout the *Organisation*. *Members of the Organisation* must comply with its contents, irrespective of their position and function. The scope of this *Policy* covers any *Queries* and *Reports* filed by any *Member of the Organisation*, *Business Partners* and *Third Parties*.

In this regard, this *Policy* binds anyone who intends to report a potential *Infringement* in a professional context to *FUNDACIÓN ACS*. In accordance with the subjective scope of the *Organisation's Compliance Management System* and Code of Conduct, this procedure is binding for the Trustees, executives and employees who maintain links with the *Organisation*, regardless of the legal nature of their relationship ("parties subject").

It is also binding for anyone who is not a *Member of the Organisation* but becomes aware of the existence of any *Infringement* in their professional relationship with *FUNDACIÓN ACS*.

The *Reports* received may deal with any *Infringement* of the legal regulations that the *Whistleblower* believes may be applicable to *FUNDACIÓN ACS*, as well as any document that forms part of the *Organisation's Compliance Management System*.

#### 4. Principles and safeguards of the Internal Whistleblower System

With regard to *Reports* file by *Members of the Organisation*, *Business Partners* and *Third Parties*, FUNDACIÓN ACS guarantees there will be no *Reprisals* or any other *Harmful Conduct*, discrimination or sanctions for reports submitted in good faith or for any steps taken to avoid participating in unlawful actions.

In any case, the management of the *Internal Whistleblower System* will at all times be guided by these three general principles:

- **Principle of trust and confidentiality:** FUNDACIÓN ACS will handle any reported *Infringement* in an appropriate, serious and objective manner. It will also manage them in an efficient and transparent manner, avoiding, in any case, violating the principles of impartiality, independence and autonomy.

The identity of the *Whistleblower* and the *Accused*, as well as of any other *Interested Party* in the *Report* will be kept confidential.

Everyone entitled to participate in the case, including its investigation, must maintain the confidentiality of any information they receive or know. They may therefore not disclose to third parties any information made known to them in the performance of their duties, in particular information relating to personal data.

The exception to the previous paragraph concerns the need to share information with those involved in the case on a need-to-know basis in cases where it is strictly necessary and legitimate.

- **Principle of objectivity:** the investigation must look not only into the facts and circumstances that establish or aggravate the *Accused's* liability, but also into those that might exonerate, extinguish or mitigate it.

The investigators must ensure that they are impartial and objective during the course of the investigation and that they have no personal ties to the suspects or any interest in the final outcome.

- **Principle of impartiality:** *Reports* and any subsequent investigations into them will be handled by appointing persons who have no connection with the activities or business concerned. They must also ensure that they have no relationship with the persons concerned that is not strictly professional. A relationship will be considered to be not strictly professional if FUNDACIÓN ACS becomes aware of a relationship of friendship or personal relationship that goes beyond a professional relationship, which could violate the required impartiality.

Therefore, and in accordance with the section on "*Our communication tool: the Whistleblower Channel*" of the *FUNDACIÓN ACS* Code of Conduct, the facts and those involved in them must be handled neutrally and objectively.

In addition and during the practical management of Reports, attention will also be paid to the following principles:

- **The principle of adequacy and sufficiency:** To resolve the case, *FUNDACIÓN ACS* will assign all the means deemed appropriate and sufficient to fulfil the purposes of the investigation, taking into account the circumstances of the case, so that there is traceability of the deliberation process adopted by the *Organisation*, and so that the measure can be justified to any *Third Party*.
- **The principle of subsidiarity or *ultima ratio*:** if a less harmful channel of communication for the *Accused* can be used, *FUNDACIÓN ACS* will resort to the least intrusive option in view of the circumstances of the case.

Irrespective of the above, *FUNDACIÓN ACS* may take immediate and interim measures, subject to the relevant legal safeguards, until the matter in question is properly resolved. After the proceedings have been completed, the interim measures may be continued or discontinued.

- **The principle of presumption of innocence:** anyone who is *Accused* will have the right to be treated as innocent until found guilty of committing an *Infringement* and a sanction has been imposed.
- **The principle of complying with applicable law:** the entire soundness of the corporate strategy would be undermined if the methods used were unlawful. *FUNDACIÓN ACS* expresses its commitment to respect affected persons' right to be heard and to provide information to those affected. Those accused of facts that may be the subject of an investigation will have the right to make submissions to support their case.
- **Protection of *Whistleblowers* acting in good faith:** *FUNDACIÓN ACS* provides safeguards to protect *Whistleblowers*. As a general principle, their identity will not be disclosed to anyone other than those responsible for receiving and following up on their cases, without the *Whistleblowers'* explicit and unequivocal consent.
- **Prohibition of *Reprisals* and other *Harmful Conduct*:** *FUNDACIÓN ACS* does not tolerate any *Reprisals* or *Harmful Conduct* (by act or omission, regardless of whether it occurs in the work or personal sphere) against anyone who, in good faith, reports facts that could constitute a *Breach* under this *Policy*, guaranteeing the necessary

protection and support from the moment the *Report* is filed to two years after the end of the investigation.

However, once the two-year period has elapsed, the *Whistleblower* may request protection from the *Independent Authority for the Protection of Whistleblowers*, which may, exceptionally and with justification, extend the period of protection, after hearing the affected persons or bodies.

This protection will also apply to the *Accused* and any other *relevant Stakeholder* in the *Report* process, such as family members and colleagues providing support.

- **The principle of proportionality:** this principle responds to the need for the sanction to be adjusted to the seriousness of the facts, with it never being an arbitrary or disproportionate measure. For this purpose, the following principles will be considered:
  - Adequacy: sanctions must be appropriate to the purpose justifying them.
  - Sufficiency: sanctions must be sufficient for their intended purpose.
  - Due process: everyone has the right to be heard and to assert their legitimate claims before those in charge of the investigation.

*FUNDACIÓN ACS* will not discriminate against anyone due to a *Report*. Likewise, it will not engage in *Reprisals*, *Harmful Conduct* or intimidation of any kind against them.

Infringements of the above principles will be investigated and, where appropriate, sanctions will be handed down in accordance with the legislation in force, including implementing interim measures while the sanctioning procedure is pending. These measures may include barring persons from the workplace, or any other measures deemed appropriate in the circumstances.

Any protection measure will be conditional on the *Whistleblower* acting in good faith, which means being convinced that the facts they are communicating are true. In this regard, *FUNDACIÓN ACS* will not consider *Whistleblowers* to have breached any restriction on acquiring, accessing or disclosing information from the *Organisation*, and will not attract any liability of any kind provided that:

- a) they act in good faith;
- b) and that accessing or acquiring the information provided does not in itself constitute an *Infringement* constituting a criminal offence.

The protection guaranteed by this procedure extends to the *relevant Stakeholders*, including co-workers, family members, witnesses or third parties involved for the better resolution of the case, who will also be bound by the duty of confidentiality, where appropriate.

## 5. Protection of the parties involved in a Report

The *Organisation* will provide protection and support to both *Whistleblowers* acting in good faith and the *relevant Stakeholders* against the potential harm they may suffer as a result of reporting possible *Infringements* they have become aware of, as set out in section 5.2.1 of this *Policy*.

### 5.1 Scope of protection

The protection for *Whistleblowers* and *relevant Stakeholders* will extend to any type of *Reprisals* and other *Conduct Harmful to Whistleblowers and relevant Stakeholders*.

*Reprisals* and other *Harmful Conduct* can involve any direct and indirect act or omission, whether attempted, threatened or realised that may result in harm, both in the workplace (in the case of *Reprisals*) and in the personal sphere (*Harmful Conduct*).

Examples of possible *Reprisals* and *Harmful Conduct* are attached as **Appendix II** to this *Policy*.

### 5.2. Protection and support measures

#### 5.2.1. Protection and support measures for *Whistleblowers* and *relevant Stakeholders*

The protection provided will involve taking reasonable steps to prevent harm to *Whistleblowers* and the *relevant Interested Parties*, and to prevent their confidentiality from being endangered. These measures may be of a psychological, financial, legal or reputational nature.

The support provided will involve encouraging and reassuring the *Whistleblower* or *relevant Stakeholders* of the value of reporting *Infringements* and taking steps to assist their well-being.

The *Compliance Committee* will be responsible for ensuring that these support and protection measures are implemented in the *Organisation*.

On the other hand, if *FUNDACIÓN ACS* becomes aware that *Harmful Conduct* is taking place or has taken place, it will take reasonable steps to stop and address it.

*FUNDACIÓN ACS* also informs *Whistleblowers* of the existence of additional support measures provided for by current legislation, which will be provided by the *Independent Whistleblower Protection Authority*. Specifically, the following is provided:

- Comprehensive information and advice on available remedies for *Harmful Conduct*.

- Effective aid from the competent authorities.
- Legal aid in criminal proceedings and cross-border civil proceedings.
- Financial and psychological support if deemed necessary by the *Independent Whistleblower Protection Authority*.

A series of measures for protecting *Whistleblowers* and other *relevant Stakeholders* is attached as **Appendix III** to this *Policy*.

### 5.2.2. Measures for protecting the *Accused*

*FUNDACIÓN ACS* also provides for various protective measures for the *Accused*. In this regard, it will work to:

- Maintain the confidentiality of the identity of the *Accused*, as well as its commitment to protect them throughout the procedure.
- Prevent the *Accused* from being exposed to reputational damage or other negative consequences during the course of the investigations.
- Guarantee the *Accused's* right to present their case, including the right to be heard at any time, as well as the possibility to make submissions and provide the evidence they consider relevant to defend themselves.
- Allow the *Accused* to have access to the file so they can understand the acts or omissions attributed to them and to be informed of the processing of their data protection rights.
- Adopt additional remedial measures, if no evidence of *Infringements* is obtained, if deemed appropriate by the *Organisation*.

### 5.3. Activation of protection

The protection and support afforded to *Whistleblowers*, other *relevant Stakeholders* and *Accused* will be triggered and start as soon as a *Query* or a *Report* is received, and will continue during and after the conclusion of the investigation process, and even thereafter for a maximum of two years after the investigation into the *Infringement* has been closed.

Once the two-year period has elapsed, an extension may be requested from the *Independent Authority for the Protection of Whistleblowers*, which may, exceptionally and with justification, extend the period of protection, after hearing the affected persons or bodies.

## 6. *Reports* submitted fraudulently or in bad faith

---

The protection and support provided by the *Organisation* will be subject to the *Whistleblower* having filed the *Report* in good faith.

*Whistleblowers* must have reasonable grounds to believe, in light of the circumstances and the information available to them, that the facts they are reporting are true. In this sense, good faith implies reporting with at least reasonable grounds to believe that the information on the possible *infringements* reported was true at the time of reporting.

Anyone who deliberately and knowingly reports incorrect or misleading information will not be supported and protected by the *Organisation*. In addition, *FUNDACIÓN ACS* will review each individual case for the purpose of imposing proportionate disciplinary measures against *Members of the Organisation* or commercially against *Business Partners* and *Third Parties* who submit a Communication in bad faith.

## 7. Roles and Responsibilities

### 7.1. Compliance Committee

The *Compliance Committee* is appointed by the *BOARD OF TRUSTEES* as the *Head of the Internal Whistleblower System* in accordance with this *Policy*, and the *Compliance Officer* is the individual appointed to be its representative before the *Independent Whistleblower Protection Authority*.

The roles and responsibilities of the *Compliance Committee* in relation to *Queries* and *Reports* are described in the *Procedure for Managing Reports Received through the FUNDACIÓN ACS Whistleblower Channel*.

### 7.2. BOARD OF TRUSTEES

The *BOARD OF TRUSTEES'* roles and responsibilities in relation to implementing the Internal Whistleblower System are as follows:

- Formally approving this *Policy*, as well as any modifications or updates that may be necessary to maintain its validity and effectiveness.
- Approving the *Procedure for Managing Reports Received through the FUNDACIÓN ACS Whistleblower Channel*, as well as any modifications or updates that may be necessary to maintain its validity and effectiveness.
- Designating the Head of the Internal Whistleblower System in accordance with section 7.1 above.

Additionally:

- The *BOARD OF TRUSTEES* is responsible for adopting, at the proposal of the Compliance Committee, the relevant decisions regarding *Reports* of particularly serious facts, i.e. the Type A *Infringements* described in the *Procedure for Managing Reports Received through the FUNDACIÓN ACS Whistleblower Channel*, once it has received the Investigation Report and the conclusions drawn up by the *Compliance Committee*.
- The *BOARD OF TRUSTEES* will, through its chair, inform the *Compliance Committee* of the actions agreed or ratified with respect to type A *Infringements*, so that they are duly documented and recorded. Among others, it will order disciplinary measures that are legitimate and proportionate to the facts reported, and the Compliance Committee will inform the corresponding area for their appropriate implementation within the labour framework or any other applicable framework (for example, in the case of a non-executive director).

### 7.3. Compliance Committee

The roles and responsibilities of the Compliance Committee are as follows:

- Proposing the BOARD OF TRUSTEES approve the Policy and the Procedure.
- Overseeing the implementation of the Policy and Procedure.

### 7.4. Address

The roles and responsibilities of *Management* in relation to *Queries* and *Reports* received are as follows:

- *Management* will be responsible for adopting the relevant decisions with respect to *Reports* of Type B *Infringements* described in the *Procedure for Managing Reports Received in the FUNDACIÓN ACS Whistleblower Channel*, and any other *Infringement* of the laws applicable to *FUNDACIÓN ACS* as well as the rest of the *Organisation's* internal regulations, once it has received the investigation report and conclusions drawn up by the *Compliance Committee*.
- *Management* will inform the *Compliance Committee* of the actions agreed or ratified with respect to the type B *Infringements* referred to above, so that they are duly documented and recorded. Among others, it will order disciplinary measures that are legitimate and proportionate to the facts reported, and the *Compliance Committee* will inform the corresponding area for their appropriate implementation within the applicable labour framework.

## 8. Personal data protection

The *Organisation* will process the data received through the *Internal Whistleblower System* in accordance with current data protection legislation.

*FUNDACIÓN ACS* is committed to strictly protecting privacy, security and custody of data, as detailed in its *Compliance* policies and procedures. These rules will also apply in respect of all personal data relating to reports submitted in accordance with this *Policy*.

The personal data will be processed for the purpose of managing and resolving any *Queries* and *Reports*, as well as to analyse the criticality of the facts communicated, to carry out, if necessary, an investigation into possible *Infringements*, to adopt the necessary interim measures and, if necessary, to initiate the corresponding internal or legal actions.

To fulfil these purposes, certain personal data and information must be collected, either directly from the *Whistleblowers*, from the *Relevant Stakeholders*, through the person/s determined by the *Organisation* or through authorised *Third Parties* specifically hired for this purpose, who will guarantee the highest level of confidentiality and technical security.

All *Members of the Organisation* are obliged, especially within the scope of the Whistleblower Channel, to provide true, truthful and lawful information, and are solely responsible for any false or inaccurate statements they provide, as well as for the internal, administrative and/or legal consequences that may apply.

The *Organisation* will ensure in all cases that the various channels for communicating with the *Compliance Committee* constitute a secure medium, equipped with the measures required by the regulations on Personal Data Protection and information security.

In any case, the *Internal Whistleblower System* will ensure that no personal data is collected from Whistleblowers who wish to submit their reports anonymously.

Access to personal data contained in the *Internal Whistleblower System* will be limited, within the scope of their powers and functions, exclusively to:

- a. The Head of the *Internal Whistleblower System* and whoever manages it directly in accordance with this *Policy*.
- b. *FUNDACIÓN ACS*'s Human Resources Manager or the duly designated competent body, only when disciplinary action against an employee may be appropriate.
- c. *FUNDACIÓN ACS*'s general counsel, if legal action should be taken in relation to the facts described in the submitted communication.

- d. Data processors involved in processing data in the *Internal Whistleblower System*, with appropriate safeguards in accordance with data protection legislation.
- e. FUNDACIÓN ACS's Data Protection Officer.

### **8.1. Storage of information**

FUNDACIÓN ACS will process, manage and store the information and personal data contained in the *Reports*, investigations, reports and other documentation in accordance with the limitation periods established in the legislation in force on personal data protection and other applicable legislation. This information will also be kept in the custody of the *Compliance Committee* and will be deleted, blocked or anonymised at the end of the legal limitation periods and in accordance with the Privacy Policies specified in the information submission channels.

FUNDACIÓN ACS will keep a record of all the *Reports* it receives. These records and the personal data in them will be kept confidential. The records will be kept for no longer than is necessary and in any event for as long as is necessary to comply with any applicable legal requirements from time to time.

Data that are processed only may be kept in the *Internal Whistleblower System* for the time necessary to decide whether to open an investigation into the facts reported, and for a maximum of three months from their recording without any investigation having been initiated, at which time they must be deleted from the *Internal Whistleblower System*, unless the purpose of retaining them is to leave evidence of how FUNDACIÓN ACS's *Global Compliance Management System* is functioning. Reports that have not been acted upon may only be recorded in anonymised form.

If necessary to investigate the facts, personal data may be processed outside the *Internal Whistleblower System* for the time necessary to reach a decision, provided that at least an adequate level of security and confidentiality is ensured. Once the investigation into the communication has been completed and the appropriate actions have been taken, as the case may be, the data of any *Reports* that were processed will be duly blocked to comply with any legal obligations that may apply in each case.

If it is decided not to follow up on the *Report* lodged, the information may be retained in anonymised form.

If it is established that all or part of the information provided is not truthful, it will be immediately deleted, unless the lack of truthfulness may constitute a criminal offence, in which case the information will be kept for the time necessary for the corresponding proceedings.

## **8.2. Data protection rights of *Whistleblowers*, the *Accused* and any *Relevant Stakeholders***

As a *Whistleblower*, those submitting reports may access the personal data concerning them at any time on the terms provided for in the applicable legislation. If they believe that the data is incorrect or incomplete, they may request its rectification in accordance with the applicable legislation. They may request the deletion of the data if they are no longer required, except where there is a legal obligation to retain them. They may also request to have the processing of their personal data be restricted and may object to the processing of their personal data. Upon filing a *Report*, they will be informed of how to assert all of these rights and at any time they may request access to their personal data to obtain the relevant information in this regard.

Reports may also be lodged with the competent data protection authority, if considered appropriate to do so.

The *Accused* and any *Relevant Stakeholders* will have the same data protection rights as the *Whistleblower*, with the following exceptions:

- The *Accused* will be informed of the processing of their data at the time they are notified, where appropriate, of the communication received in relation to them.
- *Relevant Stakeholders* will be informed about the processing of their data at the time of their first intervention, if they have not already been informed beforehand.
- If the *Accused* exercises their right to object to processing, it will be presumed that, in the absence of evidence to the contrary, there are compelling legitimate grounds that legitimise the processing of their personal data.

## **8.3. More information on personal data processing**

Individuals may obtain further information about the processing of their personal data and the contact details of the entity's possible representative for this purpose, as well as those of the Data Protection Officer or other privacy officer.

## Appendix I

## Definitions

The definitions of the concepts that are used frequently in this document are listed below (indicated in *italics*):

- **FUNDACIÓN ACS/Organisation:** *FUNDACIÓN ACS*.
- **BOARD OF TRUSTEES:** FUNDACIÓN ACS's governing body, insofar as it is assigned the fundamental responsibility and authority for activities, governance and policies, and to which FUNDACIÓN ACS's *Management* reports and is accountable.
- **Address:** Director of *FUNDACIÓN ACS*.
- **Compliance Committee:** *FUNDACIÓN ACS*'s internal body, with autonomous powers of initiative and control, which is entrusted with the responsibility, among other duties, for overseeing the operation of and compliance with the *Organisation's Compliance Management System*. The *Compliance Committee* has been formally designated by the *BOARD OF TRUSTEES* to be in charge of managing the *Whistleblower Channel*.
- **Members of the Organisation:** the members of the governing body, executives, employees, workers or temporary employees or those under a collaboration agreement, volunteers of an organisation and all other persons reporting hierarchically to any of the above.
- **Business partners:** any legal or natural person, other than *Members of the Organisation*, with which the *Organisation* has or intends to establish any kind of professional relationship, as well as the beneficiaries of the agreements. This includes, without limitation, intermediaries such as agents or commission agents, external advisers, joint ventures or individuals or legal entities contracted by *FUNDACIÓN ACS* to deliver goods or provide services.
- **Third party:** an individual or legal entity or body independent from the *Organisation*.
- **Compliance Management System:** a set of elements in the *Organisation* that continuously interact to establish policies, objectives and procedures for the *Organisation* to comply with its Compliance obligations effectively and to be successful and sustainable in the long term, generating evidence of the *Organisation's* commitment to *Compliance* and taking its stakeholders' needs and expectations into account.
- **FUNDACIÓN ACS Criminal Compliance and Anti-Bribery Policy:** a document that states the commitment to compliance of *FUNDACIÓN ACS's BOARD OF*

*TRUSTEES and Management* and lays out the *Organisation's* main strategic objectives in this area, including its zero-tolerance policy towards any conduct that could constitute a criminal offence.

- ***Procedure for Managing Reports Received in the FUNDACIÓN ACS Whistleblower Channel:*** a document that establishes the necessary mechanisms for the early communication and management of any *Infringement*, as well as the necessary procedures for the internal processing of *Queries*, and the internal processing and investigation of any *Reports* and known circumstance that must be investigated.
- ***Internal Whistleblower System:*** measures adopted in accordance with the Spanish Whistleblower Protection Act [*Ley 2/2023, reguladora de la protección de las personas que informen sobre infracciones normativas y de lucha contra la corrupción*] to manage reports of *Infringements* of the legislation referred to in that Act. The *Internal Whistleblower System* has a *System Manager* in charge of handling and duly processing the *Reports* received through the Whistleblower Channel, in accordance with the *Procedure for Managing Reports Received through the FUNDACIÓN ACS Whistleblower Channel*.
- ***Communication:*** a statement recording an issue related to the scope, interpretation or compliance with legislation applicable to *FUNDACIÓN ACS*. Depending on its content, a communication can be either a *Query* or a *Report*.
- ***Query:*** a communication in which any *Member of the Organisation* requests a clarification, a response or advice on the scope, interpretation or enforcement of legislation applicable to *FUNDACIÓN ACS*.
- ***Report:*** a communication relating to a possible *Infringement* (act or omission) of the legislation applicable to *FUNDACIÓN ACS*, understood as the ethical and compliance commitments voluntarily assumed by the *Organisation*, as well as the legislation in force applicable to it at any given time.
- ***Infringements:*** an act or omission in violation of the legislation applicable to the *Organisation*, which includes any infringement of EU regulations and/or serious or very serious criminal, administrative or labour offences relating to health and safety at work, established in the Spanish legal system, that occurs within the *Organisation*. An *Infringement* may, depending on its seriousness, range from a mere formal breach of a requirement of an internal rule to committing acts constituting a criminal offence potentially attributable to the *Organisation*.
- ***Whistleblower:*** an individual or legal entity who files a *Report*. The definition of a *Whistleblower* includes:

- *Members of the Organisation*: this includes employees whose employment relationship is in force, has ended or has not yet begun, shareholders and members of the *BOARD OF TRUSTEES*, paid and unpaid volunteers, and trainees.
  - *Business partners*, as well as anyone working under their supervision and direction. Individuals or legal entities external to the *Organisation* with whom the Organisation has or plans to establish a business relationship, as well as anyone working under their supervision and direction.
  - *Third Parties* and other individuals such as trade union representatives.
  - Any individual or legal entity who may fall under the above definitions now or in the future.
- **Relevant stakeholders**: this group includes:
    - Witnesses and others involved in a *Query or Report*.
    - Investigators.
    - Family members, trade union representatives, and others supporting a *Whistleblower*.
    - Those who provided information that led to the filing of a *Report*.
  - **Accused**: individual or legal entity(s) linked to the reported *Infringements*, as perpetrators, participants or even accessories. The Accused may be identified in the *Communication* or become known as the Report is investigated.
  - **Reprisals**: any act or omission, whether attempted, threatened or actual, direct or indirect, that may result in harm or disadvantage to a *Whistleblower* or other *Relevant Stakeholders*, in the employment or professional sphere, solely because of their status in relation to the *Report* or because they made a public disclosure.
  - **Harmful Conduct**: any act or omission, whether attempted, threatened or actual, direct or indirect, wilful or negligent, that may result in harm or disadvantage to a *Whistleblower* or other *Relevant Stakeholders*, whether at work or in the personal sphere, solely because of their status in relation to the *Report* or because they made a public disclosure.
  - **Independent Whistleblower Protection Authority (IPA)**: an independent administrative authority, as a public law entity at state level, which will act in fulfilment of its main function of protecting *Whistleblowers*. Its other duties include

managing its own external whistleblower channel, processing sanctioning procedures and imposing sanctions, among others.

## **Appendix II:**

### **Examples of Possible Reprisals and Harmful Conduct**

## Examples of Possible Reprisals and Harmful Conduct

The following are some acts that could potentially be considered

*Reprisals or Harmful Conduct:*

- Dismissal, suspension, removal or equivalent measures.
- Early termination or cancellation of contracts for goods or services.
- Non-renewal or early termination of a temporary employment contract.
- Change of job or duties, transfer to another work site, reduction of wages or change of working hours or other working conditions.
- Demotions or denial of promotion.
- Imposition of any type of disciplinary measure, reprimand or other sanction, including financial sanctions.
- Denial of services.
- Refusal of training.
- Damage, including to reputation, especially on social media, or economic loss, including loss of business and revenue.
- Any kind of intentional or reckless act that may cause physical or psychological harm.
- Medical or psychiatric referrals.
- Negative evaluations or references regarding work performance.
- Duress, intimidation, harassment or ostracism or isolation.
- Discrimination, or unfavourable or unfair treatment.
- Blacklisting on the basis of a formal or informal sectoral agreement, potentially preventing being hired in the sector in the future.
- Disclosure of the *Whistleblower's* identity.
- Economic losses.
- Cancellation of a licence or permit.

## **Appendix III:**

### **Examples of possible support and protection measures**

## **Examples of possible protection and support measures**

The following are measures that can be taken to protect and support *Whistleblowers* and other *relevant Stakeholders* who may be suffering from any type of *Reprisals or Harmful Conduct*:

- Reinstating the *Whistleblower* or *relevant Stakeholder* to the same or equivalent position, with the same pay, responsibilities, job title and reputation.
- Enabling equitable access to promotions, training, opportunities, benefits and rights.
- Restoring the *Whistleblowers* or *relevant Stakeholders* to their previous commercial position in relation to the *Organisation*.
- Dropping charges.
- Apologising for any harm suffered.
- Paying damages.