



### Data storage, update and erasure procedure

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## 1. INTRODUCTION AND PURPOSE OF THE DOCUMENT

### 1.1. PURPOSE AND SCOPE

The purpose of this document is to serve as a reference framework defining the guiding principles to determine when to store or destroy personal data processed by Fundación ACS, either as Data Controller or Data Processor, as well as to establish a procedure for the rectification or update of data, in compliance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and with the Spanish Data Protection Act [*Ley Orgánica de Protección de Datos de Carácter Personal*].

This reference framework applies to all Fundación ACS Areas that process personal data, whether as data controller or data processor.

### 1.2. DEFINITIONS AND ACRONYMS

**Personal Data:** Any information relating to an identified or identifiable natural person (“data subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**Processing or data processing:** Any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**Storage of Personal Data:** Custody and storage of personal data for a specific period of time, applying security measures that guarantee the confidentiality, availability and integrity of the data.

**Storage Period:** Time established for the storage and processing of personal data, defined by the categories of Personal Data to be processed and the purpose for which they are to be processed.

**Blocking of Personal Data:** The identification and isolation or reservation of personal data (whether in computerised form or in physical documentation), to prevent their processing, except by the public administrations, judges and courts for the purpose of dealing with possible liability arising from the processing and only during the limitation period of that liability, since, once this period has elapsed, the data must be erased or physically destroyed.

**Destruction of the Data:** Erasure or physical and definitive elimination of personal data through the physical erasure, destruction or disablement of any medium on which the information is stored (including backup copies).

**Data Controller (DC):** Natural or legal person, public authority, agency or other body

which, alone or jointly with others, determines the purposes and means of the processing.

**Data Processor (DP):** Natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.

**Data Subject:** Identified or identifiable natural person who is the owner of the data being processed.

## 2. FUNDACIÓN ACS GUIDELINES FOR THE STORAGE AND ERASURE OF DATA

### 2.1. STORAGE PERIODS - OBLIGATIONS

#### 2.1.1. GENERAL OBLIGATIONS

There are two regulatory considerations that make it necessary to establish and comply with storage periods in the processing of personal data:

1. Purpose of the processing for which the data were collected: not retaining personal data when they are no longer useful or necessary for the purpose for which they were collected and processed, or once that purpose has been fulfilled and exhausted.
2. Legal regulations associated with the category of data and the purpose of the processing: not retaining personal data when there is no legal obligation to retain them, and when actions and liability arising from the processing are time barred.

Fundación ACS processes data in accordance with the principles on processing established in Article 5 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (the General Data Protection Regulation, GDPR) (referred to here as the GDPR). Among other aspects, Fundación ACS processes personal data in such a way that:

- They are not kept indefinitely without justification and are erased when they are no longer necessary for the purpose for which they were collected and processed. *"kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject ('storage limitation')".*
- They are suitable for the purpose for which they were collected and are not used for different and/or incompatible purposes.
- Fundación ACS is responsible for compliance and able to demonstrate it ("accountability").

Fundación ACS does not currently process personal data as a Data Processor, i.e. on

behalf of or commissioned by a third party. If it does so in the future, once the contractual performance that gave rise to the processing commission has been fulfilled, the personal data must be destroyed or returned to the Controller (as established contractually and/or in the related service offer), as well as any support and/or document containing any personal data subject to processing and subsequently kept, blocked, based on the public interest or in the exercise of public powers that apply or for the sole purpose of defending or filing claims until the end of the corresponding limitation period for actions.

**Alerts:** To comply with the storage period established in the law, regulations and obligations that impact Fundación ACS, a manual or tactical procedure will be established to ensure that this period is not exceeded and, therefore, personal data is deleted once the established blocking period has elapsed.

**Consent:** Where Fundación ACS has the consent given by the data subject at the time they provided their personal data, that consent authorises the storage of the personal data of the data subject who has given it, until one of the following events occurs:

- The end of the period agreed with the person concerned.
- The data are no longer necessary for the purpose for which they were collected.
- The data subject revokes their consent.

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### 2.1.2. ON-DEMAND REQUESTS FOR BLOCKING/ERASURE OF DATA

The action taken when some of the data subjects' rights have been exercised gives rise to the blocking of the data and, where appropriate, also to their erasure. This is the case of the rights of erasure, objection and restriction of processing provided that it is appropriate to comply with them, i.e. when there are grounds for granting the request made by the data subject.

To know how to proceed in these cases, Fundación ACS must refer to the Procedure for the Management of Rights (code RGD\_GESDER\_001 or the file that replaces it in the future).

### 2.2. ACTIVITIES WHERE THE STORAGE/DESTRUCTION OF PERSONAL DATA APPLIES

For each data processing event identified in Fundación ACS's Register of Processing Activities (RPA), the storage period applicable to the data being processed has been indicated, which determines when the data must be destroyed/erased or returned, as appropriate. The application of the data storage periods is determined by the following events:

- Active processing of personal data: As long as the data are being processed, they are kept for the period of time established in the RPA, unblocked, to carry out processing operations. This processing is considered as active processing of personal data.
- End of active data processing: At the end of active data processing, the data

may, as a general rule, continue to be stored until the end of the data storage period, thus commencing passive data processing. In these cases, the data must be duly blocked and access must be limited to authorities or when necessary for to bring or defend claims. The passive processing lasts either for the legal limitation period for actions or for as long as there is a legal obligation to retain the data for a specified period of time.

- End of passive data processing: At the end of the storage period of the data and their passive processing, they must be completely erased and any physical medium on which they are stored must also be destroyed if they cannot otherwise be completely erased.

### 2.3. BLOCKING OF DATA AND FINAL ERASURE OF DATA

#### **How to carry out the Blocking:**

The personal data concerned must be logically and physically separated in such a way that access to the information (whether in physical or electronic form) by staff who would normally have that access is impossible, thus preventing the processing of data.

In the case of personal data in physical form, they may be blocked by filing them in a cabinet, filing cabinet or drawer with a locking device, which must remain separate from the original file. Where the data exist on an electronic medium, access to them will be limited through measures such as restricting permissions, encryption, pseudonymisation or setting passwords.

Access to the blocked data must be limited, so that only the person(s) with the highest responsibility within Fundación ACS or with designated functions in this area and the competent authorities under the existence of an administrative or court order to this effect can access them.

#### **Final erasure of data:**

Once the active and passive processing of the data has been completed, the data must be securely and permanently erased.

To this end, the mechanisms available for the erasure and destruction of the data must be used, either directly by Fundación ACS or through a supplier (who will be in charge of the processing), issuing, registering and storing a certificate accrediting the secure destruction to comply with the principle of proactive responsibility and be able to demonstrate compliance with Fundación ACS's obligations regarding the storage and erasure of data.

#### **How to carry out Secure Erasure:**

- For physical data: If the data are on paper, the paper must be shredded.
- For data in computerised form: If it is a work file (e.g. a Word document, an Excel spreadsheet, etc.), an email, information contained on a USB flash drive, etc., this must be done by deleting the records or erasing the file, subsequently erasing the information that may be kept in the recycle bin of the computer or device. If it is an electronic medium (e.g. CD, DVD, etc.), it must be destroyed or physically disabled.



In any case, the practices established in UNE EN-15713 or similar standards must be followed, to ensure that, when a medium is to be discarded, it is eliminated in such a way that the information it contained cannot be recovered.

If, for technical reasons, direct erasure by Fundación ACS is not possible, the services of an external provider must be contracted to guarantee and certify the total erasure of the data.

### 3. REFERENCE TABLE OF STORAGE PERIODS

The following table shows, for illustrative purposes, the storage periods that apply to the respective data processing operations out by Fundación ACS.

This list, like the Register of Processing Activities, requires periodic review and updating, based on the evolution of the regulations that may affect Fundación ACS, to have an updated list of the different storage periods that must be observed:

Processing	Period	Regulation
Recipients/beneficiaries management	5 years from the end of the relationship with the recipient/beneficiary	Section 1,964 of the Spanish Civil Code [ <i>Código Civil</i> ]
Supplier management	5 years from the end of the relationship with the recipient/beneficiary	Section 1,964 of the Civil Code
Employee Management - HR	4 years after the end of the employment relationship	Sections 4 and 21 of the Spanish Labour Infringements Act [ <i>Ley Infracciones Orden Social</i> ]
Occupational Risk Prevention and health monitoring	5 years after the end of the employment relationship	Section 23 of the Spanish Occupational Risk Prevention Act [ <i>Prevención de Riesgos Laborales</i> ]
Hours control (clocking in)	4 years after the end of the employment relationship	Sections 4 and 21 of the Labour Infringements Act
Job applicants	1 year after receipt of the candidate's CV	
Management of the relationship with representatives and staff of third parties	5 years after the end of the relationship	Section 1,964 of the Civil Code
Board of Trustees	5 years after the end of the relationship	Section 1,964 of the Civil Code
Representatives	5 years after the end of the relationship	Section 1,964 of the Civil Code

Regulatory compliance and legal defence	Variable depending on the statute of limitations for specific offences and actions	
Accounting and Taxation	10 years from the day after the day on which the deadline for submitting the corresponding return or self-assessment expires	Section 66 bis of the Spanish General Taxation Act [ <i>Ley General Tributaria</i> ]
Information systems	5 years after the end of the relationship	Section 1,964 of the Civil Code
Data Protection rights and incident management	3 years from the occurrence of the incident or the request to exercise rights	Section 72 of the Data Protection Act
Social uses	5 years after the end of the relationship	Section 1,964 of the Civil Code
Web form and/or contact email	Variable depending on the request received	
Events and activities	5 years after the end of the event	Section 1,964 of the Civil Code

It should be noted that the same data on the same categories of persons may be processed in more than one processing operation. In those cases, different storage periods may apply to those personal data. If this is the case, the personal data must be retained for the longest period of all of them.

#### 4. FUNDACIÓN ACS GUIDELINES FOR THE RECTIFICATION AND UPDATE OF PERSONAL DATA

The rectification or update of data must not be confused with the cancellation of data. When Fundación ACS ceases to store a particular datum but this is replaced with another as a result of the necessary update of the personal information of a data subject (e.g. because the data subject exercises their right to rectification), this is not a case of erasure or cancellation of the data, but of rectification or update.

When a data subject requests or exercises their right of rectification, Fundación ACS must refer to the corresponding section of the Procedure for the Management of Rights (code RGPD\_GESDER\_001 or the file that replaces it in the future).

To guarantee fair, transparent and proactive treatment of personal data, Fundación ACS promotes, as a **good practice**, the periodic consultation (e.g. every 6 months) of data subjects about their personal data where possible. In this consultation, it informs the data subjects of the personal data that it processes on them and asks them to inform it of any changes in them, where applicable, to keep them up to date and thus

comply with the principle of accuracy required by the GDPR.

**UPDATE OF DATA**

THE PRINCIPLE OF ACCURACY (Article 5(1)(d) of the GDPR):

Personal data shall be:...

...

d) accurate and, where necessary, kept up to date; **every reasonable step must be taken to ensure that** personal data that are inaccurate, having regard to the purposes for which they are processed, **are erased or rectified** without delay ('accuracy')



In response to that consultation, data subjects may act in different ways. They may respond with a change to some of their data, they may not respond or they may not receive the consultation. In the latter case, if it is known that the non-receipt is due to the fact that the data subject no longer resides at the address given (for example, because the courier service refers to this when returning the communication) or because the email address to which the consultation was sent appears as an email address that does not exist, Fundación ACS must try to contact the data subject by other possible means to correct the sending of the consultation and update the address to which it was sent.

If the data subject receives the consultation but does not respond, it is understood that there is no reason to update their data and they must be informed accordingly in the consultation.

If the data subject responds by communicating a change in any of their data, Fundación ACS must rectify that data, updating them with the new data communicated by the data subject. Subsequently, it must inform the data subject, within the time limits established for exercising rights (generally 1 month), that the data subject's data have been corrected as indicated by the data subject.

**PROCEDURE/PROTOCOL FOR UPDATING DATA**

Not by processing operation, but by each data subject or categories of data subjects

