ETHICAL CODE

Version 1.1 – MAY 2024

Version Control

<table>
<thead>
<tr>
<th>Version</th>
<th>Submitted</th>
<th>Reviewed</th>
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<tbody>
<tr>
<td>1.1</td>
<td>November 2023</td>
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<tbody>
<tr>
<td>AML</td>
<td>Anti-money laundering</td>
</tr>
<tr>
<td>CEO</td>
<td>Chief Executive Officer</td>
</tr>
<tr>
<td>CPO</td>
<td>Chief programme officer</td>
</tr>
<tr>
<td>CTF</td>
<td>Counter terrorism financing</td>
</tr>
<tr>
<td>FCDO</td>
<td>Foreign, Commonwealth and Development Office</td>
</tr>
<tr>
<td>FSD Kenya</td>
<td>Financial Sector Deepening Kenya</td>
</tr>
<tr>
<td>ICT</td>
<td>Information communication and technology</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organisation</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
</tr>
<tr>
<td>OL</td>
<td>Operations Lead</td>
</tr>
<tr>
<td>PIC</td>
<td>Programme Investment Committee</td>
</tr>
<tr>
<td>PSHEA</td>
<td>Protection from sexual harassment, exploitation and abuse</td>
</tr>
<tr>
<td>PMT</td>
<td>Programme management team</td>
</tr>
<tr>
<td>SEAH</td>
<td>Sexual exploitation, abuse and harassment</td>
</tr>
<tr>
<td>Sida</td>
<td>Swedish International Development Cooperation Agency</td>
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transparency@fsdkenya.org or fsd.whistleblower@bdo-ea.com
1. Introduction

This ethical code provides guidance on the expected standards and behaviours for everyone involved with FSD Kenya. It outlines our ethical conduct to ensure that everything we do with the funds entrusted to us is beyond reproach. The Code aligns with FSD Kenya’s donor policies and provides channels of communications and escalation procedures for reporting cases of non-alignment with the expected standards of behaviour. It also outlines the actions that will be taken in the event of continued breaches and the risks to the implementation of FSD Kenya strategy in the event of serious breaches and resultant withdrawal of funding.

1.1 Topics covered by the code:

<table>
<thead>
<tr>
<th>Safeguarding</th>
<th>Prevention of sexual harassment, exploitation, and abuse (PSHEA); prevention of bullying and harassment.</th>
<th>Environmental safeguarding</th>
</tr>
</thead>
<tbody>
<tr>
<td>That all our programmes, interventions and activities do no harm to the vulnerable groups – children, young adults, women, people living with disabilities and the elderly. That we will promote social justice and equity.</td>
<td>Our zero tolerance to sexual harassment, exploitation and abuse. Our zero tolerance to any other forms of bullying and harassment.</td>
<td>Our zero tolerance to activities that harm the environment. Our commitment to promote environmentally sustainable projects, to anticipate, mitigate, avoid, and minimise any harm to the environment.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Conflict of interest, bribery and corruption</th>
<th>Counter-terrorism financing and anti-money laundering.</th>
<th>Whistleblowing</th>
</tr>
</thead>
<tbody>
<tr>
<td>That we will not use FSD Kenya resources or our positions to benefit ourselves, our families, friends, or close associates thereby disadvantaging others; we will not engage in acts of collusion, corruption and bribery.</td>
<td>That our funds will not be used towards money laundering, purchase of prohibited items, terrorism financing or for furtherance of illicit activities.</td>
<td>That we have a safe mechanism and independent channels to report cases of misalignment with the ethical code or any acts of impropriety against this code.</td>
</tr>
</tbody>
</table>

1.1 Who is covered by this code?

Everyone who interacts with FSD Kenya whether as a donor representative managing donor funds, PIC members, PIC observers, Trustees, recipients of grants or any funding provided through other
legal instruments, the downstream partners, consultants and contractors, FSD Kenya staff members including interns as well as any other third-party providers.

1.2 Roles and responsibilities:

<table>
<thead>
<tr>
<th>PIC members</th>
<th>Trustees</th>
<th>Project management Team (PMT)</th>
<th>All parties</th>
<th>Grantees &amp; downstream partners</th>
</tr>
</thead>
<tbody>
<tr>
<td>Give a no objection to the Ethical code and receive updates regarding its implementation and conformance.</td>
<td>Independent assurances that the code is adhered to.</td>
<td>Ensure the code is effectively communicated and updated. Report cases of misalignment to the Trustees, donors and PIC.</td>
<td>Read, understand and adhere to the code. Report cases of misalignment</td>
<td>Cascade the code to downstream partners or beneficiaries. Report cases of misalignment.</td>
</tr>
</tbody>
</table>

1.3 General principle of the ethical code

(a) As a public charitable trust, FSD Kenya funds are provided by taxpayers from respective countries of origin to improve the livelihoods of low-income households through sustainable, innovative, affordable and inclusive finance. Everyone working with FSD Kenya is expected to guard against misuse of these funds through espousing values around high integrity, honesty, trustworthiness and accountability in the cause of handling these funds. Misuse and misapplication of funds is a high reputational risk and may lead to withdrawal of funding by the respective donors and affect our ability to transform the lives of those who matter most to us.

(b) Violations of this code by PIC members, observers, independent members, donor representatives and employees will be grounds for disciplinary action including termination where FSD Kenya has contracted them directly.

(c) Partners and contractors who violate this code may have their agreements terminated and prohibited from working with FSD Kenya in the future. FSD Kenya may however postpone funding and work with the organisation to improve their standards but termination may be instituted if the organisations fail on two consecutive times to remediate cases of breaches that have been reported to FSD Kenya in line with the remedial actions agreed in advance.

(d) Organisations will not be penalised for reporting breaches to the code but are expected to act in accordance with this Code in responding to reported incidences, and to reduce risks of further cases. Substantiated findings of misconduct should result in meaningful and proportional discipline that will depend on the nature and severity of the conduct.

1.4 Reporting

(a) FSD Kenya will provide a brief account of work undertaken to prevent incidences of misalignment with the code as part of its reporting to the PIC. A register of reportable concerns will be provided to the PIC including how these were handled with the proviso they do not impinge on the confidentiality of those involved. Any breach to the ethical code that is deemed serious must be reported to the Trustees who together with the CEO will bring it to the immediate attention of the PIC Chair or donor representatives.

1.5 Training, awareness and accessibility

(a) The ethical code will be availed to all parties through the FSD Kenya website. The code will also form part of the contractual documents signed by the employees and third-party providers confirming in writing that they have reviewed it and that they understand and agree to adhere to the overarching principles of the code before being onboarded.
(b) FSD Kenya will ensure training on this code is availed to its staff while those who join FSD Kenya will be required to go through an induction process that entails familiarisation with the ethical code. The overall responsibility of ensuring staff receive training lies with the FSD Kenya Programme management team (PMT).

(c) FSD Kenya implementing partners are expected to be trained on the Code as part of the onboarding processes and should provide similar training to all their staff involved in implementing FSD Kenya projects.

1.6 Assessing risks
(a) Before undertaking any activities, FSD Kenya staff will outline in the task design any risks that may result in harmful or unintended consequences to children, vulnerable adults, activities that may lead to sexual exploitation and abuse, non-compliance with data protection and harm to the environment. The impact assessment may be light or detailed depending on the nature of the partnership or investment and must outline mitigating measures prior to implementation.

(b) FSD Kenya will also carry out a third-party screening of its contractors and grantees to ensure it does not work with entities or individuals under the various sanctions lists which are outlined under 6.1(c) of this code or any other sanction lists that may be identified.

1.7 Guarantees and third-party partner responsibilities:
(a) Grantees and partners must also conduct risk assessments, due diligence and screening processes like those instituted by FSD Kenya to mitigate the risk of breaches to this code.

(b) At a minimum, all FSD Kenya partners will be expected to have a safeguarding and sexual harassment policy while those working directly with children will be expected to have a child safeguarding policy and a designated officer who will oversee the vetting processes, training and reporting of any safeguarding concerns to the relevant channels including to FSD Kenya. This will form part of the due diligence process.

(c) As far as possible, FSD Kenya will hold discussions with grantees and partners about risks and incidents of safeguarding, sexual harassment, environment safeguarding, money laundering, terrorism financing and sanctions breaches. When incidences occur, FSD Kenya will seek to engage with both the management and board of the partner(s).

(d) Any serious breaches must be brought to the attention of FSD Kenya management with immediate effect or timeously. Channels for reporting concerns are provided to this policy under section 5. Failure to report such activities or concerns will be treated as a serious breach of contractual terms and may lead to termination of contractual engagements.

(e) If there is reason to believe that a concern has been deliberately dealt with inappropriately by a partner, or if the partner deliberately fails to report a concern to FSD Kenya or deliberately breaches the provisions of this code, then they risk withdrawal of funding, immediate suspension or termination of the partnership.

(f) Compliance with the requirements of policy will form part of the contractual obligations with the partner or grantee.

2. SAFEGUARDING

2.1 Definitions:
(a) A child is defined as anyone under the age of 18 years regardless of the age of consent in any country. Children are particularly vulnerable because of their age, poverty, disability, ethnicity, gender or sexual orientation and require additional safeguards to protect their rights.
(b) **Vulnerable adult** - a person, 18 years and above, who by reason of disability, age, gender or sexual orientation, social and economic status, or illness or the context they are in, may be unable to take care of or to protect him or herself against abuse, harm or exploitation.

(c) **Youth or young people** - individuals aged between 15 to 25 - this group straddles the categories of ‘children and ‘adults’. Young people have unique safeguarding needs and require distinct consideration different from younger children and older adults.

(d) **Vulnerable person** – refers to all above mentioned people; children, vulnerable adults, youth and young people.

(e) **Child abuse** - different forms of harm or mistreatment of children are categorised under the broader term “child abuse”. Abuse can happen anywhere and at any time, but research shows that the perpetrators of abuse are likely to be known and trusted by the child and may be caregivers, volunteers, staff, teachers etc. The most commonly defined types are:

- **Physical**: violence towards or deliberate injury of a child
- **Neglect**: persistent failure to meet a child’s basic physical and psychological needs
- **Sexual**: using a child for sexual stimulation or gratification
- **Emotional**: behaviour which attacks a child’s self-esteem
- **Child sexual exploitation**: children in exploitative situations and relationships receive gifts, money or affection in return for sexual activities.

(f) **Abuse** - is a violation of an individual’s human and civil rights by any other person or persons. It can take the form of physical, psychological, financial or sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the person. Abuse can be a single act or repeated acts and can be unintentional or deliberate. Abuse often involves a criminal act.

(g) **Discrimination** – this is abuse premised on the vulnerable person’s age, race, nationality, sex, sexual orientation, disability, or other personal characteristic.

(h) **Financial or material abuse** – this entails theft, fraud, exploitation, forgery, connivance relating to wills, inheritance or financial transactions, misuse or misappropriation of property or possession.

(i) **Neglect** – the persistent failure to meet a vulnerable person’s basic physical and/or psychological needs, likely to result in the serious impairment of his/her health or development. Examples include failure to provide adequate food, clothing and shelter, failure to protect them from physical or psychological harm or danger; failure to ensure adequate supervision (including the use of inadequate caregivers); or failure to ensure access to appropriate medical care or treatment.

(j) **Human rights** - Human rights are rights inherent to all human beings.

(k) **Modern slavery** - is where a person is working illegally against their will.

### 2.2 Approach to safeguarding:

(a) Everyone has equal right to protection from abuse and exploitation regardless of age, race, sex, gender, sexual orientation, marriage and civil partnership, pregnancy or having a child, gender reassignment, language, religion, political or other opinions, national, ethnic or social origin, property, disability, birth or status.

(b) FSD Kenya recognises that people mentioned under these categories particularly those from the low-income households face multi-layered and intersected hardships that magnify their challenges and susceptibility to abuse, harassment and exploitation. FSD Kenya believes in duty of care and commit to ensuring that all our activities, programmes and interventions do no harm to children, young people, women, the elderly, people with disabilities or those with various vulnerabilities.
FSD Kenya acknowledges that safeguarding is everyone’s responsibility and will put in place reasonable measures to ensure the safety and wellbeing of children and vulnerable adults in the projects FSD Kenya supports. FSD Kenya will ensure any activities it engages in and the communities within which it operates do not expose vulnerable persons, participants or staff to the risk of discrimination, neglect, harm and abuse.

FSD Kenya recognise the power dynamics, or the power attributed to provider of funds by the participants and prohibits exploitative or extractive behaviours carried out by those who wield power or are perceived to wield power.

FSD Kenya will ensure that when working with or through partners or subcontracted agencies, their safeguarding procedures are consistent and in line with the principles and approaches set out in this code; that they are informed and in compliance with the safeguarding policy.

2.3 Safeguarding children

(a) FSD Kenya undertakes to protect children while implementing its programmes - whether the programmes are working directly or indirectly with children.

(b) FSD Kenya technical teams will identify and outline any child safeguarding exposures and mitigations in the task designs before crystallising any partnerships with the implementing partners. Guarantees and partners will similarly outline any child safeguarding exposures and mitigations before implementing any activities.

(c) Recruitment of children for any labour or activities which interferes with their development, education, and recreational activities or which places them at risk of mistreatment or injury is prohibited.

(d) Vetting processes will be followed in recruitment of all employees who are directly engaged with children in the implementation of FSD Kenya activities. Beyond detailed reference checking, a police certificate of good conduct will be required where a staff is directly involved with children while third party screening will be undertaken for all contractors and grant representatives.

(e) All parties to this code whether working directly with FSD Kenya or through partnerships must disclose any convictions or investigations of sexual offences or impropriety that they are or have been subject to. Trustees and PMT will make a judgement call or a determination on the outcome of this disclosure on a case-by-case basis.

(f) Sexual activities or relationships that might be deemed as exploitative with anyone under the age of 18 are strictly prohibited for all parties listed in this ethical code.

(g) Behaviours that sexually, physically or emotionally harass, exploit or abuse children are strictly prohibited while exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour is similarly prohibited.

(h) Two adults must be present when interviewing a child while the child and adult must receive basic training about any exposures and dangers of internet where they are involved in virtual or online activities. The child and guardian must be informed in advance that they will not have control over any recording or materials published online and that control of access once it is published will not be guaranteed.

(i) Consent will be sought from parents or guardians of children before taking any photographs or collecting any personally identifiable data for children. Photographs of young children must be clothed top and bottom. The clothing must also be appropriate with consideration given to the child’s local context and the international context in which their image will be used.
Pictures, materials and personal information regarding children will be held in a secure access-restricted database, and applicable data protection laws will be followed. If a third-party requests to use the picture, they must sign an agreement to adhere to the same conditions of use for which the consent was given. The identify and traceability of the child will be protected.

All parties to this code are expected to report immediately if they suspect any activities injurious to a child. Failure to report such activities or concern will be treated as a serious breach of contractual terms and may lead to termination of contractual engagements.

2.4 Safeguarding other groups
(a) FSD Kenya staff will outline any safeguarding risks and mitigations in the task design prior to implementation of the task. Guarantees or partners implementing activities funded by FSD Kenya must similarly outline any safeguarding risks and mitigations prior to implementing any activities.

(b) As far as possible, FSD Kenya staff, grantees and all implementing partners must explore accessibility options to ensure all persons living with disabilities are not excluded or disadvantaged. Use of sign language interpreters should be employed for large events while as far as possible, use of technologies and tools should similarly be utilised to ensure inclusion for all persons living with disabilities.

(c) Strict vetting processes will be used in recruiting staff who will be engaged with people living with disabilities and the elderly.

(d) FSD Kenya will ensure that the Ethical code and communication materials are accessible to people with various forms of sight or reading disabilities through use of audio versions or through application of relevant technologies.

(e) FSD Kenya is committed to ensuring its staff and projects do not promote unethical and illegal employment practices, such as modern-day slavery and other forms of exploitative and unethical treatment of workers and aid recipients.

2.5 Designated safeguarding officer (SO) and PIC safeguarding lead:
(a) The Operations lead or any other designate staff appointed by the CEO will be the Safeguarding Officer (SOs) to whom any safeguarding issues can be reported. The PMT is tasked with keeping track of any issues brought to their attention. The CEO will in turn escalate any safeguarding issues to the Trustees and to the PIC Chair and to the PIC safeguarding lead.

(b) The PIC safeguarding lead will be appointed from amongst PIC members, observers or alternate members and will provide guidance and expertise to the management in maintaining safeguarding standards and practices and to ensure safeguarding is given imminence at a strategic level.

3. PREVENTION OF SEXUAL HARRASSMENT, EXPLOITATION AND ABUSE (PSHEA)

3.1 Definitions
(a) Sexual exploitation: Any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

(b) Sexual abuse: The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

1 Definitions adopted from Sida ‘General conditions applicable to grants from Sida to NGOs regarding project/programme core support’.
(c) **Sexual harassment:** Any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person.

3.2 **SHEA Principles to sexual harassment, exploitation and abuse:**

(a) FSD Kenya has a zero-tolerance approach to sexual harassment, exploitation and abuse (SHEA). FSD Kenya does not allow any staff, contractor or associated party to engage in any form of sexual abuse, harassment or exploitation against adults, adults at risk, children or young people.

(b) All parties will act without delay to bring concerns of sexual harassment, exploitation and abuse to the attention of relevant national authorities and to cooperate promptly and fully with any enquiry that national authorities may pursue.

(c) Use of equipment, including computers, cell phones, vehicles and internet access for purposes of viewing, displaying, or disseminating materials whose nature is abusive, harassing or bullying is strictly prohibited.

(d) Offensive jokes or remarks or use of stereotyping language relating to race, gender, sexual orientation, or religion directed to another person is prohibited. Those witnessing such harassment are expected to call out that offensive behaviour or report it.

(e) Making fun of individuals or deprecating them for finding some conduct that they consider sexually harassing or unwelcome is similarly prohibited.

(f) Use of written, typed or graphic materials that sexually denigrates or shows hostility or aversion towards an individual or group.

(g) All parties to this code should desist from participating or condoning behaviours that sexually, physically or emotionally harass, exploit or abuse another person.

(h) FSD Kenya partners and downstream partners will be expected to at a minimum have a sexual harassment policy and actively track any breaches relating to sexual harassment and abuse.

(i) All parties to this code should not compromise FSD Kenya’s values nor engage in relationships with prospective or actual beneficiaries or grantees that could be deemed sexually exploitative.

(j) All parties to this code will not use their position of power to take advantage of another for sexual purposes.

(k) As far as possible, FSD Kenya and its partners will seek to develop and espouse gender friendly policies that remediate inequalities at the workplace. These include tracking and addressing gender pay gaps or any forms of discriminatory policies that exacerbates inequalities.

3.3 **Reporting safeguarding and PSHEA concerns:**

(a) Any party receiving an allegation, report or concern or that has a suspicion that someone engaged by or connected to FSD Kenya’s programmes is suffering or is likely to suffer significant harm, no matter what the cause, should seek the advice and assistance of the designated Safeguarding officer setting out the basis of the suspicion as clearly as possible. This should be done immediately without awaiting confirmation of concerns. Such concerns should be reported through transparency@fsdkenya.org email which is monitored by the Operations lead or a designate staff appointed by CEO and/or through fsd.whistleblower@bdo-ea.com which is monitored externally by FSD Kenya Trustees.
3.4 Survivor protection:
(a) FSD Kenya and its downstream partners will, within the resources available, promote the welfare and safety of the victims or survivors of harassment or safeguarding. This may include facilitation of or referrals to competent service providers in medical, psychosocial, legal or other support services required by the survivor(s). Survivors will also receive appropriate information regarding the outcomes of any incident.

3.5 External reporting and legal compliance:
(a) It is recognised that this code identifies minimum standards that may exceed the requirements of local legislation, and these standards must be upheld where they do not cause conflict with local law.

(b) External reporting to regulators or other bodies will be made in line with laws and regulations and any agreements signed by FSD Kenya.

3.6 Safeguarding in grantees and partners
FSD Kenya expects its grantees and partners to:

a) Institute similar measures that will prevent sexual harassment, abuse and exploitation of their staff, beneficiaries and third parties who come into contact with FSD Kenya’s programmes as well as ensure that their personnel and contractors related to them understand and abide by the contents of this code and adhere to the third-party code of conduct.

b) Report safeguarding concerns that relate to FSD Kenya’s programmes as soon as possible and to respond quickly and appropriately to reported concerns.

c) To act without delay to bring concerns of sexual harassment or any form of harassment to the attention of relevant national authorities and to cooperate promptly and fully with any enquiry that national authorities may pursue.

d) Disclose to FSD Kenya whether personnel in contact with FSD Kenya’s programmes are or have been the subject of disciplinary proceedings relating to sexual harassment or bullying or similar allegation; or under investigation by national authorities or convicted for sexual offences.

4. ANTI-BULLYING AND ANTI-HARASSMENT

4.1 Definitions

(a) Bullying
- The International Labour Organization (ILO) defines workplace bullying as constituting ‘offensive behaviour through vindictive, cruel, malicious or humiliating attempts to undermine an individual or groups of employees. It involves ganging up on or ‘mobbing’ a targeted employee and subjecting that person to psychological harassment. Mobbing includes constant negative remarks or criticism, isolating a person from social contacts, and gossiping or spreading false information.

- Leymann (who introduced the word “mobbing” into the scientific vocabulary), describes workplace bullying as “psychological terror or mobbing in working life involves hostile and unethical communication which is directed in a systematic manner by one or more individuals, mainly toward one individual, who, due to mobbing, is pushed into a helpless

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2 The definition and section draws from materials from ILO materials and Climate Action Network – Climate Network Action
and defenceless position and held there by means of continuing mobbing activities. These actions usually occur on a very frequent basis [at least once a week] and over a long period of time [at least six months’ duration].

- Bullying may therefore occur over prolonged periods, be one-off, happen face-to-face on social media, via email or phone calls and may happen at the workplace or at social events. Bullying is not always obvious and may go unnoticed by others.

**Examples of bullying could include:**
- Someone spreading false rumours with ill intentions
- Microaggressions - which are overt or covert forms of aggressive behaviours towards and individual. These may be targeted towards a particular gender or marginalised groups and may entail interrupting them, hushing them, disregarding, ignoring or minimising their opinion during meetings or generally instilling fear.
- Repeated criticism of work without appreciating someone’s performance or providing solutions or blaming someone for mistakes that are beyond their control or their realm of responsibility.
- Deliberately withholding information and unnecessarily frustrating a colleague with a view to undermining their efforts.
- Deliberately taking credit for another person’s work or constantly failing to appreciate or recognise their efforts.
- Criticising a colleague to others in a way that also encourages them to criticise the colleague.
- Assigning intentions or suspicions on a staff member and spreading false allegations without establishing facts.
- Gaslighting and other forms of psychological manipulations which may involve deliberately distorting information on shared drive to unnecessarily assign mistakes and making the victim doubt their actions and sanity.
- Communicating in a disrespectful and disparaging manner whether verbally or in writing.

**4.2 Discrimination**
- Discrimination is any negative action or attitude directed towards someone because of his or her membership in or affiliation with a particular group, including age; disability or medical history; ethnicity, national origin, race, caste, or socioeconomic status, religion, gender, gender identity or gender reassignment status, family status, marital status (except for marriage to a child under 18) or pregnancy, and sexual orientation.

**Specific examples of conduct potentially constituting discrimination include, but are not limited to:**
- Making a job offer to a woman with a lower wage than what would be offered to a man doing the same job with the same skill level.
- Denying reasonable accommodations due to religious practices or observances.
- Denying reasonable accommodations due to different physical or mental abilities.
- Denying a promotion to an older person, in favour of a younger person because a more youthful appearance is desired.
- Denying time off because the individual is single or does not have a family.

**4.3 Harassment**
(a) Harassment is unwanted conduct affecting the dignity of individuals in the workplace based on the characteristics listed above. Harassment is conduct perceived as demeaning and unacceptable by the recipient and which creates an intimidating, humiliating or offensive environment. Harassment, as defined in this code, may be persistent or a single, isolated incident of a severe nature. Harassment can occur in-person, by phone, email, through social media or other electronic communication.

**Specific examples of conduct constituting harassment include, but are not limited to:**
- Making offensive jokes or remarks about or using offensive stereotypes relating to race, gender, sexual orientation, religion, disability or other protected characteristics.
The presence of written or graphic material that denigrates or shows hostility or aversion toward an individual or group in the workplace including on walls, in vehicles, on electronic equipment, or elsewhere on the agency’s premises or circulated in the workplace.

Making fun of individuals or deprecating them because they are offended by conduct, they consider harassing or unwelcome.

4.4 Abuse
- Abuse is intimidating, malicious, or insulting behaviour towards an employee, whether or not that behaviour is based on membership in a particular group. Abuse often involves the misuse of power and is intended to undermine, frighten, humiliate, denigrate, injure or cause harm to the recipient in some way. Abuse is generally of an ongoing/pervasive nature but may also be a single incident or it may be subtle in nature. Abuse can occur in-person, or by phone, email, through social media or other electronic communication. Specific examples of conduct which may constitute abuse include, but are not limited to:

  - Verbal aggression, such as shouting or swearing.
  - Persistent, excessive, unwarranted, or unfair criticism.
  - Public humiliation, ridicule, taunting or unwanted name-calling.
  - Constant ignoring of opinions or repeated intentional exclusion in the workplace.
  - The spreading of false and destructive rumours about an employee or the organisation.
  - Threats of or actual physical assault.
  - Intimidating someone who has filed a complaint or is considering filing a complaint (see also FSD Kenya Whistleblowing Policy).

4.5 Approach to bullying and harassment:
(a) FSD Kenya prohibits the use of FSD Kenya’s work equipment, including computers, cell phones, office walls, vehicles, and internet access for purposes of viewing, displaying, or disseminating discriminatory material, bullying, harassing or abusive in nature.

(b) Everyone has the right and obligation to report misconduct involving discrimination, harassment, or abuse. Anyone who witnesses but is not the target of discrimination, harassment or abuse is encouraged to report it.

(c) The unfair or unequal treatment of an individual (or group) in hiring, assignment, execution of duties, training or development, promotion or any other facet of their employment based on any of the characteristics described above is prohibited.

(d) Employees are encouraged, but not required, to first report to their line manager. The employee may also report bullying and harassment concerns directly to or any member of the PMT.

(e) FSD Kenya staff, supervisors, and managers who receive allegations or complaints of abuse and harassment must promptly report them to any member of the PMT or a designate appointed by CEO using the transparency@fsdkenya.org or directly on email or phone.

(f) Visitors and third parties may report bullying by sending an email directly to transparency@fsdkenya.org. Anyone can report allegations per FSD Kenya Whistleblowing policies outlined in this FSD Ethical Code.

(g) Reporting of allegations may be done anonymously, although this may impede the ability of FSD Kenya to assess the complaint and conduct a thorough investigation if necessary. FSD Kenya encourages non-anonymous reporting.

(h) Because of the nature and sensitivity of allegations of misconduct involving discrimination, harassment, and abuse, FSD Kenya treats all concerns with respect for the confidentiality of all individuals involved.

(i) FSD Kenya will always seek to maintain privacy during the response process, consistent with the responsibility to uphold safety. Only people with a need to know will be provided
information and limited to their role in the response and investigation process. Anyone who has a role as part of the investigation or response team is bound by confidentiality and can be disciplined, up to termination, for violating that confidentiality.

(j) A complainant may also be requested to preserve confidentiality. To the best of its ability, FSD Kenya will work with a complainant to address their concerns around confidentiality to allow effective investigations to go forward. Effective and fair investigations typically require confronting the accused with the allegations.

(k) Guarantees and partners must institute similar processes or mechanisms as FSD Kenya’s for handling cases of abuse, harassment and bullying.

4.6 Consequences of prohibited conduct:
(a) FSD Kenya takes allegations of harassment, discrimination, and abuse seriously and is committed to a fair response to all complaints. Complaints will be addressed and investigated as necessary, in line with the principles laid out in the FSD Kenya whistleblowing processes.

(b) FSD Kenya’s PMT members or designate appointed by CEO is informed (in a manner consistent with FSD Kenya commitment to confidentiality) of all reports and investigations involving physical assault and provided with useful information to conduct a proper investigation.

(c) Substantiated findings of misconduct will result in meaningful and proportional discipline that will depend on the nature and severity of the conduct and whether and how it can be effectively addressed.

5. ENVIRONMENTAL SAFEGUARDING

5.1 Introduction
(a) FSD Kenya embraces the Sustainable Development Goals (SDG) especially Goal 13 which calls for urgent actions to combat climate change and its impacts. FSD Kenya supports a green economy that aims at reducing environmental risks while supporting sustainable development without degrading the environment. FSD Kenya supports green business practices such as green marketing and eco-labelling and encouraging green supply chain, effective waste management through recycling, reusing and repurposing. FSD Kenya commits to minimising its water usage efficiently, as far as possible reduce printing, minimise storage of paper documents and use digital channels, as far as possible share vehicles while travelling to the same venue. Preference will be given to hotels that have environmental sustainability policies with insistence of use of glass bottles for workshops or events held outside the office. FSD Kenya should seek to track and reduce wastages through its waste management plan as far as possible.

5.2 Definitions
(a) Carbon footprint - This is the total amount of greenhouse gases emitted into the atmosphere directly and indirectly because of all FSD Kenya activities and programmes. It is expressed in equivalent tons of carbon dioxide.

(b) Environmental impact assessment - Is a systematic study used to determine the type and level of effects that a proposed project will have on the physical, biological, and social environment. The effects may be positive or negative.

(c) Environmental and social management framework – This outlines the roles, responsibilities and processes used to manage environmental and social risks and impacts including screening, preparations, implementation, and monitoring of projects.

(d) Environmental management plan – This is a document that outlines the description of measures undertaken to avoid adverse impacts on the environment as well as the timelines.
(e) **Green economy** – This results in improved human wellbeing and social equity while significantly reducing environmental risks and ecological scarcities. It is low carbon, resource-efficient and socially inclusive.

(f) **Green marketing** – This is the process of producing, promoting, packaging, and reclaiming products and services in a manner that is sensitive or responsive to ecological concerns.

(g) **Safeguards** - Environmental and social safeguards aim to avoid, and when avoidance is not possible to reduce or compensate for the adverse effects of activities on both the environment and human.

(h) **Sustainability** – This is focused on meeting the current generation’s needs while making sure that the future generations are taken care of. It comprises of three pillars, economic, environmental, and social, which are also known as profits, planet, and people.

5.3 **Principles to environmental safeguarding**

a) **Precautionary approach** – FSD Kenya will take a precautionary approach to environmental challenges through environmental risk assessments, risk management and risk communications. This involves anticipating and avoiding projects that have adverse risks on people and the environment. Where it is impossible to avoid them, mitigation measures and restoration measures will be adopted.

b) **Polluter pays principle** – This means that the polluter will bear the cost of measures to reduce pollution according to the extent of either the damage done to society or the exceeding of an acceptable level (standard) of pollution\(^5\). Consequently, if any activities of FSD Kenya results in any form of pollution to the environment then FSD Kenya will bear the cost of managing the pollution to prevent damage to human health or the environment.

c) **Good governance and compliance with applicable law** – FSD Kenya will adhere to the rule of law, recognising partnerships among institutions, respecting human rights and participation of communities and will not support any projects/programmes that do not comply with applicable laws and regulations in Kenya and other International Treaties and Agreements. FSD Kenya adopts the United Nations Global Compact principles on the environment and human rights which aims at a precautionary approach to addressing environmental challenges, promoting greater environmental responsibility, encouraging the development of environmentally friendly technologies, supporting and respecting the protection of internationally proclaimed human rights and ensuring non-tolerance of human rights abuses.

d) **Transparency and inclusion** – FSD Kenya will make all environmental and social rights decisions transparently and inclusively.

e) **Promotion of environmental protection** – FSD Kenya will promote the protection of the environment for the benefit of nature and humans.

f) **Resource efficiency**- FSD Kenya recognises the importance of utilising resources efficiently through sustainable consumption and production. The four Rs principle (Reduce, Reuse, Recycle and Recover) shall apply while managing and utilising resources.

g) **Stakeholders consultation and communication** – FSD Kenya requires public participation of all stakeholders, transparency, accountability, prior informed consent from all vested interests. FSD Kenya shall ensure that stakeholder engagement is inclusive of all genders and non-discriminatory. They shall be involved during the planning stage, implementation and in decision making in funded projects.

\(^5\) OECD definition
h) **Innovation** – FSD Kenya will ensure it adopts appropriate technologies.

i) **Research** – FSD Kenya’s environmental decisions shall be guided by evidence-based scientific research. FSD Kenya shall also share knowledge, experiences and lessons with other stakeholders. Continual capacity development and training on environmental sustainability

### 5.4 Environmental and social risk management framework

FSD Kenya will track environmental and social risks as part of its overall risk management framework. Technical teams will in addition outline on the task designs any potential environmental and social risks and mitigations thereof prior to crystallising any partnerships or interventions or tasks. The assessment will gauge the impacts of risks such as biodiversity, water, air, safety, climate change and social risks.

The CEO will appoint environmental and social safeguards lead who will develop and oversee the roll-out of the framework throughout the FSD Kenya’s programme and operations.

### 5.5 Environmental impact assessment (EIA)

All tasks will consider whether an EIA will be conducted based on the risks identified. Environmental impact assessments will be conducted on projects before implementation. The outcomes of the screening and categorisation will be used to guide the level of Environmental Impact assessment necessary for each project.

- **a)** A full EIA will be required where the project is likely to have significant adverse impacts that are sensitive, diverse or unprecedented and may affect areas broader than the sites subject to physical work
- **b)** A limited EIA will be required where the potential environmental and social impacts of the project are less adverse, and in most cases, mitigatory measures are readily designed.
- **c)** No EIA will be required if the project is likely to have minimal or no adverse impacts.

Should a full EIA be needed, FSD Kenya will consult and where necessary seek relevant licenses from regulatory authorities in Kenya before embarking on the project.

### 5.6 The environmental and social risk management plan

Where the project has negative impacts, FSD Kenya shall ensure that a risk management plan has been developed to mitigate and minimise the impacts.

FSD Kenya will maintain a risk register as part of the risk management framework that will collate the risks identified and the outcomes of the impact assessments and ensuing mitigation plan.

The Project leads responsible for each project will be responsible for ensuring that the risk register and mitigation plan is developed, updated, and effectively monitored.

### 5.7 Climate change

Climate change is a global challenge that is negatively affecting our environment, social wellbeing, and businesses. FSD Kenya commits to reducing its carbon footprint as well as working with other organisations to address issues of climate change. It will play its role in reducing greenhouse gases (GHG) as well as supporting and investing in climate-friendly solutions and adaptation measures.

FSD Kenya will ensure that climate-related issues are adequately incorporated into the organisation’s strategic decision-making processes, its procurement processes while contractors and grantees will confirm their adherence to protecting their environment as part of the contractual obligations.

### 5.8 Grantees and partners responsibilities:

Grantees and partners must institute similar processes and mechanisms as FSD Kenya’s for handling environmental and social safeguards. Risks and mitigations must therefore be identified prior to implementing any activities whose funding is provided by FSD Kenya.
6. COUNTER-TERRORISM FINANCING (CTF) AND ANTI-MONEY LAUNDERING (AML)

6.1 Definitions

(a) Terrorism

Terrorism are acts of organised violence or aggression against civilians, governments and its citizens, corporations, and/or religious groups.

(b) Terrorism financing

Terrorism finance is the solicitation, collection or provision of funds to support terrorist acts or organisations.

(c) Money laundering

Money laundering is the process of concealing the origin of proceeds from illicit activities such as corruption, drug or people trafficking or illegal arms dealing. The beneficial owners usually use other people or pseudo channels to disguise their true identity but exercise ultimate control over a legal person or arrangement.

In Kenya, Proceeds of Crime and Anti-Money Laundering Act 2009 (POCAMLA) has the mandate of preventing and disrupting use of illegally obtained proceeds of crime and the combating of money laundering and the financing of terrorism. FSD Kenya will also ascribe to guidelines and regulations imposed in the countries of FSD Kenya’s donors and intergovernmental institutions such as the European Union Sanctions Map as provided at www.sanctionsmap.eu; HM Treasury’s Office of Financial Sanctions Implementation – Financial sanctions consolidated list of targets; The UK Home Office - Proscribed terrorist groups or organisations; United Nations Security Council Sanctions List; World Bank Listing of Ineligible Firms & Individuals; US Government List of Specially Designated Nationals and Blocked Persons List.

FSD Kenya is committed to complying with all relevant Kenyan legislation, and applicable global legislation on counter-terrorism financing (CTF) and anti-money laundering (AML). FSD Kenya has zero-tolerance of actions prohibited by such legislation.

6.2 Principles to countering terrorism financing, money laundering and aid diversion:

(a) FSD Kenya staff and its grantees, downstream partners and contractors must embed robust procedures, including maintaining adequate financial records to support expenditure.

(b) FSD Kenya, grantees and partners will undertake a risk-based due diligence on grantees and downstream partners and contractors and enhanced due diligence for politically exposed persons.

(c) FSD Kenya and the grantees will undertake third party screening for all contractors, grantees and downstream partners as part of know-your-customer (KYC).

(d) Maintaining business relationships with third parties under the sanctions list is strictly prohibited.

(e) FSD Kenya, grantees and partners will institute a risk-based approach in instituting controls that mitigate the risk of CTF and AML in our programmes. Risk assessments will be done at the design stage of all projects to assess and manage the risks of funds or materials being diverted.

(f) FSD Kenya staff, PIC members and Trustees will immediately report suspicious cases through the reporting or whistle-blowing channels provided. Suspicions will similarly be reported promptly to donors as required by contractual obligations. Where criminal offences are suspected, reports will be made to relevant authorities.

(g) FSD Kenya will hold regular discussion with grantees and partners about risks and incidents of aid diversion which is likely to affect its programmes where incidences or increased risks
are identified. Grantees and partners must ensure their staff are trained and are aware of their responsibilities to protect funds from risk of diversion.

7. CONFLICT OF INTEREST, ANTI-CORRUPTION AND ANTI-BRIBERY

7.1 Conflict of interest definitions

a) Conflict of interest - A Conflict of interest is any decision, judgement or activity at the workplace that is driven by an individual’s desire to benefit themselves, their family, their close friends or associates. Granted, personal interactions or engagements may develop with people in the course of professional interactions but these should not influence any decisions or judgements made at the workplace. It is also important to recognise the power dynamics or the perceived power dynamics between the person who manages funds and the recipient or the perception of power that recipients assign to donor, PIC members, Trustees, FSD Kenya staff and the grantees providing funding to downstream partners. It is equally important to delicately manage that perception so as not to unduly influence any decisions or judgements made by the recipients of the fund or coerce them into making decisions that are counter to ethical conduct.

b) An actual conflict of interest is a conflict between an individual’s duty and the private interests of that individual, in which the individual will have private-capacity interests which could improperly influence the performance of their official duties and responsibilities.

c) An apparent or perceived conflict of interest can be said to exist where it appears that an individual’s private interests could improperly influence the performance of their duties, which may not be the case. It is about optics.

d) A potential conflict of interest arises where an individual has private interests which are such that a conflict of interest would arise if that individual were to become involved in relevant (i.e. conflicting) official duties and responsibilities in the future.

7.2 Corruption

Corruption is the abuse of power for private gain. Corrupt activities are broad and encompass acts such as fraud, collusion, theft, bribery, nepotism or favouritism.

7.3 Bribery

Bribery is offering, promising, giving, accepting, or soliciting of an advantage as an inducement to do something which is illegal or a breach of trust. The purpose of the bribe is to induce a person to perform a relevant function or activity improperly or to ‘reward a person for the improper performance of such a function or activity. Bribery includes facilitation payments, favours and kickbacks.

7.4 Conflict of interest relating to PIC members and Government of Kenya

PIC members, observers and any donor representative who attend PIC meetings at the invitation of FSD Kenya or donor members must have no direct financial or personal interest in the activities funded by the Trust. It is the responsibility of all potential or existing PIC members to declare any interests which may be relevant to these activities as soon as they occur. Where a material conflict of interest is judged to exist by the other Members, the Member should step down and be replaced or recused from participating in discussions or voting in any decisions relating to such activities. Annual mandatory declarations must be made by all PIC members, observers and Trustees even where there is no conflict of interest. The Chair will also request all PIC Members, observers and Trustees to declare any potential or perceived conflict of interests at the start of each meeting.

No material conflict of interest will be deemed to occur in the case of public sector funding proposals and representation by the National Treasury of the Government of Kenya (GoK). Funding proposals to the National Treasury or other GoK agencies can be presented to the PIC

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4 Partly adapted from Organisation for Economic Co-operation and Development (OECD)
without being deemed to compromise the position of the member representing the National Treasury. However, in the event of a need to vote on a funding proposal he/she will be expected to abstain.

7.5 Board memberships and voluntary services
FSD encourages staff members to undertake speaking engagements, serve on boards, take on lecturing and tutoring roles and write articles with the proviso that:

- **a)** The time spent on such activities does not interfere with official responsibilities and that the materials prepared and all activities undertaken in connection with these activities are done during personal time or as part of the agreed workplan of the individual.

- **b)** FSD Kenya resources are not used towards such activities unless express consent is obtained or where they are, an acknowledgement or citation is appropriately done.

- **c)** The organisation the staff is engaging in is not a beneficiary of FSD Kenya grants, and in case it is, that the individual has no dealings with the partner on behalf of FSD Kenya and abstains from any decisions relating to such dealings.

Employees are at liberty to receive compensation for such services, but they must disclose all their board affiliations, voluntary engagements, roles such as lecturers or tutors that could give rise to a perceived, potential or actual conflict of interest.

Exceptionally, and where the PIC has provided prior no objection for use of equity investment instrument, FSD Kenya may appoint its staff members to sit on boards and represent the interests of FSD Kenya. Approval for such appointment should be provided by the Trustees with the proviso that it does not compromise FSD Kenya’s neutrality and its role as a facilitator of market development. No compensation will be provided to such staff as the role is deemed to be an extension of their work.

Conflict of interest takes many forms but a few examples of prohibited conduct are highlighted here:

- Influencing the recruitment of a friend, a family member or close associate.
- Awarding contracts for goods and services to friends, relatives or close associations and should recuse yourself from the selection process if it involves a person or entity with close personal ties.
- Being beneficiaries of grants or sub-grants whether directly or through proxies or influencing the award of grants to sub-grants.
- Dictating the partners that FSD Kenya works with or the partners that the downstream partners should engage with.
- Acting impartially irrespective of political affiliations and not using FSD Kenya’s resources to extend one’s political ambitions.
- Receiving agency fees or commission for hotel bookings or technical procurements is prohibited.

7.6 Declarations and approach:
Arrangements entered into by the grantees and downstream partners and all parties to this code must be free from bias, conflict of interest or the undue influence of others.

All parties to this code are encouraged to err on the side of caution and declare potential, real or perceived conflicts that have an impact on the FSD Kenya programme sooner they occur as detailed here:

<table>
<thead>
<tr>
<th>Groups/individuals</th>
<th>Reported to</th>
<th>Process/action</th>
</tr>
</thead>
<tbody>
<tr>
<td>PIC members, observers, donor representatives</td>
<td>PIC Chair, CEO and Trustees</td>
<td>Reported to the PIC Chair, CEO and Trustees either by email or phone. In the event of gross contravention by a donor member or observer, the Trustee and CEO will report to the funders through the channels outlined on the grant agreements or through escalation to the relevant personnel at the donor level and the member requested to step down pending investigations.</td>
</tr>
<tr>
<td>Groups/individuals</td>
<td>Reported to</td>
<td>Process/action</td>
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<tr>
<td>Independent members</td>
<td>PIC Chair, CEO and Trustees</td>
<td>Reported to the Chair, CEO and Trustees either by email or phone. The member will recuse themselves from discussion and/or voting on the matter where a conflict is established. A contravention will be discussed by the donor members and the member contract put on hold pending investigations.</td>
</tr>
<tr>
<td>Trustee</td>
<td>PIC Chair and CEO</td>
<td>Reported to the PIC Chair and CEO in writing or phone who may present the issue to the PIC where a conflict is determined to occur. A contravention by Trustee will be addressed in line with the provisions of the Trust deed.</td>
</tr>
<tr>
<td>Staff</td>
<td>Line manager</td>
<td>Reported to the line manager in the first instance through email or phone. The line manager will in turn report to the CPO and the staff recused from participating in matters relating to the subject where a conflict is deemed to occur.</td>
</tr>
<tr>
<td>Grantees, contractors and third-party providers</td>
<td>Contract or grant administrators</td>
<td>Report through the contract or grant administrators whose contacts are outlined on the contracts and grants. The administrators will in turn report the matter to a member of the PMT and a determination made where a material conflict is deemed to occur.</td>
</tr>
<tr>
<td>All: Whistleblowing</td>
<td>Annual mandatory declarations should be made by PIC members, observers, alternate members and Trustees in Q1 of each year and by staff in Q2 of each year.</td>
<td></td>
</tr>
</tbody>
</table>

7.7 Gifts and hospitality:
Gifts may be accepted where (a) it might culturally be deemed offensive to reject such a gift (b) the value is of equal or of a lesser value than KShs 5,000/= (c) the gift may not be seen or perceived as a form of bribery or giving rise to a conflict of interest and/or (d) the gifts are reasonable tokens of appreciation or seasonal gifts.

Hospitability or entertainment costs may occasionally or inadvertently surpass approved limits with the proviso that they are not provided with the intention of influencing the behaviour or the judgement of the recipient, they are done within reasonable limits and comply with the applicable laws.

7.8 Approach to gifts and hospitality:
- Politely reject a gift which is deemed extravagant or intended to influence the judgement or outcome of a decision.
- Where it might be culturally offensive to reject the gift, accept it, declare it in writing to the Operations lead and submit it to the office. A determination will be made by the PMT on the next course of action which may include donating the gift to charity.
- When in doubt, always err on the side of caution and declare for determination on the next course of action.
- FSD Kenya grantees and partners should similarly maintain a gift and hospitality register from downstream partners.
- The Operations lead will maintain a gift and hospitality register which will be reviewed by the PMT on a periodic basis. Trustees may review the register on a quarterly basis or periodically as they deem fit.

8. WHISTLEBLOWING

8.1 Definitions
(a) Whistleblowing – deliberate, voluntary disclosure of information which relates to suspected or anticipated wrongdoing within or associated with the organisation that is within its ability
to control (generally a breach or a legal, statutory, or regulatory requirement or unethical or immoral behaviour).

(b) **A whistleblower** is someone who alerts via the appropriate channels a suspected or real breach of the ethical code.

(c) **Malpractice** – improper, illegal behaviour by anyone.

8.2 General principles to whistleblowing.

(a) This is the channel that is used to report suspicious misalignments or breaches that could potentially be controlled and/or mitigated before it happens. Malpractices are reported when the whistleblower believes that (a) a criminal offence has been committed, is being committed or is likely to be committed e.g., child abuse, fraud, bribery, theft, money laundering, terrorism, aid diversion, sexual harassment etc. (b) breaches relating to safeguarding (c) miscarriage of justice (d) health and safety of individuals or organisations is at risk (e) damage to the environment occasioned by FSD Kenya activities (f) sexual harassment, abuse and exploitation.

(b) A serious malpractice does not usually include personal employment grievances (such as unsatisfactory probation reports, performance evaluation, equal employment opportunities) or general complaints. These should be dealt with through the channels provided for in the grievance policy. However, in cases where a party genuinely considers the issue to be endemic within the organisation or in their department/project and no action has been taken in response to a concern raised, then a whistleblower may be appropriate.

8.3 What to do:

(a) Report suspected malpractices without fail. Reportable concerns must not be reasonably held but do not require any proof;

(b) All parties to this code are encouraged to report a concern even if they do not have all the information as failure to do so may be viewed as a serious breach leading to disciplinary action.

(c) Report suspected malpractices without fail. Reportable concerns must not be reasonably held but do not require any proof.

(d) FSD Kenya staff should in the first instance report to their line managers and to a member of the PMT if they suspect their line managers may be involved or where they continuously fail to take action.

(e) FSD Kenya’s vendors, contractors, consultants, grantees and other third parties may report concerns first to the respective contract or grant administrators whose details are listed on the contract and grant templates.

(f) The line managers, contract or grant administrators must report the reported concerns to the PMT directly or through transparency@fsdkenya.org or through the Trustees or PIC Chair if they suspect a member of the PMT may be involved.

(g) If the whistleblower is unable to overtly report the case through the channels outlined above, then they are encouraged to report the concern through fsd.whistleblower@bdo- ea.com or through the toll free hotline 800-720-025. The two channels are managed externally by FSD Kenya’s Trustees to guarantee confidentiality and ensure anonymity.

(h) In reporting the malpractice, the whistleblower should include as far as possible (a) the malpractice they wish to report; (b) when the incident took place; (c) who was involved; (d) where it took place; and (e) any other information that may be useful.
A whistleblower who may want to report a malpractice anonymously is encouraged to provide sufficient information to aid in thorough investigation.

A whistleblower or any party who might have entered into a settlement agreement (where the parties enter into an agreement and agree to keep the agreement confidential) is not prohibited from raising concerns outside the agreement in the interest of the public.

8.4 Responding to concerns raised and investigations:
(a) Acknowledgement will be sent to the whistleblower within 48 hours including the support mechanisms available to the whistleblower.

(b) An assessment of the allegation will be done and where necessary the whistleblower might be consulted to provide more information to determine the credibility of the allegation.

(c) Once the credibility of the allegation has been determined, FSD Kenya will make necessary reports to appropriate authorities and regulators as required. These may include donors, where their funds could be impacted in line with the donor agreements. External reports will be made timeously through the CEO and/or Trustees.

(d) FSD Kenya will update the whistleblower once an investigation is completed, should the whistleblower wish to receive such an update. FSD Kenya recognises the right of the whistleblower to receive confirmation that the matter has been adequately addressed. Therefore, the whistleblower will be given as much feedback as is appropriate under the circumstances, and subject to legal confines.

(e) All allegations irrespective of how they are received will go through the same response process. When an allegation has reached the threshold for investigating, FSD Kenya will allocate the task of investigation based on the nature/severity of concern raised and the skillset needed to evaluate such a concern. If appropriate, FSD Kenya may engage an external party to facilitate the investigation process. FSD Kenya conducts its investigations whilst embracing the principles of confidentiality, proportionality, timeliness, evidence-led, independence, objectivity, fairness and transparency.

(f) Any party including FSD Kenya staff may be called upon to give evidence during an investigation. FSD Kenya staff will typically not be accompanied during an investigation interview but they have the option of selecting a person to accompany them. It is mandatory for all FSD Kenya staff to support an investigation process when required to do so. All records supporting an investigation will be maintained in line with FSD Kenya data protection policy.

(g) FSD Kenya may decide to suspend staff who is subject to investigations during the investigation process. Suspension to pave the way for a fair and transparent investigation is not a disciplinary action, and staff will be on full pay during this period.

(h) All records supporting an investigation will be maintained in line with Kenya Data Protection Act 2019 and FSD Kenya data protection policy.

(i) The CEO (unless tarnished) will have oversight over the investigations taken within FSD Kenya.

(j) Guarantees and downstream partners should institute similar mechanisms as FSD Kenya including sequencing of reporting and the actions thereof.

8.5 Malicious allegations
(a) No disciplinary action will be taken against a whistleblower who makes a reasonably held allegation in good faith even if an investigation does not substantiate the allegation.

(b) However, disciplinary action may be taken where there is evidence that allegations were not made in good faith but have been made maliciously or frivolously to the detriment of another
or for personal gain.

8.6 **Anonymous allegations**
(a) Anonymous allegations are allegations raised by whistleblowers who do not identify themselves to anyone at any stage. Anonymous allegations will also be taken seriously and responded to an appropriate extent; however, it may be difficult to investigate them thoroughly. It is therefore essential that the whistleblower gives enough information to facilitate a thorough investigation.

8.7 **Confidentiality and protection of whistleblowers.**
(a) FSD Kenya, will respect, protect, and keep confidential the identity of individuals who report concerns. All matters reported will be responded to in confidence, and every effort made not to reveal a whistleblower’s identity unless the whistleblower consents to it. Where a matter cannot be resolved without revealing the whistleblower’s identity, the whistleblower should be informed, and consent sought as necessary. Breaches of confidentiality will be treated as serious violations and will be subject to disciplinary provisions.
(b) FSD Kenya recognises that the decision to report a matter can be a difficult one. FSD Kenya will take appropriate action to protect any whistleblower who raises a concern in good faith. To protect whistleblowers from retaliation, FSD Kenya will preserve the confidentiality of the whistleblower and the response to the concerns and take further action on a case-by-case basis.
(c) Action will be taken against any party found to have victimised, discriminated, and harassed any person because they raised a concern. Such action may include dismissal.

9. **REPORTING, DATA RETENTION AND CONFIDENTIALITY**

All records generated and data generated from this code of ethics will be in line with the Kenya Data Protection Act 2019 and the General Data Protection Regulation (GDPR) (EU) 2016/679, the Data Protection Act 2018 (DPA).

9.1 **Internal reporting**
FSD Kenya Staff, supervisors, and managers who receive allegations or complaints of violation of this code must promptly report them to the Operations lead or any member of the PMT or a designate appointed by CEO using the transparency@fsdkenya.org or directly through their respective emails or through phone.

9.2 **Data retention and protection**
FSD Kenya respects confidentiality and has a responsibility to protect sensitive personal data. Information will only be shared on a ‘need to know’ basis, that means, access to data must be necessary for the conduct of one’s official duties. Only individuals who have legitimate reasons to access information can receive it. Personal data will only be retained as long as may be reasonably necessary to satisfy the purpose for which it is being processed.

9.3 **No retaliation**
FSD Kenya does not tolerate any form of retaliation against employees, partners or visitors who report suspected misconduct and report in good faith or participate in investigations of this alleged misconduct.

Anyone who experiences retaliation for reporting or participating in an investigation involving discrimination, harassment or abuse should immediately report to the PMT or to the grant or contract administrators or make a report using the whistleblowing channels.

FSD Kenya will not require its employees, partners, consultants, third party providers or visitors to sign or comply with internal confidentiality agreements or statements that prohibit or otherwise restrict them from lawfully reporting violations to a designated investigative or law enforcement representative of a department or agency authorised to receive such information.
9.4 Reporting to external parties
When required, reports can be disclosed to donors and regulators. If reports include allegations of criminal misconduct, they may also be disclosed to law enforcement to ensure the safety and well-being of all parties involved (refer to the Whistleblowing Policy).

Reports to any external party will be made under the authorisation of the PMT and/or the Trustees. Trustees will be informed of such reports as will the PIC.

9.5 External reporting
FSD Kenya is subject to Kenya laws and regulations and is committed to complying with them fully. External reports to law enforcement, regulators or legal authorities will be made in line with these laws and regulations and any agreements signed by FSD Kenya.

Where evidence of a criminal offence is found, an assessment will be done by the PMT and CEO and a police report made accordingly. The Trustees and PIC chair will be involved should the any member of the PMT or the CEO be affected.

9.6 Review of this policy
The PMT or a designate appointed by the CEO is responsible for ensuring that this policy is reviewed on a timely basis. Only substantial future changes need to be submitted to the PIC for no objection but other minor changes that do not significantly alter the content of the code may be approved by the Trustees in concert with the PMT.

10. RELATED POLICIES

The Ethical code should be read in conjunction with all other FSD Kenya approved policies.