



Title: Whistleblower Policy		
Doc No: HRPO017	Created: 18/11/2019	Rev: 2
Prepared By: Jessica Rothmund	Approved By: Stuart Kipreotis	Rev Date: 18/11/2020

## 1. Purpose

Pirtek and its related entities strives to operate with a culture of ethical and appropriate corporate behaviour in all business activities. This includes ensuring that Pirtek and its workers and contractors act with integrity, honesty and in accordance with good governance principles.

This purpose is supported by:

- ensuring that Pirtek has sound procedures to allow all employees (and their families), contractors and suppliers to identify and report genuine concerns about improper or illegal conduct or any improper state of affairs pertaining to Pirtek, without fear of reprisals; and
- ensuring all employees, contractors and officers of Pirtek are aware of the protections available under this policy and relevant Whistleblower Laws.

## 2. Commencement

This Policy will commence on 1<sup>st</sup> January 2020. It replaces all other Whistleblower policies (whether written or not).

## 3. Scope

This policy applies to all disclosers, as defined in section 8 of this policy.

The policy is not intended to create any contractually binding obligation on Pirtek and does not form part of any contract of employment or other contract for engagements with Pirtek.

## 4. Variations

Pirtek reserves the right to vary, replace or terminate this Policy from time to time.

## 5. Contacts

For a list of relevant contact details, including the Whistleblower Investigation Officer and Whistleblowing Protection Officer, see Appendix A.

The Whistleblower Investigation Officer or Whistleblowing Protection Officer can be contacted for additional information before making a disclosure, if required.

## 6. Types of disclosures protected by Whistleblower Laws

A disclosure is protected by Whistleblower Laws if:

- a) the disclosure relates to Protected Matters as defined in section 7 of this policy;



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- b) the information is disclosed by a Discloser identified in section 8 of this policy; and
- c) the disclosure is made to one of the persons identified in section 11 or section 12 of this policy (provided the pre-requisites in section 12 have been satisfied).

All of the above 3 conditions must be satisfied for a disclosure to be protected by Whistleblower Laws.

## 7. Protected Matters

The types of disclosures which are protected are those where the Discloser has reasonable grounds to suspect that the information disclosed concerns misconduct, or an improper state of affairs or circumstances, in relation to Pirtek.

These types of Protected Matters would include concerns that Pirtek, its employees, officers or contractors have or may have engaged in conduct that:

- a) constitutes a contravention of the *Corporations Act 2001*, the *ASIC Act*, the *Superannuation Industry (Supervision) Act 1993*, the *Banking Act 1959* or any insurance or life insurance statutes;
- b) constitutes an offence against a law of the Commonwealth which is punishable by imprisonment for 12 months or more;
- c) represents a danger to the public or the financial system, including conduct which endangers (or may endanger) the health and safety of any person or the environment;
- d) constitutes financial malpractice, impropriety or fraud;
- e) constitutes a material breach of Pirtek's Code of Business Conduct and Ethics or any other company policy;
- f) constitutes a material breach of the Franchising Code of Conduct; and/or
- g) any attempt to conceal any of the above conduct.

### Workplace Compliance

Breaches of the Fair Work Act, National Employment Standards, Modern Awards and / or any other industrial instrument is not explicitly covered by Whistleblower Laws. Employees of Pirtek should attempt to resolve any workplace compliance issues with their direct Manager and / or within the entity they are employed by in the first instance. However, if:

- a) Workplace compliance issues are unable to be resolved at an entity-level and / or occur repeatedly, despite being raised at an entity-level; or
- b) The discloser believes breaches of industrial instruments are deliberate; or



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- c) the employee feels their employment, health or safety would be jeopardised by reporting such a matter at an entity-level,

Pirtek will treat disclosures of a breach of these industrial instruments (including reports of underpayment) in accordance with this policy if:

- a) the discloser requests at the time of the initial report that it be treated as if it were a protected matter under the Whistleblower Laws; and
- b) The Whistleblowing Investigation Officer agrees that the improper conduct being disclosed would require the treatment, investigation and protection afforded by this policy.

The disclosure of information related to a personal work-related grievance is not generally protected by Whistleblower Laws. A personal work-related grievance relates to information where:

- a) the information concerns a grievance in relation to a person's employment or former employment which has implications for the person personally; and
- b) the information does not have significant implications for Pirtek that do not relate to the person; and
- c) the information does not concern conduct or alleged conduct referred to in sections 7(a) to (g) of this policy.

Examples of personal work-related grievances include interpersonal conflicts between an employee or contractor and other employees, decisions regarding engaging, transferring or promoting an employee or contractor and decisions to discipline an employee or contractor or suspend or terminate the engagement of an employee or contractor.

## 8. Who may make disclosures about protected matters?

Each of the following persons may make a protected disclosure:

- a) Pirtek employees and officers as well as their relatives and dependants;
- b) contractors of Pirtek
- c) suppliers of goods or services to Pirtek; and
- d) employees of suppliers of goods or services to Pirtek.

### 8.1 Anonymous Disclosures

There is no requirement for a Discloser to identify themselves to be protected by Whistleblower Laws. That is, protected disclosures may be made anonymously. Anonymous disclosers should be aware that it may be more difficult to investigate



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concerns that are reported anonymously. When deciding whether or not to make a protected disclosure anonymously, individuals should have regard to the extent to which an anonymous disclosure may limit the ability of Pirtek to investigate the matter/s disclosed. Individuals are therefore encouraged to provide their identity when making a disclosure under this Policy.

Should you wish to remain anonymous, you are encouraged to submit your report via the external reporting channels (see Appendix A for contact details).

If you submit a report via an external reporting channel, and elect to remain anonymous, you can elect to receive updates on your report, provide more information and check on the status of your report by supplying your email address.

Should you supply your email address, it will not be accessible or visible to anyone from within Pirtek or the independent and external provider nominated by Pirtek to receive a disclosure relating to a Protected Matter (details outlined in Appendix A) thereby providing you with true anonymity. This enables you to communicate safely and securely with those who are responsible for reviewing or investigation your report whilst remaining anonymous.

## **9. Reporting and Protected Matters**

Persons may disclose Protected Matters by one of the following steps:

- a) submit a written report (including any relevant documentation) on a Protected Matter to a person identified in Section 11 of this policy;
- b) providing a verbal report on a Protected Matter to a person identified in Section 11 of this policy; or
- c) by providing a report through the externally managed reporting hotline (see Appendix A for contact details).

## **10. What information should be provided when making a protected disclosure?**

To enable protected matters to be properly investigated and addressed, it is recommended that protected disclosures contain the following kinds of information:

- a) That the disclosure is being made pursuant to this policy;
- b) The nature of improper conduct and when it occurred, or is likely to occur;
- c) The name(s) of people involved in the improper conduct; and
- d) Any material to support the matters raised in the protected disclosure such as documents, emails or the names of potential witnesses.



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**11. Who can a Protected Matter be disclosed to?**

In order to be protected by Whistleblower Laws, the disclosure of a Protected Matter must be made to:

- a) an officer or senior manager of Pirtek;
- b) the Whistleblower Protection Officer;
- c) an external organisation nominated by Pirtek to receive a disclosure relating to a Protected Matter (details outlined in Appendix A);
- d) an auditor or member of an audit team conducting an audit on Pirtek or its related bodies corporate;
- e) ASIC or APRA; and / or
- f) a legal practitioner for the purposes of obtaining legal advice or representation in relation to Whistleblower Laws.

**12. Disclosures to Politicians and Journalists**

A disclosure of a Protected Matter to a journalist or member of state or federal parliament will be protected by Whistleblower Laws only if it qualifies for the public interest requirements or emergency requirements outlined below.

**Public interest disclosures**

A disclosure of a Protected Matter to a member of State or Federal Parliament or journalist will be protected by Whistleblower Laws if all of the following requirements are satisfied:

- a) the Discloser has previously made a disclosure relating to a Protected Matter to a person identified in section 11(a) – (f);
- b) at least 90 days have passed since the previous disclosure was made;
- c) the Discloser does not have reasonable grounds to believe that action is being or has been taken to address the previous disclosure;
- d) the Discloser has reasonable grounds to believe that making a further disclosure of the information to a member of Parliament or journalist would be in the public interest;
- e) the Discloser has given written notification to a person identified in section 11(a), (b) or (c) of this policy that identifies the previous disclosure and states that the Discloser intends to make a public interest disclosure; and
- f) the extent of information disclosed is no greater than is necessary to inform the journalist or member of Parliament of the relevant misconduct or improper state of affairs.



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### Emergency disclosures

A disclosure of a Protected Matter to a journalist or member of State or Federal Parliament will be protected by Whistleblower Laws if all of the following requirements are satisfied:

- a) the Discloser has previously made a disclosure relating to a Protected Matter to a person identified in section 11(a) – 11(f);
- b) the Discloser has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment;
- c) the Discloser has given written notification to a person identified in section 11(a), (b) or (c) of this policy that identifies the previous disclosure and states that the Discloser intends to make an emergency disclosure; and
- d) the extent of information disclosed is no greater than is necessary to inform the journalist or member of Parliament of the substantial and imminent danger.

### 13. Confidentiality

Where a disclosure is protected by Whistleblower Laws, the Whistleblower Laws prohibit a person from disclosing the identity of a discloser or disclosing information that is likely to lead to the identification of the discloser.

A person may only disclose the identity of a Discloser:

- a) with the Discloser's consent;
- b) to ASIC, APRA, the AFP;
- c) to a legal practitioner for the purposes of obtaining legal advice about the Whistleblower Laws; or
- d) if the person has been compelled or permitted by Law, regulatory obligations or broader external requirement.

Persons may also disclose the existence of the Protected Matters (without disclosing the identity of the Discloser) to the extent necessary for the matters to be investigated, provided all reasonable steps are taken to reduce the risk that the Discloser's identity can be discovered. This may include the disclosure being disclosed to:

- the Chief Executive Officer or any other member of the Executive Board;
- delegates of the respective HR Department (or equivalent), other managers or external investigators to make inquiries or to conduct investigations as is deemed appropriate; and
- in the case where a person/s is alleged to have acted improperly, to that person/s so that person/s is given the opportunity to respond to any allegations.



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#### 14. Protection for Discloser

If a discloser makes a disclosure protected by Whistleblower Laws and in good faith, the discloser cannot be subject to any civil or criminal liability for making the disclosure and cannot be subject to any contractual breach or other civil claim on the basis of the disclosure.

No contract of employment or contract for services can be terminated on the basis that a protected disclosure made in good faith constitutes a breach of contract.

Notwithstanding the above, making a disclosure protected by Whistleblower Law does not remove or reduce liability from a discloser for any potential wrongdoing they may have been a party to, whether it is related to the disclosure being made.

Protections provided by this policy do not apply to an individual who has not acted in good faith in making a disclosure under this policy.

#### 15. Compensation and Other Remedies

A discloser can seek compensation and other remedies through the courts if:

- a) They suffer loss, damage or injury because of a disclosure; and
- b) The entity failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

#### 16. Victimisation Prohibited

Whistleblower Laws prohibit any person or company from:

- a) engaging in any conduct that causes detriment to any person because that person (or another person) made a disclosure about a Protected Matter pursuant to Whistleblower Laws; or
- b) carrying out any threats to cause detriment to any person (whether express or implied threats) because that person (or another person) made a disclosure about a Protected Matter pursuant to Whistleblower Laws.

Where a person or entity engages in breaches of these protections, significant fines may apply and persons who are adversely affected have the right to apply to obtain compensation orders from a Court in relation to any detriment caused.

Persons who have their contracts terminated in contravention of these protections may also be entitled to have their contracts reinstated by a Court.

#### 17. Assessment of Disclosures

The Whistleblowing Investigation Officer will assess each disclosure to determine whether:

- a) It qualifies for protection under the legislation; and





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b) Whether a formal investigation is required.

## 18. Investigation Protected Matters

Once determined that a disclosure requires a formal investigation, the Whistleblowing Investigation Officer will commence the investigation to determine whether misconduct or some other improper state of affairs exists.

The Whistleblowing Investigation Officer will investigate the relevant matters in a manner compliant with the confidentiality obligations outlined in Section 13 of this policy.

The Whistleblowing Investigation Officer may alternatively:

- appoint an appropriately qualified and impartial person or entity to investigate the relevant matters; or
- refer Protected Matters directly to ASIC, APRA or the Australian Federal Police.

Whilst every investigation process will differ according to the relevant circumstances, the Whistleblowing Investigation Officer will ordinarily ensure that appropriate enquiries are made to determine whether:

- a) the allegations are substantiated; and
- b) responsive action needs to be taken in order to address any established misconduct or other improper state of affairs.

All disclosures will be reviewed and assessed in a timely manner, and where required, investigated in a fair and unbiased manner. Contact will be made with the discloser in a timely manner by the Whistleblowing Protection Officer to confirm receipt of the disclosure and provide any other relevant information. This timeline may be extended during periods where relevant / key stakeholders in relation to the disclosure are on leave or are otherwise unavailable (such as overseas), or during an annual shut down of the relevant entity.

A timeframe is unable to be provided as to when investigations will be completed or updates given as it will depend upon the circumstances of each individual disclosure.

A discloser will be kept informed through their preferred method of contact, where reasonable. The frequency of contact will vary depending on the nature of the disclosure.

## 19. Investigation Outcomes

When a formal investigation is conducted, the investigation findings and outcome will be documented and stored in a secure, digital format.





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The level of detail provided to those responsible for oversight of this policy at the conclusion of an investigation will depend on the content of the investigation documents and their ability to identify the discloser. The Whistleblowing Investigation Officer will determine on a case-by-case basis the level of information that is able to be provided without compromising confidentiality requirements.

**20. Will a protected disclosure be disclosed to other parties?**

Files and records relating to protected disclosures will be maintained by Pirtek as applicable on a confidential basis and stored securely.

Protected disclosures will be treated in a sensitive manner and will only be disclosed to people who are relevant to the investigation, other than in the following circumstances:

- The individual whistleblower has been consulted and consents in writing to the disclosure;
- It is appropriate, based on independent legal advice received by Pirtek to do so or is compelled by law to do so;
- Disclosure is reasonably necessary to prevent or lessen a serious or imminent threat to the life or health of a person; or
- Disclosure is necessary for the purposes of Pirtek obtaining independent legal advice.

**21. Supporting Whistleblowers, providing fair treatment and / or protection from detriment**

Pirtek intends to support Disclosers making disclosures about Protected Matters and to put in place procedures to promote fair treatment of Disclosers and protect them from detriment. This may be achieved by:

- Reviewing and assessing all reports made to determine if they qualify as a protected disclosure;
- Where a report is determined to be a protected disclosure as outlined in this policy, ensuring all such disclosures are investigated in a timely manner;
- Implementing investigation processes which are procedurally fair to both a Discloser and a respondent to any allegations contained in a Protected Matter;
- Communicating this policy to Pirtek employees, officers and suppliers;
- Taking appropriate disciplinary action against any employees, officers or contractors where allegations pertaining to a Protected Matter have been substantiated; and



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- Taking appropriate disciplinary action against any employees, officers or contractors that breach the victimisation or confidentiality provisions of the Whistleblower Laws and/or this policy.

## 22. Access to this Policy

This policy will be made available to all Pirtek employees, contractors, officers and suppliers by the following means:

- the policy will be uploaded to Pirtek’s intranet;
- the policy will otherwise be disclosed to employees on commencement of employment; and
- The policy will be uploaded to Pirtek’s public facing website.

## 23. Vexatious or Disingenuous Disclosures

Where it is established by Pirtek that a person purporting to be a protected whistleblower has made a vexatious or disingenuous report of improper conduct, that conduct itself will be considered a serious matter. The person involved may face disciplinary action up to, and including, termination of employment (for employees) or termination of contract of service (for contractors, officers or suppliers).

## 24. Enforcement

All employees, officers and contractors of Pirtek are required to comply with this policy at all times as well as with Whistleblower Laws.

Non-compliance with this policy or Whistleblower Laws may result in disciplinary action up to, and including, termination of employment or termination of an employee, officer or contractor’s services.

## 25. Review

Pirtek will review this policy from time to time, as circumstances require.

## 26. Definitions / Glossary of Key Terms

The following are terms used in this Policy:

**Discloser(s)** refers to the persons eligible to make a disclosure protected by Whistleblower Laws. These persons are identified in section 8.

**Officer**, consistent with the definition in the *Corporations Act 2001*, refers to:

- a) a director or secretary of the corporation; or
- b) a person:



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- i. who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the corporation; or
  - ii. who has the capacity to affect significantly the corporation's financial standing; or
  - iii. in accordance with whose instructions or wishes the directors of the corporation are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the directors or the corporation); or
- c) a receiver, or receiver and manager, of the property of the corporation; or
  - d) an administrator of the corporation; or
  - e) an administrator of a deed of company arrangement executed by the corporation; or
  - f) a liquidator of the corporation; or
  - g) a trustee or other person administering a compromise or arrangement made between the corporation and someone else.

**Pirtek** refers to Pirtek Fluid Systems Pty Ltd and its related body corporates and associated entities and any entity which is a Pirtek Franchise.

**Protected Matters** refers to the types of matters outlined at section 8 of this policy, which are protected by Whistleblower Laws and the terms of this policy.

**Senior Manager**, for the purpose of this policy, is a person who:

- makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of Pirtek; or
- has the capacity to significantly affect Pirtek's financial standing.

**Whistleblower Laws** refers to the protections contained in Part 9.4AAA of the *Corporations Act 2001, as amended*.



<b>Title: Whistleblower Policy – Appendix A</b>		
<b>Doc No:</b> HRPO017A	<b>Created:</b> 21/01/2020	<b>Rev: 1</b>
<b>Prepared By:</b> Jessica Rothmund	<b>Approved By:</b> Stuart Kipreotis	<b>Rev Date:</b> 18/11/2020

## Appendix A

Contacts:

### **Whistleblower Investigation Officer:**

Jessica Rothmund – Human Resources

[jrothemund@pirtek.com.au](mailto:jrothemund@pirtek.com.au)

(02) 8822 9086

PO Box 959, Kings Langley NSW 2147

### **Whistleblower Protection Officer:**

Stuart Kipreotis – Finance

[skipreotis@pirtek.com.au](mailto:skipreotis@pirtek.com.au)

(02) 8822 9058

PO Box 959, Kings Langley NSW 2147

### **External Reporting Channels (Managed by Core Integrity):**

1. Telephone: 1800 324 775
2. Email: [speakup@coreintegrity.com.au](mailto:speakup@coreintegrity.com.au)
3. Traditional Mail: PO Box 895, Darlinghurst NSW 1300
4. Online Reporting Portal: <http://qrs.ly/PirtekSpeakUp>
5. QR Code:

